



# SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

## VOTES AND PROCEEDINGS

Tuesday, 1<sup>st</sup> February, 2022

1. The Senate met at 10:49 a.m. The Deputy President of the Senate read prayers.
2. **Votes and Proceedings:**  
The Senate examined the Votes and Proceedings of Wednesday, 26<sup>th</sup> January, 2022.

*Question was put and the Votes and Proceedings were approved.*

3. **Announcements:**

(a) **Conference Committee:**

The Deputy President of the Senate named the following Senators as Conferees on Federal University of Agriculture, Kabba (Establishment) Bill, 2022:

(i)	Senator Aliyu S. Abdullahi	-	Chairman	-	Niger State
(ii)	Senator Chukwuka G. Utazi	-	Member	-	Enugu State
(iii)	Senator Patrick A. Akinyelure	-	Member	-	Ondo State
(iv)	Senator Akon E. Eyakenyi	-	Member	-	Akwa Ibom State
(v)	Senator Suleiman A. Kwari	-	Member	-	Kaduna State
(vi)	Senator Ya'u S. Alhaji	-	Member	-	Zamfara State

(b) **All Progressives Congress (APC) Senate Caucus Meeting:**

The Deputy President of the Senate read a letter from Senator Yahaya A. Abdullahi (Kebbi North) as follows:



SENATE LEADER

1<sup>st</sup> February, 2022

**ANNOUNCEMENT**

**APC SENATE CAUCUS MEETING**

*Please be informed that the APC Senate Caucus Meeting has been scheduled to hold Tuesday, February 1, 2022 after plenary.*

*Venue: Senate New Building Room 231, Second Floor.*

*Please endeavour to attend.*

(Signed)

Senator Yahaya A. Abdullahi, Ph.D, OON.  
Senate Leader

- (c) **Notice of Emergency Joint Peoples' Democratic Party (PDP) Caucus Meeting:**  
The Deputy President of the Senate read a letter from Senator Enyinnaya H. Abaribe (Abia South) as follows:



SENATOR ENYINNAYA HARCOURT ABARIBE  
MINORITY LEADER

1<sup>st</sup> February, 2022

The Senate President,  
National Assembly,  
Abuja.

**NOTICE OF EMERGENCY JOINT PDP CAUCUS MEETING**

The People's Democratic Party Joint Caucus will be meeting on 1<sup>st</sup> February, 2022 at 2pm immediately after plenary.

Venue: Meeting Room 01, White House, Senate.

The meeting is with the Board of Trustees of the PDP.

All members are expected to attend the crucial meeting.

(Signed)

Senator Enyinnaya H. Abaribe  
Minority Leader

**4. Presentation of Bills:**

- (i) Federal University of Agriculture Sabongida Lantang, Plateau State (Establishment) Bill, 2022 (HB. 291) — *Read the First Time.*
- (ii) Federal University of Entrepreneur Onitsha (Establishment) Bill, 2022 (SB. 344) — *Read the First Time.*
- (iii) National Metallurgical Development Centre Act (Repeal) Bill, 2022 (SB. 863) — *Read the First Time.*
- (iv) Companies and Allied Matters Act 2020 (Amendment) Bill, 2022 (SB. 904) — *Read the First Time.*
- (v) Compulsory Inclusion of Nigerian History in the Curriculum of Secondary and Tertiary Institutions in Nigeria Bill, 2022 (SB. 905) — *Read the First Time.*

**5. Federal University of Environmental Technology Saakperwa Tai Ogoni, Rivers State (Establishment) Bill, 2022 (SB. 902):**

*Motion made:* That a Bill for an Act to provide for the establishment of the Federal University of Environmental Technology Saakperwa Tai Ogoni, Rivers State and for Other Matters Connected Therewith, 2022 be read the Second Time (Senator Barinada Mpigi — Rivers South-East).

*Debate*

*Question put and agreed to.*

*Bill accordingly read the Second Time and referred to the Committee on Tertiary Institutions and TETFUND to report within two (2) weeks.*

**6. Regulation of Advanced Rent (Establishment) Bill, 2022 (SB. 893):**

*Motion made:* That a Bill for an Act to Regulate the mode of payment of rent on Residential Apartments, Office Spaces, etc in the Federal Capital Territory (FCT) and for Other Matters Connected Therewith, 2022 be read the Second Time (*Senator Smart Adeyemi — Kogi West*).

*Debate*

*Question put and agreed to.*

*Bill accordingly read the Second Time and referred to the Committee on Housing to report within four (4) weeks.*

**7. Solid Minerals Development Bank (Establishment) Bill, 2022 (SB. 720):**

*Motion made:* That a Bill for an Act to provide for the Establishment of the Solid Minerals Development Bank and for Other Related Matters Therein, 2022 be read the Second Time (*Senator Oseni Yakubu — Kogi Central*).

*Debate*

*Question put and agreed to.*

*Bill accordingly read the Second Time and referred to the Committee on Solid Minerals to report within four (4) weeks.*

**8. National Health (Repeal and Re-Enactment) Bill, 2022 (SB. 603):**

*Motion made:* That a Bill for an Act to Amend the National Health Act, No.8 2014 to improve quality health care delivery through the inclusion and participation of the private sector and for other matters connected therewith, 2022 be read the Second Time (*Senator Yahaya I. Oloriegbe — Kwara Central*).

*Debate*

*Question put and agreed to.*

*Bill accordingly read the Second Time and referred to the Committee on Health (Secondary and Tertiary) to report within four (4) weeks.*

**9. Committee on Aviation:**

*Report on the Civil Aviation Act 2006 (Repeal & Re-enactment) Bill, 2022 (SB. 195):*

*Motion made:* That the Senate do consider the Report of the Committee on Aviation on the Civil Aviation Act 2006 (Repeal & Re-enactment) Bill, 2022 (*Senator Smart Adeyemi — Kogi West*).

*Question put and agreed to.*

*Report presented.*

*Motion made:* That the Senate do resolve into the Committee of Whole to consider the Report (*Senate Leader*).

*Question put and agreed to.*

**(SENATE IN THE COMMITTEE OF THE WHOLE)**

CONSIDERATION OF A BILL FOR AN ACT TO REPEAL THE CIVIL AVIATION ACT, 2006 AND TO RE-ENACT THE CIVIL AVIATION ACT FOR THE REGULATION OF CIVIL AVIATION IN NIGERIA; AND OTHER PURPOSES CONNECTED THEREWITH, 2022

**PART I - OBJECTIVES, APPLICATION AND CONTROL OF CIVIL AVIATION**

**Clause 1: Objective**

The objectives of this Act are to -

- (a) provide for an effective legal and institutional framework for the regulation of civil aviation in Nigeria in conformity with the standards and recommended practices set by the International Civil Aviation Organisation (ICAO);
- (b) establish rules of operation and divisions of responsibility within the Nigerian civil aviation system in order to promote aviation safety and security;
- (c) ensure that Nigeria's obligations under international aviation agreements are implemented; and
- (d) consolidate the laws relating to the regulation of civil aviation in Nigeria.

***Committee's Recommendation:***

That the provision in Clause 1 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 1 do stand part of the Bill, put and agreed to.*

**Clause 2: Application of this Act.**

- (1) Except as provided under subsection (2) of this section, this Act shall apply to -
  - (a) all persons holding licences issued or validated by the Authority pursuant to any regulations made under this Act;
  - (b) every person, aircraft, air operator, aerodrome, aeronautical product, aerodrome operator, air navigation service provider, aviation training school, maintenance and repair organisation, allied aviation service provider and consumers of aviation services in Nigeria;
  - (c) every Nigerian registered aircraft whether within or outside Nigeria; and
  - (d) every foreign registered aircraft operating in Nigeria, into and out of Nigeria.
- (2) Nothing in this Act shall be interpreted as limiting the privileges or immunities of -
  - (a) any foreign State aircraft; or
  - (b) the officers and crew of any foreign State aircraft.

**Committee's Recommendation:**

That the provision in Clause 2 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 2 do stand part of the Bill, put and agreed to.*

**Clause 3: Control of civil aviation.**

The Minister shall be responsible for the formulation of policies and strategies for the promotion and encouragement of civil aviation in Nigeria and the fostering of sound economic policies that assure the provision of efficient and safe services by air carriers and other aviation and allied service providers as well as greater access to air transport in a sustainable manner and to assist with ensuring that Nigeria's obligations under international agreements are implemented and adhered to.

**Committee's Recommendation:**

That the provision in Clause 3 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 3 do stand part of the Bill, put and agreed to.*

**PART II - ESTABLISHMENT, ETC. OF THE NIGERIA CIVIL AVIATION AUTHORITY****Clause 4: Establishment of the Nigeria Civil Aviation Authority.**

- (1) There is established an autonomous body to be known as the Nigeria Civil Aviation Authority (in this Act referred to as "the Authority").
- (2) The Authority -
  - (a) shall be a body corporate with perpetual succession and a common seal;
  - (b) may sue or be sued in its corporate name; and
  - (c) may acquire, hold, purchase, mortgage, dispose of or deal howsoever with property moveable or immovable, real or personal.
- (3) The Authority shall be independent in the discharge of its duties and functions under this Act and for that purpose shall not, except as provided under this Act, take directives from any person or authority.

**Committee's Recommendation:**

That the provision in Clause 4 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 4 do stand part of the Bill, put and agreed to.*

**Clause 5: Establishment, etc. of the Governing Board.**

- (1) There is established for the Authority, a Governing Board (in this Act referred to as "the Board").
- (2) The Board shall consist of -
  - (a) a Chairman;

- (b) one representative each, who shall be within the Directorate cadre, from the Federal Ministry for the time being responsible for -
    - (i) Aviation, and
    - (ii) Defence; and
  - (c) three persons with cognate experience in aviation; and
  - (d) the Director-General of the Authority.
- (3) The Chairman and members of the Board other than the Director-General shall be appointed on part time basis by the President on the recommendation of the Minister.
- (4) The composition of the Governing Board shall reflect the equity and fairness as enshrined in Section 14(3) of the 1999 Constitution (as amended)
- (5) The Chairman and members of the Board, other than ex-officio members, shall be persons of recognized expert knowledge, qualification and experience of not less than 10 years in one or more of the following fields -
- (a) Aeronautical Engineering;
  - (b) Aviation Law;
  - (c) Air Transport Management;
  - (d) Aerodrome Engineering;
  - (e) Aircraft Piloting;
  - (f) Air Navigation Services; and
  - (g) any other relevant field in civil aviation.
- (6) The Supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and any other matter contained in it.

***Committee's Recommendation:***

That the provision in Clause 5 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 5 do stand part of the Bill, put and agreed to.*

**Clause 6: Tenure of office of the Chairman and members of the Board.**

- (1) The Chairman and members of the Board other than the Director-General and ex-officio members shall hold office for a term of 4 years and shall be eligible for re-appointment for another term of 4 years and no more; and on such terms and conditions as may be specified in the letter of appointment.
- (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 through the Minister;
  - (c) he dies;
  - (d) he becomes of unsound mind or is incapable of carrying out his duties as a result of physical or mental illness;
  - (e) he has been declared bankrupt or he makes compromise with his creditors;
  - (f) he has been convicted of a felony or any offence involving dishonesty;
  - (g) he is found guilty of a gross misconduct;
  - (h) in the case of a person possessed of professional qualification, he is disqualified or suspended from practising his profession in any part of the world by an order of a competent authority;
  - (i) in the case of an ex-officio member, he ceases to hold the office on the basis of which he is a member of the Board; or
  - (j) he is in conflict of interest as stipulated under the First Schedule to this Act.
- (3) Notwithstanding the provisions of subsection (2) of this section, the President may direct the removal of a member from the Board on the satisfaction that it is not in the interest of the Authority 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.

***Committee's Recommendation:***

That the provision in Clause 6 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 6 do stand part of the Bill, put and agreed to.*

**Clause 7: Allowances, expenses and any other entitlement of Chairman and members of the Board.**

The Chairman and members of the Board shall be paid such allowances, expenses and benefits that are in accordance with extant Federal Government Financial Guidelines and Regulations.

***Committee's Recommendation:***

That the provision in Clause 7 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 7 do stand part of the Bill, put and agreed to.*

## PART III - FUNCTIONS AND POWERS

**Clause 8: Functions of the Authority**

- (1) The Authority shall be responsible for -
  - (a) the registration of aircraft in Nigeria and issuance to the owner, of a certificate of registration;
  - (b) the establishment and maintenance of a system or register for recording the title to or any interest in any aircraft registered in Nigeria;
  - (c) the prohibition of any Nigerian or foreign registered aircraft from operating within the Nigerian airspace, unless a certificate of airworthiness with respect to the aircraft, is issued or validated under extant laws and regulations, provided that the foregoing prohibition shall not apply to any aircraft undergoing test flight or flight to a place where prescribed maintenance or repair is to be carried out;
  - (d) the inspection and regulation of aerodromes, inspection of aircraft factories and for the prohibition or regulation of the use of aerodromes which are not certified in pursuance of extant laws and regulations;
  - (e) the prohibition of any person from engaging in air navigation in any capacity whatsoever unless the Authority determines that such a person satisfies the requirement of this Act and the regulations made under it;
  - (f) the issuance of rules and regulations for ensuring aviation safety, security, the efficiency and regularity of air navigation, including the safety of aircraft, persons and property carried in aircraft and for preventing aircraft from endangering any person and property;
  - (g) the prohibition of aircraft from flying over such areas in Nigeria as may be prescribed;
  - (h) the issue, validation, renewal, extension or variation of any certificate, licence or any other document required by regulations; including the examinations and tests to be undergone;
  - (i) the custody and production, cancellation, suspension, endorsement and surrender of any document referred to under paragraph (h) of this subsection;
  - (j) the issuance of rules and regulations on aviation environmental protection;
  - (k) the orderly development of Nigerian air transport sector for efficiency, regularity and consumer satisfaction; and



- (1) the regulation and promotion of competition and fair and efficient market conduct of operators and to prevent monopoly, subject to the provisions of the Federal Competition and Consumer Protection Act, 2018.
- (2) Without prejudice to the generality of this section, the Authority shall have the power to do anything which may be incidental or expedient for the discharge of its functions under this Act.
- (3) Notwithstanding anything contained in any other law, the Authority shall be solely responsible for the regulation of civil aviation in Nigeria.
- (4) In the exercise of the powers conferred upon it and the discharge of its functions in this Act, the Authority, shall not submit its decision for the approval of or be bound by the decision or recommendation of any person, body or organisation but shall be guided by safety, security and public interest considerations.

***Committee's Recommendation:***

That the provision in Clause 8 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 8 do stand part of the Bill, put and agreed to.*

**Clause 9: Powers of the Authority.**

- (1) The Authority shall have the power to -
  - (a) investigate whether any person, body or entity has committed an offence under this Act or any other relevant law or regulation;
  - (b) enter into any premises, property, aircraft, aerodrome or conveyance without warrant for the purpose of conducting search and/or inspection in furtherance of its functions under this Act or under any other law;
  - (c) prosecute offenders under this Act or any other relevant law in Nigeria;
  - (d) trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Authority reasonably believes to have been involved in or used in the commission of any offence 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 any offence under this Act;
  - (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;

- (g) expropriate property for use in aeronautical search and rescue in any emergency situation where necessary;
  - (h) ensure coordinated aeronautical search and rescue operations within the territory of Nigeria; and
  - (i) permit owners of aircraft or authorities of the State of registry of aircraft, subject to control by the Authority, to provide such measures of assistance to aircraft in distress as may be necessary.
- (2) The Authority shall ensure that arrangements for the certification, maintenance and operation of search and rescue of aircraft and personnel comply with civil aviation regulations

***Committee's Recommendation:***

That the provision in Clause 9 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 9 do stand part of the Bill, put and agreed to.*

**Clause 10: Functions and powers of the Board.**

- (1) The Board shall -
  - (a) formulate and provide general policy guidelines for the discharge of the functions of the Authority;
  - (b) monitor and ensure the implementation of the policies and programmes of the Authority; and
  - (c) carry out any other function as is necessary or expedient in consonance with the Board's functions 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 Authority;
  - (b) consider the terms and conditions of service including remuneration, allowances and benefits of the employees of the Authority and submit to the relevant Federal Government Agencies for approval;
  - (c) consider and approve the terms and conditions of service and remuneration, allowances and benefits of the inspectorate staff of the Authority that are consistent with their education, technical knowledge and experience and comparable to those personnel of the operators whose activities they will supervise, in line with Chapter 5.3.1 of ICAO Document 8335 and Chapter 3.3.2.1 of ICAO Document 9734.
  - (d) 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 any other matter as the Board may, from time to time determine;

- (e) receive and review annual reports from the Management of the Authority and submit same to the President and the National Assembly, through the Minister, not later than 30th June in each year;
- (f) submit not later than 30th September in each year to the Minister an estimate of the income and expenditure of the Authority for the next succeeding year;
- (g) cause to be kept, proper accounts of the Authority in respect of each year and proper records in relation to it and shall cause the accounts to be audited not later than 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation; and
- (h) advise and direct the Director-General on the management of the business and financial aspects of the Authority, provided that the functions and powers of the Board shall not include the aviation safety and security authority of the Director-General under this Act.

***Committee's Recommendation:***

That the provision in Clause 10 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 10 do stand part of the Bill, put and agreed to.*

**PART IV - MANAGEMENT AND STAFF OF THE AUTHORITY**

**Clause 11: Appointment and tenure of the Director-General of Civil Aviation.**

- (1) There shall be for the Authority a Director-General of Civil Aviation (DGCA) (in this Act referred to as "the Director-General") who shall be appointed by the President on the recommendation of the Minister, subject to confirmation by the Senator.
- (2) The Director-General shall be primarily responsible for the fostering of the safety and security of civil aviation in Nigeria and shall -
  - (a) be the chief executive and accounting officer of the Authority;
  - (b) be responsible for the day-to-day administration of the Authority;
  - (c) be appointed for a term of 5 years in the first instance and may be re-appointed for a further term of 5 years and no more;
  - (d) conduct the Authority's affairs with prudence and due diligence to ensure that the Authority does not become insolvent; and
  - (e) possesses relevant and adequate professional qualifications and shall have been so qualified for a period of not less than 15 years in one or more of the following fields -
    - (i) aeronautical engineering,

- (ii) air transport management,
  - (iii) aerodrome engineering,
  - (iv) air craft piloting,
  - (v) air navigation services,
  - (vi) aviation law, or
  - (vii) any other relevant field in civil aviation.
- (3) The Director-General may be removed from office by the President subject to confirmation by the Senator, where he -
- (a) becomes of unsound mind or is incapable of carrying out his duties as a result of physical or mental illness or has demonstrated inability to effectively perform the duties of his office;
  - (b) has been absent from five consecutive meetings of the Board without the consent of the Chairman unless he shows good reason for such absence;
  - (c) is guilty of serious misconduct;
  - (d) in the case of a person possessed of professional qualifications, is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority; or
  - (e) is in a conflict of interest as stipulated in the First Schedule to this Act.
- (4) The Director-General shall not be removed from office except in accordance with the provisions of this Act.

***Committee's Recommendation:***

That the provision in Clause 11 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 11 do stand part of the Bill, put and agreed to.*

**Clause 12: Appointment of Secretary to the Board.**

- (1) There shall be appointed by the Authority a Secretary to the Board who shall be the Legal Adviser of the Authority and a legal practitioner who has been so qualified for a period not less than 15 years.
- (2) The Secretary shall -
  - (a) keep the records and conduct correspondence of the Board; and
  - (b) perform any other duty and function as the Board or the Director-General may, from time to time, direct or assign to him.

**Committee's Recommendation:**

That the provision in Clause 12 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 12 do stand part of the Bill, put and agreed to.*

**Clause 13: Other Staff of the Authority.**

- (1) The Authority may, from time to time, appoint such other staff as it may deem necessary or expedient, for the purpose of carrying out its functions and responsibilities under this Act.
- (2) The composition of the Directors and Senior Management staff of the Agency appointed under sub-section (1) of this Section shall reflect equity and fairness as enshrined in Section 14(3) of the 1999 Constitution (as amended)
- (3) The staff of the Authority appointed under subsection (1) of this section shall be appointed on such terms and conditions of service as the Authority may determine.
- (4) The staff of the Authority shall be public officers as defined in the Constitution of the Federal Republic of Nigeria.
- (5) The Authority may, subject to the approval of the Board, 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) any other matter to ensure the efficient performance of the functions of the Authority under this Act.
- (6) Staff Regulations and conditions of service made under subsection (4) of this section shall not have effect until it is approved by the relevant Federal Government Agencies.
- (7) Notwithstanding the provisions of subsections (1) and (2) of this section, the Authority shall have power to appoint either directly or on secondment from any public service in the Federation or of a State, such number of staff as may, in its opinion be required to assist it in the discharge of any of the Authority's functions under this Act.
- (8) Nothing in subsection (6) of this section shall preclude the Authority from appointing persons from outside the public service of the Federation or of a State.

**Committee's Recommendation:**

That the provision in Clause 13 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 13 do stand part of the Bill, put and agreed to.*

**Clause 14: Service in the Authority to be Pensionable.**

- (1) Service in the Authority shall be public service for the purpose of the Pension Reform Act No. 4 of 2014 and accordingly, officers and other staff of the Authority shall in respect of their service in the Authority, be entitled to pension, severance and other retirement benefits in conformity with provisions of the Pension Reform Act No. 4 of 2014 and the approved conditions of service of the Authority.
- (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 No. 4 of 2014 any power exercisable by a Minister or any other authority of the Government of the Federation not being the power to make regulations is vested in and shall be exercisable by the Board.

***Committee's Recommendation:***

That the provision in Clause 14 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 14 do stand part of the Bill, put and agreed to.*

**Clause 15: Appointment of Experts.**

In exercising and performing the powers, functions and duties conferred on it under this Act, the Authority may appoint, contract, liaise or co-operate with experts, including specialised agencies, resource persons, academic and technical institutes, advisory committees, etc., in order to assist it in carrying out any of its functions or duties.

***Committee's Recommendation:***

That the provision in Clause 15 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 15 do stand part of the Bill, put and agreed to.*

**Clause 16: Establishment of Directorates and Inspectorates.**

- (1) For the effective conduct of the functions of the Authority, there shall be established for the Authority Directorates in accordance with the laid down Government guidelines and the International Civil Aviation Organisation annexes.
- (2) Notwithstanding the provisions of subsection (1), of this section, the Authority shall have power to -
  - (a) set up units, technical committees, working groups and task forces to assist the Authority in the performance of its duties and functions under this Act; and
  - (b) Make changes to its structure, including the review or merging of Directorates with the approval of the Board.
- (3) There shall be appointed for each of the Directorates, Units, Technical Committees, Working Groups and Task Forces, a Principal Officer who shall be known by such designation as the Authority may determine.

- (4) The Director-General may delegate any assigned powers and duties to any properly qualified private person or organisation, subject to such regulation, supervision and review as may be prescribed; provided that such function is not delegated in such a way that air operators, aerodrome operators, aerial work operators, allied aviation service providers, general aviation operators and maintenance facility operators, in effect, regulate themselves.
- (5) The Director-General may delegate his safety and security oversight powers to designated inspectors and any other staff of the Authority and shall establish the credentials of the safety and aviation security inspectors of the Authority
- (6) For the effective conduct of the functions of the Authority, there shall be established an organisational structure that will ensure a comprehensive and detailed safety oversight of civil aviation, taking into cognizance the size, scope and complexity of aviation activities in Nigeria.
- (7) The Authority shall have power to provide, as required in the interest of aviation safety and security, the necessary facilities and tools for the Directorates, Units, Technical Committees, Working Groups and Task Forces.

***Committee's Recommendation:***

That the provision in Clause 16 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 16 do stand part of the Bill, put and agreed to.*

PART V - FINANCIAL PROVISIONS

**Clause 17: Funds of the Authority.**

- (1) There shall be established for the Authority a fund from which all expenses incurred by the Authority for the execution of its functions under this Act shall be paid.
- (2) There shall be credited to the fund established pursuant to subsection (1) of this section -
  - (a) all subventions and budgetary allocations from the Government of the Federation;
  - (b) all fees and funds in respect of services provided by the Authority, and accruing from -
    - (i) grant of air travel organiser's licence,
    - (ii) grant of air transport licence, airline operating permit or permit for non-commercial flights,
    - (iii) grant of air operator certificate,
    - (iv) grant of personnel licences,
    - (v) 56% of the 5% airfare, contract, charter, cargo sales and management fee charges imposed under section 23 of this Act,

- (vi) grant of approved maintenance organisation approval,
  - (vii) aircraft registration and certification,
  - (viii) grant of certificate of airworthiness (issue and renewal),
  - (ix) rental of property, plant and equipment,
  - (x) medical examination fees, where applicable,
  - (xi) proceeds from sales of information and publications,
  - (xii) registration of agencies,
  - (xiii) registration of legal instruments and interests
  - (xiv) grant of aerodrome, heliport and helipad operating licences,
  - (xv) grant and renewal of aviation height clearance approval
  - (xvi) approval of aviation training organisations
  - (xvii) grant of aviation security screener's certificate,
  - (xviii) grant of aviation security service provider approval,
  - (xix) grant of aviation security training provider certificate,
  - (xx) grant of aviation security instructor authorization,
- (c) all civil penalty payable for violation of the provisions of this Act and regulations, rules and orders, directives and terms of permit, authorization and approvals;
- (d) all sums accruing to the Authority by way of gifts, endowments, bequests, grants or any other contributions by any person and organisation;
- (e) returns on investments;
- (f) foreign aid and assistance; and
- (g) all other sums which may from time to time accrue to the Authority.
- (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.

***Committee's Recommendation:***

That the provision in Clause 17 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.



*Question that Clause 17 do stand part of the Bill, put and agreed to.*

**Clause 18: Expenditure of the Authority.**

The Authority may, from time to time, apply the proceeds of the fund established in pursuance of section 17 of this Act -

- (a) for the payment of salaries, fees and any other remuneration or allowance, payable to members of the Board, employees or any other person appointed by the Authority;
- (b) to pay overhead, benefits and other administrative costs of the Authority;
- (c) for the reimbursement of members of the Board or any Committee set up by the Board or the Authority for such expenses as may be authorised in accordance with the rates approved by the Government of the Federation;
- (d) to publicise and promote the activities of the Authority;
- (e) for the maintenance of any property acquired or vested in the Authority;
- (f) for the maintenance of missions and payment of contributions and subscription to international and regional aviation safety and security organizations of which Nigeria is a member;
- (g) for the training and re-training of staff of the Authority to meet ICAO requirements; and
- (h) to undertake any other activity or matter connected with all or any of the functions of the Authority under this Act.

***Committee's Recommendation:***

That the provision in Clause 18 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 18 do stand part of the Bill, put and agreed to.*

**Clause 19: Power to accept gifts.**

- (1) The Authority may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.
- (2) The Authority shall not accept any gift where any condition attached by the person or organisation making the gift is inconsistent with the functions of the Authority under this Act.

***Committee's Recommendation:***

That the provision in Clause 19 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 19 do stand part of the Bill, put and agreed to.*

**Clause 20: Power to borrow and invest.**

- (1) Subject to applicable laws and regulations, the Board may, from time to time, borrow by overdraft or otherwise, such money as the Authority may require for the performance of its functions under this Act.
- (2) The Board shall not, without the approval of the President borrow money, which exceeds, at any time, the limit set by the Government of the Federation.
- (3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Board shall not borrow the sum without the prior approval of the President on the recommendation of the Minister.
- (4) The Board may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in accordance with any general guidelines approved by the President.
- (5) The Board may invest funds in such securities as it deems fit and proper.
- (6) The Authority shall strive to recover the whole of its costs and to achieve reasonable returns on capital and investment.

***Committee's Recommendation:***

That the provision in Clause 20 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 20 do stand part of the Bill, put and agreed to.*

**Clause 21: Power to impose fees for services.**

- (1) The Authority shall carry out its functions on cost recovery basis.
- (2) The Authority may impose fees which may be reviewed from time to time, for the services of the Authority, including authorisations, approvals, inspections and for the issue and renewal of permits, licences and certificates, and shall maintain and publish a schedule of all such fees that it may impose.
- (3) Notwithstanding the provision of any other law, policy or circular in force, any fee imposed by or on behalf of the Authority shall not be subject to any deduction by or remittance to any other body.
- (4) Notwithstanding the provision of Section 22(1) of the Fiscal Responsibility Act, the Authority shall allocate two-thirds of its operating surplus for the year to the general reserve fund established pursuant to that section.

***Committee's Recommendation:***

That the provision in Clause 21 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 21 do stand part of the Bill, put and agreed to.*

**Clause 22: Exemption from tax.**

- (1) The Authority shall be exempted from the payment of tenement rates and income tax or any other tax in force.
- (2) The provision of any law relating to the taxation of the income of any company or contribution to any trust fund shall not apply to the Authority.

***Committee's Recommendation:***

That the provision in Clause 22 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 23 do stand part of the Bill, put and agreed to.*

**Clause 23: Air ticket, charter and cargo sales charge.**

- (1) There shall be a 5% of airfare, contract, charter and cargo sales charge payable to the Authority which charge shall apply on all international and domestic air transportation originating in Nigeria irrespective of place of sale and/or issuance of air ticket or execution of the contract of carriage.
- (2) The 5% of airfare, contract, charter and cargo sales charge shall be chargeable on the total amount (excluding statutory fees and taxes) -
  - (a) paid by a passenger for an airfare;
  - (b) in a contract relating to carriage of persons or goods for hire and reward in the case of air transportation not involving the issuance of an air ticket;
  - (c) paid for a charter flight; and
  - (d) of the cargo sales.
- (3) The Authority may delegate the power to collect the 5% of airfare, contract, charter and cargo sales charges to airlines and such funds collected shall be remitted to the Authority.
- (4) The Authority shall by regulations prescribe the manner and time for making remittances of the funds collected on its behalf by the airlines.
- (5) The 5% of airfare, Contract and Charter Sales Charge (CSC) payable to the Authority shall apply to all operators engaged in transportation of persons by air for hire and reward whether using rotary or fixed wing aircraft.
- (6) All Air Operator Certificate (AOC) holders, who manage fleet of aircraft other than that of the operator, which aircraft is included in the operations specifications or authorisation of the operator shall pay a 5% CSC management fee arising from such contracts.
- (7) The 5% of airfare, contract, charter and cargo sales charges and management fee shall be paid in the currency of the transaction and may be reviewed from time to time, by regulations or orders made by the Authority.

- (8) Funds accruing from the charges referred to under subsection (7) of this section shall be distributed in the following manner -
- (a) Nigeria Civil Aviation Authority - 56%;
  - (b) Nigerian Airspace Management Agency - 22%;
  - (c) Nigerian Meteorological Agency - 9%;
  - (d) Nigerian College of Aviation Technology - 7%; and
  - (e) Accident Investigation Bureau - 6%.
- (9) Where any of the Agencies listed under subsection (8) of this section is privatised, it shall immediately cease to share in the funds and the share of such privatised Agency shall be applied or distributed in equal percentage among the remaining agencies.
- (10) An air operator which fails to remit or pay to the Authority, within the time specified in the relevant regulations made pursuant to this Act, the 5% of airfare, contract, charter, cargo, sales charge and management fee collected under this section, commits an offence under this Act and its directors shall be liable on conviction to imprisonment for a term of 2 years or to a fine of ₦5,000,000.00 each or to both fine and imprisonment.

***Committee's Recommendation:***

That the provision in Clause 23 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 23 do stand part of the Bill, put and agreed to.*

**Clause 24: Accounts and Audit.**

- (1) The Authority shall keep proper records and accounts of its -
  - (a) receipts, payments, assets and liabilities; and
  - (b) income and expenditure;

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

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

***Committee's Recommendation:***

That the provision in Clause 24 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 24 do stand part of the Bill, put and agreed to.*

**Clause 25: Annual Report.**

The Authority shall, not later than 30<sup>th</sup> September in each year, submit to the President through the Minister, a report of its activities during the immediate preceding calendar year and shall include in such report a copy of the audited accounts of the Authority for that calendar year.

**Committee's Recommendation:**

That the provision in Clause 25 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 25 do stand part of the Bill, put and agreed to.*

## PART VI - MINISTERIAL POWERS AND DIRECTIONS

**Clause 26: Directions by the Minister.**

- (1) The Minister may after consultation with the Authority give such directions, not inconsistent with the provisions of this Act to the Authority on matters of policy—
  - (a) in the interests of national security;
  - (b) in connection with any matter appearing to him to affect the relations of Nigeria with a country or territory outside Nigeria;
  - (c) in order to discharge or facilitate the discharge of an obligation binding on Nigeria by virtue of its being a member of an international organisation or a party to an international or regional agreement;
  - (d) in order to obtain or facilitate the attainment of any other object of which is in his opinion appropriate in view of the fact that Nigeria is a member of an international organisation or a party to an international or regional agreement; or
  - (e) in order to enable Nigeria become a member of an international organisation or a party to an international or regional agreement.
- (2) The Authority in the exercise of its functions and powers shall be guided by such direction given pursuant to subsection (1) of this section.
- (3) The Authority shall furnish the Minister with such information or facilities for obtaining information with respect to its activities as the Minister may, from time to time, require.

**Committee's Recommendation:**

That the provision in Clause 26 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 26 do stand part of the Bill, put and agreed to.*

**Clause 27: Emergency powers of the Minister for the protection of public health.**

- (1) Where the Minister is satisfied that Nigeria or any part of it is visited by or threatened with an outbreak of any dangerous epidemic disease, and that the ordinary provisions of the law for the time being in force is insufficient for the prevention of danger arising to public health through the introduction or spread of the disease by agency of aircraft, the Minister may take such measures as deemed necessary to prevent such danger.

- (2) In any of the cases referred to under subsection (1) of this section, the Minister may, without prejudice to the powers conferred by sections 3 and 26 of this Act, make such temporary orders to be published in the Official Gazette with respect to aircraft and persons travelling or things carried in it and aerodromes as he deems necessary in the circumstances.
- (3) Any order made under subsection (2) of this section shall not remain in force for more than 3 months from the date made, provided that the Minister may, by special order continue it in force for a further period of not more than 3 months.
- (4) In making any order under this section, the Minister may direct that a breach of it shall be punishable with imprisonment for a period of not less than 1 year, or a fine of not less than ₦1,000,000.00 or to both.

***Committee's Recommendation:***

That the provision in Clause 27 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 27 do stand part of the Bill, put and agreed to.*

**Clause 28: Power of the Minister to make orders in emergency.**

- (1) In time of war, whether actual or imminent or where a proclamation of emergency under the Constitution is in force in the Federal Republic of Nigeria or any part of it, where the Minister is of the opinion that in the interest of public safety or tranquility, the issue of all or any of the following orders is expedient, he may by notification in the Official Gazette -
  - (a) cancel or suspend, either absolutely or subject to such conditions as he may think fit to specify in the order, all or any licences, permits, certificates or other authorisations issued under this Act;
  - (b) prohibit either absolutely or subject to such conditions as he may think fit to specify in the order, or regulate in such manner as may be contained in the order, the flight of all or any aircraft or class of aircraft over the whole or any portion of Nigeria;
  - (c) prohibit, either absolutely or conditionally, or regulate the erection, maintenance or use of any aerodrome, aircraft factory, flying-school or club, or place where aircraft is manufactured, repaired or kept, or any class or description of it;
  - (d) direct that any aircraft or class of aircraft, or any aerodrome, aircraft factory, flying school or club, or place where aircraft is manufactured, repaired or kept, together with any machinery, plant, material or thing used for the operation, manufacture, repair or maintenance of aircraft shall be delivered, either forth with or within a specified time, to such authority and in such manner as he may specify in the order, to be at the disposal of the Federal Government of Nigeria for the public service; or

- (e) direct that any airline operator having its principal place of business in Nigeria, or an aerodrome operator or a provider of air traffic and meteorological services, and the employees of such airline operator, aerodrome operator or provider of air traffic and meteorological services, shall carry out flights, and other duties connected with operation of flights, in the public interest in the manner specified in the order.
- (2) Any order made under subsection (1) of this section shall have effect, notwithstanding anything inconsistent with it contained in any regulation made under this Act or any other law in force in Nigeria.
- (3) Any person who suffers direct injury or loss by reason of any order made under paragraph (c), (d) or (e) of subsection (1) of this section shall be paid such compensation as may be determined by such authority or person as the Minister may appoint in this behalf.
- (4) The Minister may authorise such steps to be taken to secure compliance with any order made under subsection (1) as may be deemed necessary.
- (5) Any person who knowingly disobeys, or fails to comply with, or does any act in contravention of an order made under subsection (1) of this section, commits an offence and is liable on conviction to imprisonment for a term not less than 6 months, or a fine not less than ₦200,000.00, or to both, and the court by which he is convicted may direct that the aircraft or thing, if any, in respect of which the offence has been committed, or any part of such aircraft or thing, shall be forfeited to the Federal Government of Nigeria.

***Committee's Recommendation:***

That the provision in Clause 28 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 28 do stand part of the Bill, put and agreed to.*

**Clause 29: Designation of essential services.**

- (1) All services which facilitate and maintain the smooth, orderly and safe takeoff, flight and landing of aircraft, embarkation and the disembarkation and evacuation of passengers and cargo respectively in all aerodromes in Nigeria are hereby designated as essential services pursuant to the provisions of section 11(1) of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).
- (2) The Minister may by regulations prohibit all or such class or classes of workers, officers and other employees or persons whether corporate or natural, engaged in the provision of the services specified in subsection (1) of this section from taking part in a strike or other industrial action.
- (3) In this section, "strike" means the cessation of work by a body of persons employed, acting in combination or a concerted refusal or a refusal under a common understanding of persons employed to continue to work for an employer in consequence of a dispute, done as a means of compelling their employer, or the Government of the Federation of Nigeria or any part of it, or to aid any other worker in

compelling his employer or any person or body of persons employed, to accept or not to accept terms of employment and physical conditions of work or any government economic policy or pricing of any essential product; and in this definition -

- (a) "cessation of work" includes working at less than usual speed or with less than usual efficiency without reasonable operational justification; and
- (b) "refusal to continue to work" includes a refusal to work at usual speed or with usual efficiency.

***Committee's Recommendation:***

That the provision in Clause 29 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 29 do stand part of the Bill, put and agreed to.*

**Clause 30: Periodic publication of aviation policies.**

- (1) The Minister may publish from time to time a statement of the policies of the Government of the Federal Republic of Nigeria on civil aviation.
- (2) Where the Minister considers it appropriate to do so, he may by notice in writing, require the Authority to publish a statement of the policy it intends to adopt with respect to any particular matter in exercising the powers and performing the functions conferred upon it under this Act and it shall be the duty of the Authority to publish the statement required by such a notice.
- (3) Before publishing any statement under this section, the Authority shall consult such persons as may appear to it to be the representative respectively of -
  - (a) the civil aviation industry in Nigeria; and
  - (b) users of air transport and allied aviation services
- (4) The manner of publication of any statement under this section shall be as the Authority may determine

***Committee's Recommendation:***

That the provision in Clause 30 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 30 do stand part of the Bill, put and agreed to.*

**PART VII - POWERS OF THE AUTHORITY TO CONTROL AND REGULATE CIVIL AVIATION**

**Clause 31: General power to regulate civil aviation.**

- (1) The powers conferred on and the functions of the Authority in this Act are vested in the Director-General who may exercise them directly or by delegation.
  - (a) for carrying out the Convention on International Civil Aviation (in this section referred to as "the Convention") concluded at Chicago on the 7th day of December, 1944, any annex to the Convention which relates to international standards and recommended practices and is adopted in



accordance with the Convention, and any amendment of the Convention or of any of such annex which is made in accordance with the Convention;

- (b) for carrying out any other treaty or agreement in the field of civil aviation to which Nigeria is a party;
  - (c) for regulating air navigation; and
  - (d) generally for ensuring aviation safety and security, the efficiency and regularity of air navigation and the safety of aircraft, persons and property carried in aircraft and for preventing aircraft from endangering persons and property.
- (2) The powers conferred upon the Authority under this section includes the powers to develop, make, issue and revise regulations, rules, orders, terms and conditions in respect of any matter relating, incidental, or supplemental to it, or such matter as the Authority may deem necessary in the public interest and safety of air navigation.
- (3) The powers conferred upon the Authority under this section includes the powers to develop, make, issue and revise regulations, rules, orders, directives, advisory circulars terms and conditions in respect of any matter relating, incidental, or supplemental to it, or such matter as the Authority may deem necessary in the public interest and safety and security of civil aviation.
- (4) Regulations, rules, orders and directives made or given under this section shall provide for the imposition of penalties for non-compliance, including the suspension or revocation of certificates, licences, validations and authorisations, and in the case of any particular offence such fine as may from time to time be prescribed by regulations made by the Authority and or imprisonment for a term not less than six months, and, subject to Chapter IV of the Constitution of the Federal Republic of Nigeria (which relates to fundamental rights), for the taking of such steps including the interception of aircraft as may be prescribed as respects aircraft flying over areas of Nigeria over which flying is prohibited by the regulations.
- (5) In the exercise of its power to make regulations under this section, the Authority shall consult with stakeholders including airlines, aerodrome operators, air traffic control service providers, consumers and any other relevant body and organisation in the aviation industry.
- (6) In the exercise of its power to make regulations under this section, the Authority shall consult with stakeholders including airlines, aerodrome operators, air navigation service providers, consumers and any other relevant body and organisation in the aviation industry.
- (7) Where the Authority is of the opinion that an emergency requiring immediate action exists with respect to safety and security in civil aviation, the Authority shall have the power, either upon complaint or on the Authority's initiative without complaint, at once, if the Authority so orders, without answer or other form of pleading by the interested person or persons, and with or without notice, hearing, or the making or filing of a report, to make such orders, rules, or

regulations or issue such directives as may be essential in the interest of safety and security in civil aviation to meet such emergency.

**Committee's Recommendation:**

That the provision in Clause 31 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 31 do stand part of the Bill, put and agreed to.*

**Clause 32: Power to issue, amend, modify, suspend or revoke certificates.**

- (1) The Authority shall have power to -
  - (a) issue, amend, vary, cancel, refuse and suspend approved training organization certificates or maintenance organisation certificates in conformity with regulations made under this Act;
  - (b) issue, amend, vary, cancel, refuse and suspend an aircraft and aeronautical products design and production certificate in conformity with regulations made under this Act;
  - (c) issue, validate or accept type certificates and prescribe in such certificates, terms, conditions and limitations as is required in the interest of safety;
  - (d) issue, renew or validate certificates of airworthiness in respect of an aircraft, and specify in such certificates, the duration of such certificates, the type of services for which the aircraft may be used and such other terms, conditions or limitations as is required in the interest of safety;
  - (e) issue, amend, vary, cancel and suspend airworthiness approvals, licences and certificates in conformity with regulations made under this Act;
  - (f) develop, issue and amend airworthiness directives, bulletins, orders, terms and conditions to bring it in to conformity with airworthiness regulations;
  - (g) issue, amend, vary, cancel, refuse and suspend aerodrome certificates;
  - (h) issue, amend, vary, cancel or suspend such other certificates, licences or authorisations issued pursuant to regulations made under this Act; or
  - (i) specify the fees to be paid for the issue, validation, acceptance, renewal, extension or variation of any certificate, licence or any other document issued pursuant to this Act or the undergoing of any examination or test required which may be expedient for the purpose of the regulation of fees charged
- (2) Without prejudice to the generality of the foregoing subsections, the Authority's power shall include the power to make regulations as to the manner and conditions of the issue, validation, acceptance, renewal, extension or variation of any certificate, licence or other document required by the regulations including the examinations and tests to be undergone, and as to the form, custody, production,

cancellation, suspension, endorsement and surrender of any such document.

- (3) An application for the variation, suspension or revocation of a licence, permit, certificate or any other authorisation may be made to the Authority at any time in such manner and by such person as may be prescribed by the Authority.
- (4) The Authority may at any time vary, suspend, revoke and cancel, a licence, permit, certificate or any other authorisation where it considers it appropriate to do so, whether or not such an application with respect to the licence, permit, certificate or authorization has been made pursuant to subsection (3) of this section.
- (5) The Authority may exercise its powers to revoke, cancel, suspend or vary a licence, permit, certificate or authorisation (whichever is appropriate in the circumstances) where it is not or is no longer satisfied that -
  - (a) the holder is fit and proper to hold the licence, permit, certificate or other authorization, having regard to-
    - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
    - (ii) where the holder of the licence, permit, certificate or other authorization is a body corporate, the experience in the field of aviation and the past activities generally of the persons appearing to the Authority to control that body while conducting air transport business under the authority of the licence, permit, certificate or other authorisation;
  - (b) the resources of the holder of the licence, permit, certificate or other authorization and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged; and
  - (c) the holder of a licence, permit, certificate or other authorization subject to section (1) of this section is a citizen of Nigeria or such company or body as mentioned in section 96(1) of this Act.
- (6) The Authority may exercise its powers under this Act to revoke, suspend or vary a licence, permit, certificate or authorization (whichever is appropriate in the circumstances) where it is satisfied that the holder of a licence has contravened any of the provisions of this Act or any regulation made under it especially any provision and regulations relating to safety and security or any provision or regulation the breach of which constitutes an offence under this Act or such regulation.
- (7) The provisions of subsections (1), (2), (3) and (4) conferring on the Authority power to vary, cancel, suspend and revoke a licence, permit, certificate or other authorisation shall be construed as conferring on the Authority power to provide, by a notice in writing

served in the prescribed manner on the holder of the licence, permit, certificate or other authorization that the licence, permit, certificate or other authorization shall not be effective during a period specified in the notice

- (8) The Authority may, while a licence, permit, certificate or other authorisation is ineffective by virtue of such a notice, by a further notice in writing served in the prescribed manner on the holder, provide that the licence, permit, certificate or other authorisation shall be effective on and after a date specified in the further notice, but the further notice shall not prejudice the Authority's powers to suspend the licence, permit, certificate or other authorization again or to revoke or vary it.
- (9) The Authority may, from time to time, for any reason, re-inspect or re-examine any civil aircraft, aircraft engine, propeller, appliance, air operator, aerodrome, aerodrome operator, school, approved maintenance organisation and allied aviation service provider or any civil airman holding a licence or certificate issued under this Act.
- (10) Where, as a result of any of such re-inspection or re-examination, or where, as a result of any other investigation the Authority determines that safety and security in civil aviation or commercial air transport and the public interest requires, the Director-General may issue a notice amending, modifying, suspending, or revoking, in whole or in part, any airworthiness certificate or licence, airman licence or certificate, air operator certificate or licence, licence or certificate for any aerodrome, school, approved maintenance organization or allied aviation service providers issued under this Act
- (11) Prior to amending, modifying, suspending, or revoking any of the foregoing licence or certificate, the Director-General shall advise the holder of it as to any charges or reasons relied upon by the Director-General for the proposed action and, except in cases of emergency, shall provide the holder of such a certificate or licence an opportunity to answer any charge and be heard as to why such certificate or licence should not be amended, modified, suspended, or revoked.
- (12) Any person whose certificate or licence is affected by an order of the Authority under this section may appeal in accordance with regulations made pursuant to this Act.
- (13) The filing of an appeal under this section shall not stay the decision of the Authority.

***Committee's Recommendation:***

That the provision in Clause 32 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 32 do stand part of the Bill, put and agreed to.*

**Clause 33: Powers of the authority to conduct investigations, etc.**

- (1) The Authority shall have the power to perform such acts, conduct such investigations, impose such penalties, issue and amend such orders, and to make and amend such general or special rules,

regulations, and procedures pursuant to and in accordance with the provisions of this Act, as the Authority shall deem necessary to carry out the provisions of, and the exercise and performance of the powers and duties assigned under this Act.

- (2) In the conduct of any public hearing or investigation authorised by this Act, the Authority shall have the power to take evidence, issue subpoenas, and take depositions.
- (3) In the exercise and performance of the powers and duties assigned under this Act, the Authority shall consider the promotion, encouragement and development of safety and security in civil aviation as being in the public interest.

***Committee's Recommendation:***

That the provision in Clause 33 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 33 do stand part of the Bill, put and agreed to.*

**Clause 34: Power of the Authority to make rules for the protection of public health.**

- (1) The Authority in consultation with other relevant government agencies may make regulations for the prevention of danger arising to public health by the introduction or spread of any infectious or contagious disease from aircraft arriving at or being at any aerodrome and for the prevention of the conveyance of infection or contagion by means of any aircraft leaving an aerodrome.
- (2) The Authority may, by regulation provide that a breach of any regulation made pursuant to subsection (1) of this section shall be punishable with imprisonment for a period of not less than 1 month or a fine of not less than ₦200,000.00 or to both.

***Committee's Recommendation:***

That the provision in Clause 34 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 34 do stand part of the Bill, put and agreed to.*

**Clause 35: Power of the Authority to prohibit certain activities, etc.**

The Authority shall have the power to make regulations for -

- (a) the prohibition of any Nigerian or foreign registered aircraft from operating within the Nigerian airspace, unless a certificate of airworthiness in respect of it, is issued or validated under the regulations in force with respect to the aircraft;
- (b) the prohibition of any person from engaging in air navigation in any capacity whatsoever unless the Authority determines that such a person satisfies the requirements of this Act and the regulations made under it;
- (c) the prohibition of aircraft from flying over such areas in Nigeria as may be prescribed;

- (d) the prohibition of aircraft from flying unless certificates of airworthiness issued or validated under the regulations are in force with respect to the aircraft and except upon compliance with such conditions as to maintenance and repair as may be prescribed;
- (e) the prohibition or regulation of the use of aerodromes which are not certified in pursuance of the regulations;
- (f) prohibiting persons from engaging in, or being employed in or in connection with, air navigation in such capacities as may be prescribed unless the prescribed requirement is satisfied, and for the licensing of persons employed at aerodromes or in the inspection, testing or supervision of aircraft;
- (g) prohibiting the carriage by air of goods of such class or classes as may be prescribed; and
- (h) prohibiting or regulating the installation of any structure which by virtue of its height or position is considered to endanger the safety of air navigation within the navigable airspace of Nigeria.

***Committee's Recommendation:***

That the provision in Clause 35 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 35 do stand part of the Bill, put and agreed to.*

**Clause 36: Power to request for information.**

- (1) For the purpose of obtaining required information for the proper discharge of the functions conferred upon it by this Act, any authorised officer of the Authority may by notice in writing -
  - (a) require any person who undertakes the business of air transport including carriage of passengers or goods in an aircraft for reward, to furnish such information relating to such business and flights as may be specified in the notice; and
  - (b) specify the times and the form and manner in which, any information required under paragraph (a) of this sub section shall be furnished.
- (2) In carrying out the functions conferred on the Authority by subsection (1) of this section, an authorised officer of the Authority shall have unrestricted access to inspect the business premises, aircraft, structures and other apparatus and documents used by any operator for the purpose of air transport or related operations.
- (3) In this section, "authorised officer" means the Director-General or any other officer of the Authority specifically or generally authorised by the Director-General to carry out the functions of the Authority under this Act.

***Committee's Recommendation:***

That the provision in Clause 36 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 36 do stand part of the Bill, put and agreed to.*

**Clause 37: Restriction on disclosure and use of information.**

- (1) The Authority shall not make available or use safety data for other purposes other than safety-related purposes unless an appropriate authority determines, in accordance with any law in force in Nigeria, that the value of the disclosure or use of the information in any particular case, outweighs the adverse impact such disclosure or use may have on aviation safety and security.
  - (a) in accordance with directions given by the Authority for the purpose of the exercise of any of its functions under this Act;
  - (b) for the purposes of any proceedings under this Act; or
  - (c) as required under the Freedom of Information Act.
- (2) An estimate, return or information relating to an air transport undertaking obtained under the provisions of section 36 of this Act, shall not, without the prior consent in writing of the person carrying on the undertaking which is the subject of the estimate, return, or information, be disclosed except -
- (3) Any person who discloses any estimate, returns or any information in contravention of sub section (1) of this section, commits an offence and is liable on conviction to imprisonment for a term not less than 1 month or a fine not less than ₦100,000.00 or to both.

***Committee's Recommendation:***

That the provision in Clause 37 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 37 do stand part of the Bill, put and agreed to.*

**Clause 38: False information.**

Whoever willfully, maliciously, or with reckless disregard for the safety of human life, imparts, provides or causes to be provided, false information, knowing the information to be false, concerning an attempt or alleged attempt being made or to be made, to do any act that is prohibited by section 37 of this Act, commits an offence and shall upon conviction be liable to a fine not less than ₦200,000.00, or to a term of imprisonment not exceeding 6 months, or to both.

***Committee's Recommendation:***

That the provision in Clause 38 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 38 do stand part of the Bill, put and agreed to.*

**Clause 39: Regulation of Airspace.**

- (1) The Authority shall develop regulations with respect to the use of the navigable airspace of Nigeria and may assign by rule, regulation, or order the use of the navigable airspace under such terms, conditions and limitations as the Authority may deem necessary to insure the safety of aircraft and the efficient utilisation of such airspace.

- (2) The Authority's power under this section shall be exercised only in that airspace for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.

**Committee's Recommendation:**

That the provision in Clause 39 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 39 do stand part of the Bill, put and agreed to.*

**Clause 40: Regulation of air navigation service.**

- (1) The Authority shall have the power to regulate the standards for the provision of air navigation service and prescribe air traffic regulations, rules or conditions governing the -
- (a) flight of aircraft;
  - (b) navigation, protection and identification of aircraft;
  - (c) protection of persons and property on the ground; and
  - (d) efficient utilisation of the navigable airspace, including rules as to safe altitude of flight and rules for the prevention of collision between aircraft, between aircraft and land or water, vehicles and objects, and between aircraft and airborne objects.
- (2) Notwithstanding the provision of subsection (1) of this section and without prejudice to the provisions of section 31 of this Act, the Authority shall have power to -
- (a) institute and regulate the use of civil air ensign and other ensign established for purposes connected with air navigation in Nigeria
  - (b) regulate the activities of air navigation service providers in accordance with ICAO standards and recommended practices;
  - (c) regulate and participate in aeronautical search and rescue operations;
  - (d) regulate the standards for the provision of aeronautical meteorological services for the safe conduct of civil aviation operations;
  - (e) regulate as to the circumstances and conditions under which it would be permissible to use aircraft for aerial advertisement; and for regulating advertisements by air transport, aerodrome and air traffic control service providers;
  - (f) require persons engaged in, or employed in or in connection with, air navigation to supply meteorological information for the purposes of air navigation;
  - (g) regulate the making of signals and any other communication by or to aircraft and persons carried in aircraft; and



- (h) regulate the aeronautical radio frequency spectrum utilization in Nigeria.
- (3) The Authority's power under this section shall be exercised only in that air space for which air traffic control responsibility has not been assigned to a foreign country by international agreement or other arrangement.
- (4) In exercising the power granted in, and discharging the duties imposed by this Act, the Authority shall give full consideration to the requirements of national security, commercial and general aviation and to the public right of transit through the navigable airspace.

***Committee's Recommendation:***

That the provision in Clause 40 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 40 do stand part of the Bill, put and agreed to.*

**Clause 41: Grant of exemptions.**

- (1) The Authority may grant exemptions from any of the requirements set forth in the regulations made pursuant to this Act, where the Authority considers that granting such exemptions will not compromise safety and security and is in the public interest.
- (2) The Authority shall issue regulations, directives or orders governing the application for and approval of exemptions.
- (3) The Authority shall publish any exemption actions taken.
- (4) Except as provided in subsections (1), (2) and (3) of this section or any regulations made pursuant to this Act, the Authority may not grant exemptions from the requirements of the regulations made pursuant to this Act.

***Committee's Recommendation:***

That the provision in Clause 41 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 41 do stand part of the Bill, put and agreed to.*

**Clause 42: Aviation security.**

- (1) The Authority shall have the power to regulate the standards -
- (a) for the provision of civil aviation security in Nigeria;
- (b) regarding security control and screening to which passengers and baggage, whether accompanied or unaccompanied, would be subjected to prior to boarding or being laid on an aircraft;
- (c) requiring all passengers and property intended to be carried on board an aircraft in commercial air transport to be subjected to security checks by employees or agents of the operator or any other relevant Authority;
- (d) for the implementation of advance passenger information and passenger name record data exchange between departure and destination countries and for the protection of passenger information;

- (e) for such practices, methods and procedures as the Authority may find necessary to protect any person and property aboard aircraft operating in commercial air transport against any act of unlawful interference, violence and aircraft piracy; and
  - (f) for the deployment of any person onboard aircraft pursuant to a bilateral or multilateral treaty, arrangement or agreement for the purpose of securing the aircraft in-flight and any person onboard the aircraft.
- (2) The Authority shall to the extent practicable and subject to any other relevant law, require uniform procedures for the inspection, detention, and search of persons and property in air transport to assure their safety and to assure that they will receive courteous and efficient treatment by air operators, their agents and employees.
- (3) The Authority shall -
- (a) develop aviation security policies and requirements consistent with the provisions of Annex 17 to the Chicago Convention;
  - (b) issue orders, circulars or directives to require the implementation of immediate security measures; and
  - (c) provide oversight for the implementation of aviation security policies and requirements.

***Committee's Recommendation:***

That the provision in Clause 42 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 42 do stand part of the Bill, put and agreed to.*

**Clause 43: Requirement for approval of airline security programme.**

- (1) An airline operator shall not operate air transport service to, from and within Nigeria unless he has a security programme approved by the Authority.
- (2) It shall be the duty of the airline operator, its representatives and servants to comply with the provisions of the approved security programme.
- (3) Every breach of the provisions of the approved airline security programme shall attract a fine of not less than ₦500,000.00 or as stipulated by the relevant regulation whichever is higher

***Committee's Recommendation:***

That the provision in Clause 43 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 43 do stand part of the Bill, put and agreed to.*

**Clause 44: Security surveys, audits, tests and inspections.**

The Authority or any other person authorised by it by general or special order in writing in its behalf may conduct -

- (a) surveys and inspections of security measures relating to passengers and their cabin baggage, checked in baggage, cargo and other goods, access controls and aerodrome design; and
- (b) surveys, audits, tests, and inspections on aerodromes, airlines and allied aviation services operating in Nigeria; and
- (c) exercises to check the professional efficiency of the personnel responsible for implementing the aviation security procedures and also to test the adequacy of security measures at any aerodrome in Nigeria.

***Committee's Recommendation:***

That the provision in Clause 44 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 44 do stand part of the Bill, put and agreed to.*

**Clause 45: Security checks of passenger and baggage.**

- (1) Every person entering an aerodrome and before proceeding for boarding an aircraft and his hand baggage, if any, shall be subjected to a search and shall permit to be searched by an aviation security officer or any other person authorised in that behalf in writing by the Minister.
- (2) Baggage of every person boarding an aircraft and all unaccompanied baggage shall be screened or subjected to prescribed security control before it is placed on board or carried on an aircraft.
- (3) Every person who refuses to submit himself or his baggage for a search commits an offence and is liable to a fine of not less than ₦500,000.00.

***Committee's Recommendation:***

That the provision in Clause 45 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 45 do stand part of the Bill, put and agreed to.*

**Clause 46: Incident reporting, investigation and enforcement.**

- (1) The Authority shall promulgate rules and regulations governing the notification and reporting of incidents involving aircraft and at aerodromes.
- (2) The Authority shall have power to carry out investigations into any complaint or occurrence relating to aviation safety and security, after due notice to the persons concerned.
- (3) Where the Authority is satisfied after such investigation that such person is violating any provisions of this Act, regulations, rules, orders or directives, as the case may be, it shall by order require the person to take such action consistent with the provision of this Act, regulations, rules, orders or directives as may be necessary in the opinion of the Authority to prevent further violation of the provisions of this Act, regulations, rules, orders or directives.

- (4) The Authority shall have power to take all steps reasonably necessary, including the power to ground any aircraft and to seal the premises of any air transport service provider or provider of allied aviation service and to take any corrective actions in order to implement the findings of accidents and incidents investigations and ensure compliance with the provisions of this Act and the regulations, rules, orders or directives made pursuant to it.
- (5) The Authority shall implement mandatory punitive and voluntary non-punitive incident and accident reporting system and shall protect the identity of any person or organisation who offer information towards the performance of its functions under this Act and regulations made under it.

***Committee's Recommendation:***

That the provision in Clause 46 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 46 do stand part of the Bill, put and agreed to.*

**Clause 47: Validation of actions of the Civil Aviation Authority of other States.**

The Authority may in the discharge of certification and inspection responsibilities, validate or accept the actions of the Civil Aviation Authority of another State in lieu of taking the specific action subject to the following restrictions for actions -

- (a) on airman or airworthiness certificates, the other State shall be a signatory to the Chicago Convention and be fulfilling its obligations under the Convention with respect to the issuance and currency of these certificates; and
- (b) applicable to air operators, the Authority shall exercise discretion and require supporting documents and ensure that, when validation is based on the actions of another civil aviation authority, there is no information to indicate that the State does not meet its obligations under the Chicago Convention regarding certification and on-going validation of its air operators.

***Committee's Recommendation:***

That the provision in Clause 47 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 47 do stand part of the Bill, put and agreed to.*

**Clause 48: Right of access for inspection.**

- (1) The Authority shall have free, unrestricted, unobstructed and unlimited access to all civil aviation personnel, documents, aircraft, aerodrome, aviation facilities, to inspect aircraft, aircraft manufacturers and maintenance facilities or organisations, training facilities including simulators, and other appliances designed for use in air transportation, as may be necessary to enable the Authority to determine the issuance or granting of a certificate of registration or approval to such aircraft, aerodrome, aircraft manufacturer and maintenance facility or organization and other applicable appliances; and for the purpose of exercising its powers and carrying out its functions under this Act and regulations made under it.

- (2) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to enter any aircraft registered or operating in Nigeria for the purpose of inspecting any security procedure.
- (3) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to require an aircraft operator, aerodrome operator or occupier of land outside an aerodrome used for business purposes connected with the aerodrome to provide information relevant to any audit, inspection, survey, test or investigation.
- (4) The Authority shall have free, unrestricted, unhindered, unobstructed and unlimited access to relevant security documentation and records connected with air transportation and to interview any person for the purpose of assessing the standard of security or the implementation of security procedures.

***Committee's Recommendation:***

That the provision in Clause 48 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 48 do stand part of the Bill, put and agreed to.*

**Clause 49: Authority to prevent flight.**

- (1) The Authority shall have the power to direct an operator or airman of a civil aircraft not to operate in any situation where the -
  - (a) aircraft may not be airworthy;
  - (b) airman may not be qualified or physically or mentally capable for the flight; or
  - (c) operation would cause imminent danger to any person or property on the ground.
- (2) The Authority may take such steps as is necessary to detain such aircraft or airman.

***Committee's Recommendation:***

That the provision in Clause 49 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 49 do stand part of the Bill, put and agreed to.*

PART VIII - INTERNATIONAL OBLIGATIONS

**Clause 50: Application of certain Conventions.**

- (1) The provisions of the Convention on the International Recognition of Rights in Aircraft (Geneva Convention), 1948 as amended from time to time, shall from the commencement of this Act have the force of law in Nigeria subject to the provisions of the Constitution.
- (2) The provisions of the Convention on International Interests in Mobile Equipment 2001 and the Protocol to the Convention on International Interests in Mobile Equipment on Matters Specific to Aircraft Equipment 2001 (The Cape Town Convention and Protocol), as may be amended from time to time, shall from the commencement of this Act, have the force of law in Nigeria subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).

- (3) The provisions of the Convention on Offences and Certain Other Acts committed On Board Aircraft signed at Tokyo on 14th September, 1963 and any amendment thereto shall from the commencement of this Act have the force of law in Nigeria subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).
- (4) The provisions of the Convention for the Suppression of Unlawful Seizure of Aircraft, signed at the Hague on 16th December, 1970, as amended from time to time, shall from the commencement of this Act, have the force of law in Nigeria subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).
- (5) The provisions of the Convention for the Suppression of Unlawful Acts against the Safety of Civil Aviation, signed at Montreal on 23rd December, 1971, as amended from time to time, shall from the commencement of this Act have the force of law in Nigeria, subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).
- (6) The Convention on the Marking of Plastic Explosives for the Purpose of Detection, signed at Montreal on 1st March, 1991, as amended from time to time, shall from the commencement of this Act have force of law in Nigeria, subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 (As Altered).
- (7) The Minister shall have power to, from time to time, make the declarations required or permitted to be made under the Conventions, Treaties or Protocols referred to under subsections (1), (2), (3), (4), (5) and (6) of this section.

***Committee's Recommendation:***

That the provision in Clause 50 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 50 do stand part of the Bill, put and agreed to.*

**Clause 51: Application of Air Services Agreement and Security Funds.**

- (1) All funds accruing from or as a result of air services agreements entered into by Nigeria, whether multilateral or bilateral, shall be paid to the Authority and maintained in a separate account to be used solely for the development of civil aviation in Nigeria in accordance with directives given by the Minister and appropriation by the National Assembly.
- (2) There shall be paid on each passenger ticket for international air travel emanating from Nigeria a security surcharge as may be determined from time to time by the Authority.
- (3) All funds accruing as a result of security surcharge from international flight tickets shall be paid to the Authority and maintained in a separate account to be used solely for the improvement of aviation security in Nigeria, in accordance with directions given by the Minister and appropriation by the National Assembly.

**Committee's Recommendation:**

That the provision in Clause 51 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 51 do stand part of the Bill, put and agreed to.*

**Clause 52: Authority to act in consistency with international obligations.**

In exercising and performing powers and duties under this Act, the Authority shall act consistently with any obligation assumed by the Government of Nigeria under any international treaty, convention and agreement that may be in force between the Government of Nigeria and any foreign country.

**Committee's Recommendation:**

That the provision in Clause 52 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 52 do stand part of the Bill, put and agreed to.*

**Clause 53: Authority to enter into cooperation agreements.**

- (1) The Authority shall encourage cooperation in the regulation and administration of aviation safety and security.
- (2) The Authority, pursuant to subsection (1) of this section -
  - (a) may enter into any agreement for cooperative endeavours in aviation safety and security with other regional contracting States to the Convention on International Aviation; and
  - (b) shall in conjunction with the Minister, negotiate, agree to and manage such cooperative agreements
- (3) The Authority may in the interest of public safety and the safety of civil aviation, delegate certain aviation safety tasks under the cooperative agreement to citizens of Nigeria or citizens of the other State party to the agreement.
- (4) The Authority may, subject to the approval of the Minister, cause to be implemented, from time to time, a surcharge on ticket sales by international passengers for the purposes of meeting any obligation arising from cooperative safety and security arrangements.

**Committee's Recommendation:**

That the provision in Clause 53 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 53 do stand part of the Bill, put and agreed to.*

**Clause 54: Bilateral exchange of safety oversight responsibilities.**

- (1) The Authority may pursuant to Article 83 *bis* of the Convention on International Civil Aviation and by a bilateral agreement with the Aeronautical Authority of another country exchange with that country all or part of its respective functions and duties with respect to registered aircraft under Article 12 (Rules of the Air), Article 30 (Aircraft Radio Equipment), Article 31 (Certificates of Airworthiness) and Article 32 (a) (Licenses of Personnel) of the Convention.

- (2) The Authority may relinquish its responsibility with respect to the functions and duties transferred by the Authority as specified in the bilateral agreement under the Articles listed in subsection (1) of this section for Nigerian registered aircraft described in subsection (7)(a) of this section transferred abroad and accept responsibility with respect to the functions and duties under the articles for aircraft registered abroad described in subsection (7)(b) of this section that is transferred to Nigeria.
- (3) The Authority may predicate in the Agreement, the transfer of functions and duties under this sub section on any condition that the Authority deems necessary and prudent, except that the Authority may not transfer responsibilities for Nigerian registered aircraft described in subsection (7)(a) of this section to a State that the Authority determines is not in compliance with its obligations under international law for the safety oversight of civil aviation.
- (4) The Authority, pursuant to any agreement entered into under this section, may recognise certificates of airworthiness and personnel licences issued or renewed by the State of the operator.
- (5) The Authority shall notify and inform the International Civil Aviation Organisation and other States concerned with the transfer arrangement of the existence of the agreement.
- (6) The Authority shall have the power to exchange with any foreign government, through appropriate agencies of the Government of Nigeria, information pertaining to civil aviation.
- (7) In this section "registered aircraft" means -
  - (a) aircraft registered in Nigeria and operated pursuant to an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, where it has no such place of business, its permanent residence in another country; and
  - (b) aircraft registered in a foreign country and operated under an agreement for the lease, charter, or interchange of the aircraft or any similar arrangement by an operator that has its principal place of business or, where it has no such place of business, its permanent residence in Nigeria.

***Committee's Recommendation:***

That the provision in Clause 54 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 54 do stand part of the Bill, put and agreed to.*

**Clause 55: Carriers' liability.**

- (1) The provisions contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999 set forth in the Second Schedule to this Act and as amended from time to time, shall from the commencement of this Act have force of law and apply to international carriage by air to and from Nigeria, in relation to any carriage by air to which the rules apply, irrespective of the nationality of the aircraft performing the carriage, and shall, subject to the provisions of this Act, govern



the rights and liabilities of carriers, passengers, consignors, consignees and other persons.

- (2) The provisions contained in the Convention for the Unification of Certain Rules Relating to International Carriage by Air signed at Montreal on 28th May, 1999 which has been modified and set out in the Second Schedule to this Act and as amended from time to time, shall from the commencement of this Act have the force of law and apply to non-international carriage by air within Nigeria, irrespective of the nationality of the aircraft performing the carriage, and shall subject to the provisions of this Act govern the rights and liability of carriers, passengers, consignors, consignees and other persons within the contemplation of the modified Convention.
- (3) In any case of aircraft accident resulting in death or injury of passengers, the airline operator or carrier shall make advance payments of Naira equivalent of at least US\$30,000 within 30 days from the date of such accident, to the natural person or such natural persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons and such advance payments shall not constitute recognition of liability and may be offset against any amount subsequently paid as damages by the carrier.
- (4) The advance payment sum prescribed in subsection (3) of this section and the limit of liability under the Convention for the Unification of Certain Rules Relating to International Carriage by Air as modified by subsection (2) of this section shall stand reviewed automatically upon receipt by Nigeria of a notification of the 5 yearly review of the limits from the International Civil Aviation Organisation (ICAO).

***Committee's Recommendation:***

That the provision in Clause 55 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 55 do stand part of the Bill, put and agreed to.*

**Clause 56:** Application to aircraft of law of wreck and salvage.

- (1) It shall be the responsibility of any person or aircraft to provide such measure of assistance to aircraft in distress within the territory of Nigeria as may be found practicable.
- (2) The Minister may permit the owner of an aircraft in distress or the authorities of the State in which the aircraft is registered, subject to control by Nigerian authorities, to provide such service or assistance as may be necessary.
- (3) When undertaking search for missing aircraft, the authorities in Nigeria will collaborate in coordinated measures, as may be recommended from time to time pursuant to the Chicago Convention.
- (4) Where salvage services are rendered by an aircraft to any property or person, the owner of the aircraft shall be entitled to the same reward for the services as he would have been entitled to if the aircraft had been a vessel.

- (5) The provisions of subsections (1) and (2) of this section shall have effect, notwithstanding that the aircraft concerned is a foreign aircraft and that the services in question is rendered elsewhere than within the limits of the territorial waters of Nigeria.
- (6) The provisions of subsections (3) and (4) of this section shall have effect, notwithstanding that the aircraft concerned is a foreign aircraft and that the service in question is rendered elsewhere than within the limits of the territorial waters of Nigeria.
- (7) The Minister may by regulations direct that any provisions of any law for the time being in force in Nigeria which relate to wreck and salvage of life or property or to the duty of rendering assistance to vessels in distress shall, with such modifications and exceptions (if any) as may be prescribed, apply in relation to aircraft as those provisions apply in relation to vessels.
- (8) For the purposes of this section, any provision of any law in force in Nigeria, which relate to vessels laid by, or neglected as unfit for sea service shall be deemed to be provisions relating to wreck.

***Committee's Recommendation:***

That the provision in Clause 56 be retained (*Senator Smart Adeyemi — Kogi West*) — *Agreed to.*

*Question that Clause 56 do stand part of the Bill, put and agreed to.*

**Clause 57: Patent claims.**

- (1) Any lawful entry into Nigeria or any lawful transit across Nigeria, with or without landings, of an aircraft to which this sub-section applies, shall not entail any seizure or detention of the aircraft or any proceedings against the owner or operator of the aircraft or any other interference with the aircraft by or on behalf of any person in Nigeria on the ground that the construction, mechanism, parts, accessories, or operation of the aircraft is an infringement of any patent, design or model.
- (2) The importation into and storage in Nigeria of spare parts and spare equipment for an aircraft to which this subsection applies and the use and installation of it in repair of such an aircraft, shall not entail any seizure or detention of the aircraft or of the spare parts or spare equipment or any proceedings against the owner or operator of the aircraft or the owner of the spare parts or spare equipment or any other interference with the aircraft by or on behalf of any person in Nigeria, on the ground that the spare parts or spare equipment or their installation is an infringement of any patent, design or model; provided that, this sub section shall not apply in relation to any spare parts or spare equipment which is sold or distributed in Nigeria or is exported from Nigeria for sale or distribution.
- (3) Subsections (1) and (2) of this section shall apply to -
  - (a) any aircraft other than an aircraft used in military, customs or police services registered in a country or territory in the case of which there is for the time being in force a declaration made by the Minister, with a view to the fulfillment of the relevant provisions of the Convention mentioned in section 55

(2) of this Act, that the benefits of the subsections extend to that country or territory; and

(b) such other aircraft as the Minister may by order specify.

**Committee's Recommendation:**

That the provision in Clause 57 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 57 do stand part of the Bill, put and agreed to.*

**Clause 58: Infringement of patent.**

- (1) Where it is alleged by any interested person that a foreign aircraft which is not an aircraft to which section 57 of this Act applies and which is making a passage through or over Nigeria, infringes in itself or part of any invention, design or model which is entitled to protection in Nigeria, it shall be lawful, subject to and in accordance with any order made by the Minister, to detain the aircraft until the owner of it deposits or secures in respect of the alleged infringement a sum (hereafter in this section referred to as "the deposited sum"); and thereupon the aircraft shall not, during the continuance of the passage, be subject to any lien, arrest, detention or prohibition, whether by order of a court or otherwise, on account of the alleged infringement.
- (2) The deposited sum shall be such sum as may be agreed between the parties interested or, in default of agreement, as may be fixed by the Minister; and the payment of the deposited sum shall be made or secured to the Minister in such manner as may be specified by orders made by the Minister.
- (3) The deposited sum shall be dealt with by such tribunal and in accordance with such procedure as may be prescribed by orders made by the Minister, and the orders may provide generally for carrying the provisions of subsections (1) and (2) of this section into effect.
- (4) For the purposes of subsection (1) of this section, the expression "owner" shall include the actual owner of an aircraft and any person claiming through or under him, and the expression "passage" shall include all reasonable landings and stoppages in the course of the passage.

**Committee's Recommendation:**

That the provision in Clause 58 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 58 do stand part of the Bill, put and agreed to.*

**PART IX - NATIONALITY AND REGISTRATION OF AIRCRAFT**

**Clause 59: Aircraft Registration.**

- (1) The Authority shall have power to regulate and by regulations make provisions for the registration of civil aircraft or any interest therein in Nigeria.

- (2) The Authority shall establish a national registry and maintain a national register of civil aircraft in Nigeria.
- (3) It shall be unlawful to operate a civil aircraft in Nigeria unless it is registered in Nigeria or under the laws of a foreign country.
- (4) An aircraft shall be eligible for registration only if it is not registered in a foreign country and, unless otherwise permitted by the Authority by regulation, it is owned by-
  - (a) a citizen of Nigeria;
  - (b) a citizen of another State who is lawfully admitted for permanent residence in Nigeria;
  - (c) a company lawfully registered and doing business under the laws of Nigeria and the aircraft is based and primarily used in Nigeria;
  - (d) the Government of Nigeria or a political sub - division of it; or
  - (e) a foreign person who has leased the aircraft to one of those described in paragraphs (a), (c) and (d) of this subsection.
- (5) Upon request of the owner or lessee of any aircraft eligible for registration, such aircraft shall be registered by the Authority and the Director-General shall issue to the owner a certificate of registration.
- (6) Applications for such certificates shall be in such form and shall contain such information as the Authority may prescribe from time to time.
- (7) Any certificate issued by the Director-General may be suspended or revoked for any cause if the Director-General finds such suspension or revocation to be in the public interest.
- (8) An aircraft shall acquire Nigerian nationality when registered under this Act.
- (9) A certificate of registration issued under this section shall not be conclusive evidence as to ownership in any proceeding under the laws of Nigeria in which ownership of the aircraft by a particular person is or may be in issue.

***Committee's Recommendation:***

That the provision in Clause 59 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 59 do stand part of the Bill, put and agreed to.*

**Clause 60: Recordation of interest in aircraft.**

- (1) The Authority shall cause to be recorded in the national civil aircraft register any title to or any interest in any civil aircraft registered in Nigeria and in any aircraft engine, propeller or appliance intended for use on any aircraft registered in Nigeria.

- (2) Upon registration of any title to or interest in any civil aircraft registered in Nigeria no document affecting title to or any interest in such registered aircraft, aircraft engines, propellers, appliances, or spare parts shall be valid, except between the parties to it, unless it is contained in the register.
- (3) The validity of any document so recorded, unless otherwise specified by the parties to it, shall be determined under the laws of Nigeria.

***Committee's Recommendation:***

That the provision in Clause 60 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 60 do stand part of the Bill, put and agreed to.*

**PART X - SAFETY REGULATION**

**Clause 61: Duty to promote safety of civil aviation.**

The Authority shall have the power and duty to promote safety of civil aviation by prescribing and revising, from time to time, as necessary —

- (a) rules and regulations implementing, all Standards of the Annexes to the Chicago Convention; and
- (b) such other rules, regulations, or standards governing other practices, methods, and procedures as the Authority may find necessary to provide adequately for safety in civil aviation.

***Committee's Recommendation:***

That the provision in Clause 61 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 61 do stand part of the Bill, put and agreed to.*

**Clause 62: Establishment of State Safety Programme.**

- (1) The Authority shall establish a State Safety Programme in order to achieve an acceptable level of safety in civil aviation.
- (2) As part of the State Safety Programme, the Authority shall require that operators and service providers implement a Safety Management System

***Committee's Recommendation:***

That the provision in Clause 62 be retained (*Senator Smart Adeyemi — Kogi West*) — Agreed to.

*Question that Clause 62 do stand part of the Bill, put and agreed to.*

**Clause 63: Airman Licences or Certificates.**

- (1) The Authority shall have the power to:—
  - (a) establish a personnel licensing system to licence aircraft maintenance personnel, flight crew, air traffic controllers, flight operations officers and such other persons engaged in the use or operation of aircraft, aircraft facilities, aerodromes and other activities related, incidental or supplementary to it, in accordance with the provisions of this Act, regulations and the licensing requirements specified in Annex 1 of the Chicago Convention; and

- (b) issue airman licences or certificates specifying the capacity in which the holder of it is authorised to serve as airman in connection with aircraft.
- (2) The licence or certificate shall contain such terms, conditions, and tests of physical and mental fitness, and other matters as the Authority may determine to be necessary to assure safety in civil aviation.
- (3) Notwithstanding the provisions of subsection (1) (b) of this section, the Authority may prohibit or restrict, in such manner as the Authority shall deem appropriate, the issuance of airman licences or certificates to citizens of foreign countries.

**Committee's Recommendation:**

*That the provision in Clause 63 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 63 do stand part of the Bill, put and agreed to.*

**Clause 64: Airworthiness Certificates.**

- (1) The Authority shall have the power to regulate and make regulations regarding the design, construction, modification and maintenance of aircraft and all other matters connected with it.
- (2) The owner, operator or agent of any aircraft registered in Nigeria may file with the Authority an application for an airworthiness certificate for such aircraft.
- (3) Where the Authority finds that the aircraft conforms to the appropriate type certificate and, after inspection, finds that the aircraft is in condition for safe operation, the Authority shall issue an airworthiness certificate.

**Committee's Recommendation:**

*That the provision in Clause 64 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 64 do stand part of the Bill, put and agreed to.*

**Clause 65: Air Operator Certificate.**

- (1) It shall be the duty of the Authority to issue Air Operator Certificate (AOC) and all other certificates relating to the safety of air transport undertakings.
- (2) The Authority shall by regulations, orders or directives prescribe the minimum safety standards and all other relevant requirements for the grant, issuance, operation, variation, and renewal of such certificates.
- (3) The Authority shall by regulation, issue operation specifications that define the approved terms, conditions and limitations of such operations.
- (4) The Authority shall by regulation prescribe conditions for the revocation, suspension or other limitation of Air Operator Certificate.

**Committee's Recommendation:**

*That the provision in Clause 65 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 65 do stand part of the Bill, put and agreed to.*

**Clause 66: Approved Training and Maintenance Organisations.**

The Authority shall have and exercise the powers generally to:—

- (a) set training standards for and approve air transport training institutions in Nigeria;
- (b) provide for the examination and rating of:—
  - (i) training organisations giving instruction in flying, air traffic control, flight dispatch, cabin safety, aerodrome standards and air navigation standards related areas or in the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy of the course of instruction, the suitability and airworthiness of the equipment, and the competency of the instructors; and
  - (ii) approved maintenance organizations for the repair, alteration, maintenance, and overhaul of aircraft, aircraft engines, propellers, and appliances, as to the adequacy and suitability of the equipment, facilities, and materials for, and methods of, repair and overhaul, and the competency of those engaged in the work or giving any instruction therein; and
- (c) issue certificates for such training organizations and approved maintenance organisations.

**Committee's Recommendation:**

*That the provision in Clause 66 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 66 do stand part of the Bill, put and agreed to.*

**Clause 67: Air Navigation Facility Safety Standards.**

The Authority shall have the power to:—

- (a) regulate the activities of air navigation service providers in accordance with ICAO standards and recommended practices and national laws;
- (b) certify/grant licences in respect of onboard aircraft apparatus, aerodromes and certify airways, navigational approaches and landing aids in Nigeria to ensure safety of air navigation;
- (c) make regulations for minimising or preventing aeronautical radio frequency interference with the use or effectiveness of aeronautical radio apparatus in connection with air navigation, and for prohibiting or regulating the use of such apparatus and the display of signs and lights liable to endanger aircraft; and
- (d) prescribe and revise from time to time safety standards for the operation of air navigation facilities located in Nigeria.

**Committee's Recommendation:**

*That the provision in Clause 67 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 67 do stand part of the Bill, put and agreed to.*

**Clause 68: Duty of Operators and Airmen.**

- (1) It shall be the duty and primary responsibility of an Air Operator Certificate holder to ensure the safe operation of his aircraft.
- (2) It shall be the duty of each operator to make or cause to be made, such inspection, maintenance, overhaul, and repair of all equipment used in civil aviation and to ensure that the operations conducted are in accordance with this Act and the regulations, directives and orders of the Director-General issued under this Act.
- (3) It shall be the duty of each holder of an Air Operator Certificate to ensure that the maintenance of aircraft and operations of that air operator are conducted in the public interest and in accordance with the requirements of this Act and the regulations, directives, orders and advisory circulars issued under this Act by the Director-General.
- (4) It shall be the duty of each holder of an airman certificate to observe and comply with the authority and limitations of that certificate, the requirements of this Act and the regulations, directives and orders issued under this Act.
- (5) It shall be the duty of every person performing duties in civil aviation to observe and comply with the requirements of this Act and the orders, rules, and directives issued under this Act relating to his tasks.

**Committee's Recommendation:**

*That the provision in Clause 68 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 68 do stand part of the Bill, put and agreed to.*

**Clause 69: Transportation of dangerous goods by air.**

- (1) The Authority shall have the power to regulate and may by regulations make such provisions as expedient as to the conditions under which passengers and goods may be carried by air and under which aircraft may be used for other gainful purposes, and for prohibiting the carriage by air of goods of such class or classes as may be prescribed.
- (2) The Authority shall specify, monitor and supervise the conditions under which an aircraft may carry passengers, mail and cargo or be used for other purposes, and prohibit an aircraft from the carriage of such classes of goods as the Authority may prescribe from time to time.
- (3) The Authority shall monitor and enforce compliance with the provisions of this Act, regulations, orders, rules and directives made under it, for the safe transport of dangerous goods by air, and is authorised to submit variations to the ICAO Technical Instructions on behalf of Nigeria where necessary.



- (4) It shall be the duty of every person who offers or accepts, shipments, cargo or baggage for commercial air transport, whether originating or arriving in international flights to or from Nigeria, or for flights within Nigeria, to offer or accept such shipments, cargo, or baggage in accordance with the provisions of this Act, rules, regulations, orders or directives made or given under it for the safe transport of dangerous goods by air.

*Committee's Recommendation:*

*That the provision in Clause 69 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 69 do stand part of the Bill, put and agreed to.*

**Clause 70: Authority to inspect aircraft.**

- (1) The Authority shall have the power and duty to:—
- (a) carry out such inspections of aircraft, aircraft engines, propellers, and appliances used by any operator of civil aircraft as may be necessary to determine that the operator is maintaining it in safe condition for the operation in which it is used; and
  - (b) advise each operator in the inspection and maintenance of these items.
- (2) Where the Authority finds that any aircraft, aircraft engine, propeller or appliance, used or intended to be used by any operator in civil aviation, is not in a condition for safe operation, the Authority shall so notify the operator, and the aircraft, aircraft engine, propeller, or appliance shall not be used in civil aviation or in such manner as to endanger civil aviation, unless and until found by the Authority to be in a condition for safe operation.

*Committee's Recommendation:*

*That the provision in Clause 70 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 70 do stand part of the Bill, put and agreed to.*

PART XI — PROVISION OF AERODROMES AND CONTROL OF LAND  
FOR AVIATION PURPOSES

**Clause 71: Establishment of Aerodromes.**

- (1) The Minister may approve the establishment and development of aerodromes anywhere in Nigeria.
- (2) Roads, approaches, apparatus, equipment, buildings and other accommodations in connection to such aerodromes shall be maintained by the owners in conformity with rules and regulations made under this Act.
- (3) A person shall not commence construction or reconstruction of an aerodrome in Nigeria without clearance from the Authority.

- (4) The Authority shall have the power to:—
- (a) certify and grant permits in respect of aerodromes and to establish minimum safety standards for the design, operation and maintenance of aerodromes; and
  - (b) regulate and make regulations:—
    - (i) for the certification, inspection and regulation of aerodromes, access to aerodromes and places where aircraft have landed, for the inspection of aircraft factories, and for prohibiting or regulating the use of aerodromes which are not certified in pursuance to the regulations;
    - (ii) as to the conditions under which, and in particular the aerodromes to or from which, aircraft entering or leaving Nigeria may fly, and as to the conditions, under which aircraft may fly from one part of Nigeria to another,
    - (iii) as to the conditions under which noise and vibration may be caused by aircraft on aerodromes provided that no action shall lie in respect of nuisance by reason only of the noise and vibration caused by aircraft on an aerodrome so long as the provisions of the regulations in force as respects aerodromes are complied with, and
    - (iv) for applying the laws relating to customs in relation to aerodromes and to aircraft and to persons and property carried in aircraft.
- (5) The Authority in exercising its functions in relation to the certification of aerodromes shall have regard to the need to minimize so far as practicable any adverse effect the presence of such aerodrome may have on the environment.

***Committee's Recommendation:***

*That the provision in Clause 71 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 71 do stand part of the Bill, put and agreed to.*

**Clause 72: Eligibility for an aerodrome certificate.**

A certificate for an aerodrome shall not be granted to any person other than:—

- (a) a citizen of Nigeria;
- (b) the Federal Government, a State Government, a Local Government or any company or corporation owned or controlled by any of the said Governments; or
- (c) a company or a corporation registered in Nigeria and having its principal place of business in Nigeria.

***Committee's Recommendation:***

*That the provision in Clause 72 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 72 do stand part of the Bill, put and agreed to.*

**Clause 73: Charges for using certified aerodromes.**

Without prejudice to any power of an aerodrome operator to enter into an agreement on such terms as he or it thinks fit, an aerodrome operator may with the approval of the Minister and for the purpose of encouraging the use of quieter aircraft and of diminishing inconvenience from aircraft noise, fix his or its charges by reference, among other things, to any fact or matter relating to:—

- (a) the amount of noise, vibration or emission caused by the aircraft in respect of which the charges are made; or
- (b) the extent or nature of any inconvenience resulting from such noise, vibration or emission.

***Committee's Recommendation:***

*That the provision in Clause 73 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 73 do stand part of the Bill, put and agreed to.*

**Clause 74: Obstructions near aerodrome.**

(1) Where the Authority is satisfied, with respect to any building or structure in the vicinity of an aerodrome to which this section applies, that in order to avoid danger to aircraft flying in that vicinity in darkness or conditions of poor visibility, provision ought to be made (whether by lighting or otherwise) for giving to such aircraft warning of the presence of that building or structure, it may by order direct subject to any conditions specified in the order the operator of the aerodrome and any person acting under the operator's instructions:—

- (a) to execute, install, maintain, operate, and as occasion requires repair and alter, such works and apparatus as may be necessary for enabling such warning to be given in the manner specified in the order; and
- (b) so far as may be necessary for exercising any of the powers conferred by the order, enter upon and pass over (with or without vehicles) any such land as may be specified in the order.

(2) The order referred to under subsection (1) of this section shall be made in relation to any building or structure if it appears to the Authority that there have been made, and are being carried out, satisfactory arrangements for the giving of such warning as aforesaid.

(3) The Authority shall, before making any such order as aforesaid cause to be published, in such manner as it thinks best for informing persons concerned, notice of the proposal to make the order and of the place where copies of the draft order may be obtained free of charge, and take into consideration, any representations with respect to the order which may within such period not being less than 14 days after the publication of the notice as may be specified therein, be made to it by any person appearing to it to have an interest in any land which would be affected by the order, and at the end of that period the order may, subject to the provisions of this section, be made with such modifications (if any) of the original draft as the Authority thinks proper.

- (4) Every order made under subsection (1) of this section shall provide that:—
- (a) except in a case of emergency, no works shall be executed on any land in pursuance of the order unless, at least 14 days previously, the operator of the aerodrome to which the order relates has served in the manner specified by the order on the occupier of that land, and on every other person known by the operator to have an interest in the land, a written notice containing such particulars of the nature of the proposed works, and the manner in which and the time at which it is proposed to execute them, as may be specified by the order;
  - (b) if within 14 days from the service of the said notice on any person having such an interest, the operator of the aerodrome receives written objection on the part of that person to the proposals contained in the notice, then, except in so far as the objection is withdrawn, no steps shall be taken in pursuance of the notice without the specific authorisation of the Authority; and
  - (c) the operator of the aerodrome to which the order relates shall pay to any person having an interest in any land affected by the order adequate compensation for any loss or damage which that person may suffer in consequence of the order; and for the purposes of this subsection any expense reasonably incurred in connection with the lawful removal of any apparatus installed in pursuance of such an order, and so much of any expense incurred in connection with the repair, alteration, demolition or removal of any building, structure or erection to which such an order relates as is attributable to the operation of the order, shall be deemed to be loss or damage suffered in consequence of the order.
- (5) The ownership of anything shall not be taken to be affected by reason only that it is placed in, or affixed to, any land in pursuance of such an order as aforesaid; and subject to the provisions of the next following subsection so long as any such order in respect of an aerodrome is in force, no person shall, except with the consent of the operator of the aerodrome, willfully interfere with any works or things which, to the knowledge of that person, are works or things executed or placed in, on or over any land in pursuance of the order.
- (6) Where any person contravenes the provision of subsection (4) of this section, he shall be guilty of an offence and liable on conviction to imprisonment for a term not less than 6 months or a fine not less than ₦200,000.00 or to both; and any person who willfully obstructs a person in the exercise of any of the powers conferred by such an order as aforesaid shall be guilty of an offence and liable on conviction to imprisonment for a term not less than 6 months or a fine not less than ₦200,000.00 or to both.
- (7) Nothing in this section shall operate, in relation to any building or structure, so as to restrict the doing of any work for the purpose of repairing, altering, demolishing or removing the building or structure where:—

- (a) notice of the doing of the work is given as soon as may be practicable to the operator of the aerodrome; and
  - (b) the giving of warning of the presence of the building or structure in the manner provided by any order under this section in force in relation to it is not interrupted.
- (8) In this section, the expression:—
- (a) "aerodrome" to which this section applies means:—
    - (i) an aerodrome under the control of the Minister or of the Minister of the Government of the Federation responsible for Defence, or
    - (ii) any premises which, in pursuance of regulations made under this Act are for the time being certified as an aerodrome; and
  - (b) "operator of the aerodrome" means:—
    - (i) in the case of such an aerodrome as is mentioned in sub-paragraph (i) of paragraph (a) of this subsection, the person in charge of the aerodrome, and
    - (ii) in any other case, the holder of the certificate issued in respect of the aerodrome in pursuance of this Act.

***Committee's Recommendation:***

*That the provision in Clause 74 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 74 do stand part of the Bill, put and agreed to.*

**Clause 75: Trespass on aerodromes.**

- (1) Subject to subsection (2) of this section, any person who trespasses on any land forming part of an aerodrome, or upon which navigational aids or any ancillary facility is situated shall be guilty of an offence and liable on conviction, to imprisonment for a term not less than 6 months or a fine of not less than ₦500,000.00 or to both.

A person shall not be liable under this section, unless it is proved that at the material time, notices warning trespassers of their liability under this section were posted, so as to be readily seen and read by members of the public, in such position on or near the boundary of the aerodrome or land upon which any navigational aid or ancillary facility is situated as appear to the court to be proper.

***Committee's Recommendation:***

*That the provision in Clause 75 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 75 do stand part of the Bill, put and agreed to.*

**Clause 76: Requirement for approval of Aerodrome Security Programme.**

- (1) An aerodrome operator shall not permit his or its aerodrome to be used for operation of air transport service unless he or it has the airport security programme approved by the Authority.

- (2) It shall be the duty of the aerodrome operator, his or its representatives and servants to comply with the provisions of the approved security programme and every breach of the provisions of the approved airport security programme shall attract a fine of not less than ₦500,000.00 or as stipulated by the relevant regulation whichever is higher.

**Committee's Recommendation:**

*That the provision in Clause 76 be retained. (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 76 do stand part of the Bill, put and agreed to.*

**Clause 77: Limitation on the construction of refuse disposal facility or site.**

A person shall not establish a solid waste disposal facility or site that receives putrescible waste within 13 kilometers of the vicinity of an aerodrome unless the Minister, on the advice of the Authority, determines that an exemption from this requirement would have no adverse impact on aviation safety.

**Committee's Recommendation:**

*That the provision in Clause 77 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 77 do stand part of the Bill, put and agreed to.*

**PART XII — CIVIL AND CRIMINAL PENALTIES**

**Clause 78: Power to impose civil penalties.**

- (1) The Authority shall have power to impose civil penalties for violation of any provisions of this Act or any rules, regulations, orders or directives issued or made pursuant to this Act.
- (2) Such civil penalties shall be in accordance with any provisions with respect to amount or scope provided for in this Act or in any extant, current or future regulations, orders, or directives made under this Act or law empowering the making of such regulations, orders or directives.
- (3) The Authority's power to enforce compliance with penalties, orders or directives under this section shall include power to:—
  - (a) detain aircraft;
  - (b) seal or close offices and or operations of violator, and
  - (c) seize and exercise a lien over aircraft owned by the violator and or other assets of the violator.
- (4) Any person who, with knowledge of the occurrence, or who can be imputed to have such knowledge as a reasonable person exercising reasonable care in the circumstances, offers or accepts dangerous goods for commercial air transport in violation of such rules, regulations, orders or directives made or given for the safe transport of dangerous goods by air has violated the duty imposed by section 68(4) of this Act, and shall be subject to a civil penalty not exceeding ₦500,000.00 for each part of the International Civil Aviation Organisation Technical Instruction for the Safe Transport of Dangerous Goods by Air that is violated.

**Committee's Recommendation:**

That the provision in Clause 78 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.

Question that Clause 78 do stand part of the Bill, put and agreed to.

**Clause 79: Actions in trespass, nuisance and damage by and from aircraft.**

- (1) An action shall not lie in respect of trespass or nuisance by reason only of the flight of an aircraft over any property at a height above the ground which, having regard to wind, weather and all the circumstances of the case is reasonable, or the ordinary incidents of such flight, so long as the flight over such property duly complies with any regulations in force made in respect to it.
- (2) Where injury, loss or damage is caused to any person or environment, property on land or water by an aircraft or an article, or a person in or falling from an aircraft in-flight taking off or landing or where such injury, loss or damage is caused to any person or environment or property on land or water by an aircraft in-flight, then without prejudice to the law relating to contributory negligence damages in respect of the injury, loss or damage shall be recoverable without proof of negligence or intention or any other cause of action, as if the injury, loss or damage had been caused by the willful act, neglect or default of the owner or operator of the aircraft.
- (3) Where the injury, loss or damage is caused in circumstances in which a legal liability exists in some person other than the owner or operator to pay damages in respect of the injury, loss or damage, the owner or operator shall be entitled to be indemnified by that other person against any claim in respect of the said injury, loss or damage.
- (4) Where any aircraft has been bonafide demised, let or hired out to any person by the owner of it and no pilot, commander, navigator or operative member of the crew of the aircraft is in the employment of the owner, this section shall have effect as though references to the owner here were substituted for references to the person to whom the aircraft has been so demised, let or hired out.
- (5) The liability of the owner or operator arising under subsection (2) of this section shall not exceed the Naira equivalent of the following limits based on the mass of the aircraft:—
  - (a) 375,000 United States Dollars for aircraft having a maximum mass of 500 kilogrammes or less;
  - (b) 750,000 United States Dollars for aircraft having a maximum mass of more than 500 kilogrammes but exceeding 1,000 kilogrammes;
  - (c) 1,500,000 United States Dollars for aircraft having a maximum mass of more than 1,000 kilogrammes but not exceeding 2,700 kilogrammes;
  - (d) 3,500,000 United States Dollars for aircraft having a maximum mass of more than 2,700 kilogrammes but not exceeding 6,000 kilogrammes;

- (e) 9,000,000 United States Dollars for aircraft having a maximum mass of more than 6,000 kilogrammes but not exceeding 12,000 kilogrammes;
  - (f) 40,000,000 United States Dollars for aircraft having a maximum mass of more than 12,000 kilogrammes but not exceeding 25,000 kilogrammes;
  - (g) 75,000,000 United States Dollars for aircraft having a maximum mass of more than 25,000 kilogrammes but not exceeding 50,000 kilogrammes;
  - (h) 150,000,000 United States Dollars for aircraft having a maximum mass of more than 50,000 kilogrammes but not exceeding 200,000 kilogrammes;
  - (i) 250,000,000 United States Dollars for aircraft having a maximum mass of more than 200,000 kilogrammes but not exceeding 500,000 kilogrammes; and
  - (j) 350,000,000 United States Dollars for aircraft having a maximum mass of more than 500,000 kilogrammes.
- (6) Where an event involves two or more aircraft operated by the same owner or operator, any limit of liability with respect to both aircraft may be called upon to resolve any injury and or damage.
- (7) The limits in this subsection shall only apply if the owner or operator proves that the damage:—
- (a) was not due to its negligence or other wrongful act or omission or that of its servants or agents; or
  - (b) was solely due to the negligence or other wrongful act or omission of another person.
- (8) Where two or more aircraft have been involved in an event causing damage to which this Act applies, the owner or operator of those aircraft shall be jointly and severally liable for any damage suffered by a third party.
- (9) Where two or more owners or operators are so liable, the recourse between them shall depend on their respective contribution to the damage.
- (10) In case of injury, loss or damage arising from the provision of subsection (2) of this section, the owners or operators shall make advance payment of at least the Naira equivalent of the sum of 50,000 United States Dollars within 30 days to the persons who are entitled to claim compensation in order to meet the immediate economic needs of such persons and such advance payments shall not constitute a recognition of liability and may be offset against any amounts subsequently paid as damages by the owner or operator.
- (11) Where the total amount of compensation for damages exceeds the limits prescribed under subsection (5) of this section, additional compensation as may from time to time be prescribed by the International Civil Aviation Organisation shall apply.



- (12) The right to compensation for damages under this Act shall be extinguished where an action is not brought within 2 years from the date of the event which caused the damage.

**Committee's Recommendation:**

*That the provision in Clause 79 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 79 do stand part of the Bill, put and agreed to.*

**Clause 80: Forgery or counterfeiting of documents.**

Every person who knowingly and willfully forges, counterfeits, alters, or falsely makes any document authorised to be issued or required to be made under this Act or regulations made under this Act, or knowingly uses or attempts to use any such fraudulent document, and any person who knowingly and willfully displays or causes to be displayed on any aircraft any marks that are false or misleading as to the nationality or registration of the aircraft, shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding ₦1,000,000, or to a term of imprisonment not exceeding 1 year, or to both.

**Committee's Recommendation:**

*That the provision in Clause 80 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 80 do stand part of the Bill, put and agreed to.*

**Clause 81: Dangerous Flying.**

- (1) Where an aircraft is operated in such a manner as to cause danger to any person or property in the aircraft, on land or water, the pilot or any other person in charge of the aircraft and the owner or any person having responsibility for safe navigation of the aircraft shall be guilty of an offence and liable upon conviction to imprisonment for a term of not less than 2 years or a fine of not less than ₦2,000,000.00 or to both.
- (2) In any proceedings against the owner of an aircraft in respect of an alleged offence under this section, it shall be a defence to prove that the act alleged to constitute the offence was done without the fault, privity and consent of the owner.
- (3) In this section, owner in relation to an aircraft of an alleged offence includes any person by whom the aircraft is hired at the time of the alleged offence.

**Committee's Recommendation:**

*That the provision in Clause 81 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 81 do stand part of the Bill, put and agreed to.*

**Clause 82: Damage to air navigation and other facility.**

- (1) Any person who unlawfully and intentionally destroys or damages air navigation and meteorological facilities or interferes with their operation in such a manner as is likely to endanger the safety of aircraft in flight shall be guilty of an offence and liable on conviction

to imprisonment for a term of not less than 1 year or to a fine of not less than ₦2,000,000.00 or to both.

- (2) Any person who attempts to commit or abets the commission of any offence under subsection (1) of this section shall also be deemed to have committed such offence and shall be liable to the punishment provided for that offence.
- (3) A person shall be guilty of an offence and shall upon conviction be liable to a fine not exceeding ₦10,000,000.00 or to a term of imprisonment not exceeding 5 years, who:—
  - (a) with intent to interfere with air navigation exhibits any light, signal or communication at such place or in such manner that is likely to be mistaken for a true light or signal or communication established pursuant to this Act, or for a true light or signal or communication in connection with an aerodrome or other air navigation facility, or, after due warning by the Director-General, continues to maintain any such misleading light or signal or communication; or
  - (b) knowingly removes, extinguishes, or interferes with the operation of any such true light, signal or communication.
- (4) Any air operator, officer, agent, employee, or representative of it, who knowingly or willfully—
  - (a) fails or refuses to make a report to the Authority as required by this Act; or
  - (b) fails or refuses to make, keep or preserve reports, accounts, records, and returns in the form and manner prescribed or approved by the Authority, which reports, accounts, records or returns impacts or has the potential to have effect on aviation safety or the revenue of the Authority or the Federal Government; or
  - (c) mutilates or alters any such reports, accounts, records, or memoranda; or files false reports, accounts, records, or memoranda:—

commits an offence and shall on conviction be liable for each offence to a fine of not less than ₦500,000 or 6 months imprisonment or to both.
- (5) Liability pursuant to subsection (4) of this section shall be without prejudice to any civil or other penalty for failure to file any reports, accounts, records or memoranda under this Act or regulations made under this Act and the mutilation of the same.
- (6) Every person who shall neglect or refuse to attend and testify, or to answer any lawful inquiry, or to produce books, papers, or documents, if within such person's custody or control to do so, under any subpoena or request of the Authority, shall be guilty of an offence and shall upon conviction be liable to a fine not less than ₦250,000 or to a term of imprisonment not exceeding 6 months, or to both.

**Committee's Recommendation:**

*That the provision in Clause 82 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 82 do stand part of the Bill, put and agreed to.*

**Clause 83: Hijacking and interference.**

- (1) Whosoever onboard an aircraft in service unlawfully and intentionally by force or threat of it, or by coercion or by any other form of intimidation or by any technological means, seizes or exercises control of an aircraft or makes a threat to commit the offence set forth in this subsection or unlawfully and intentionally causes any person to receive such threat under circumstances which indicate that the threat is credible, commits the offence of hijacking of such aircraft.
- (2) Any person who attempts to commit the offence referred to in subsection (1) of this section in relation to any aircraft, or participates as an accomplice to the commission of any such offence, or unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed the offence set forth in subsection (1) of this section or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence, commits an offence under this Act.
- (3) Any person commits an offence if that person intentionally agrees with one or more other persons to commit the offence set forth in subsections (1) and (2) of this section, or contributes in any other way to the commission of such offence by a group of persons acting with the common purpose which contribution shall either be with the aim of furthering the general criminal activity or purposes of the group to commit the offence set forth in subsections (2) and (3) or made in the knowledge of the intention of the group to commit such an offence.
- (4) Any person who organises or directs others to commit an offence set forth in this section is guilty of an offence and shall upon conviction be liable to imprisonment for a term of not less than 5 years and to a fine not less than ₦2,000,000.00.
- (5) Any person who commits the offence under this section is liable on conviction to imprisonment for life and also to a fine of not less than ₦25,000,000.00.
- (6) Any person who in the course of committing the offence of hijacking of an aircraft, commits, in connection with such offence, any act of violence against any passenger or member of the crew of such aircraft, shall be liable to the same punishment with which he would have been liable under any law for the time being in force in Nigeria if such act had been committed in Nigeria.
- (7) The Federal High Court shall have jurisdiction to try offences under this section where:—
  - (a) the offence is committed on board an aircraft registered in Nigeria;
  - (b) the aircraft onboard which the offence is committed lands in Nigeria with the alleged offender still onboard;

- (c) the offence is committed onboard an aircraft leased without crew to a lessee who has his principal place of business in Nigeria or if he has no principal place of business, his permanent residence is in Nigeria;
- (d) the offence is committed onboard a non-Nigerian registered aircraft whilst such an aircraft is within the territory of the Federal Republic of Nigeria; and
- (e) when the offence is committed by a citizen of Nigeria within or outside the territory of Nigeria or a citizen of Nigeria or a stateless person whose habitual residence is in Nigeria.

**Committee's Recommendation:**

*That the provision in Clause 83 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 83 do stand part of the Bill, put and agreed to.*

**Clause 84: Endangering the safety, destroying or damaging of an aircraft.**

- (1) Any person who unlawfully and intentionally—
  - (a) commits an act of violence against a person onboard an aircraft in flight if that act is likely to endanger the safety of that aircraft;
  - (b) destroys an aircraft in service or causes damage to such aircraft which renders it incapable of flight or which is likely to endanger its safety in flight;
  - (c) places or causes to be placed in an aircraft in service, by any means whatsoever, a device or substance which is likely to destroy the aircraft, or to cause damage to it which renders it incapable of flight, or to cause damage to it which is likely to endanger its safety in flight;
  - (d) destroys or damages air navigation facilities or interferes with their operation, if any such act is likely to endanger the safety of aircraft in flight;
  - (e) communicates information which that person knows to be false, thereby endangering safety of aircraft in flight;
  - (f) uses an aircraft in flight for the purposes of causing death, serious bodily injury, or serious damage to property or the environment;
  - (g) releases or discharges from an aircraft in flight any biological, chemical and or nuclear weapon or explosives, radioactive or similar substances in a manner that causes or is likely to cause death, serious bodily injury or serious damage to property or environment;
  - (h) uses against or onboard an aircraft in flight any biological, chemical and or nuclear weapon or explosive, radioactive, or similar substances in a manner that causes death, serious bodily injury or serious damage to property or the environment; or

- (i) transports, causes to be transported, or facilitates the transport of, onboard an aircraft:—
- (i) any explosives or radioactive material, knowing that it is intended to be used to cause, or makes a threat to cause, with or without a condition, death or serious injury or damage for the purpose of intimidating a population, or compelling a government or an international organisation to do or to abstain from doing any act,
  - (ii) any biological, chemical and or nuclear weapon, knowing it to be a biological, chemical and or nuclear weapon as defined in this Act,
  - (iii) any source material, special fissionable material, or equipment or material especially designed or prepared for the processing, use or production of special fissionable material, knowing that it is intended to be used in a nuclear explosive activity or in any other nuclear activity not under relevant internationally safeguards, or
  - (iv) any equipment, materials or software or related technology that significantly contributes to the design, manufacture or delivery of a biological, chemical and or nuclear weapon (BCN) without lawful authorisation and with the intention that it will be used for such purpose, commits an offence and is liable on conviction to life imprisonment without an option of fine.
- (2) It shall not be an offence under this section if the transport of such items or materials is consistent with or is for the use or activity that is consistent with the rights, responsibilities and obligations under the applicable multilateral non-proliferation treaty to which Nigeria is a party.
- (3) Whosoever unlawfully and intentionally, using any device, substance or weapon:—
- (a) performs an act of violence against a person at an aerodrome which causes or is likely to cause serious injury or death; or
  - (b) destroys or seriously damages the facilities of an aerodrome or aircraft not in service located thereon or disrupts the services of the aerodrome, if such an act endangers safety at that aerodrome, commits an offence and is liable on conviction to imprisonment for a term not less than 5 years and to a fine of not less than ₦2,000,000.00.
- (4) Any person also commits an offence and is liable on conviction to imprisonment for a term not less than 5 years and to a fine of not less than ₦2,000,000.00 where that person:—
- (a) makes a threat to commit any of the offences in subsections (1) (a) - (i) and (3) of this section;

- (b) unlawfully and intentionally causes any person to receive such a threat under circumstances which indicate that the threat is credible;
- (c) attempts to commit any of the offences set forth in subsections (1) (a - i) or (3) of this section;
- (d) organises or directs others to commit an offence as set forth in subsections (1) (a) - (i), (3) of this section and this subsection;
- (e) participates as an accomplice in an offence set forth in subsections (1), (3) or (4)(a) of this section; and
- (f) unlawfully and intentionally assists another person to evade investigation, prosecution or punishment, knowing that the person has committed an act that constitutes an offence set forth in subsections (1), (3), (4)(c), (d) or (e) of this section, or that the person is wanted for criminal prosecution by law enforcement authorities for such an offence or has been sentenced for such an offence.

***Committee's Recommendation:***

*That the provision in Clause 84 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 84 do stand part of the Bill, put and agreed to.*

**Clause 85: Interference with crew members.**

- (1) Whoever while onboard an aircraft, interferes with a crew member and such interference impedes the performance of the crew member's duties, shall be guilty of an offence and shall upon conviction be liable for a fine not exceeding ₦200,000.00 or imprisonment for a term not less than 2 months or to both.
- (2) Any person who, assaults, intimidates, or threatens any flight crew member or flight attendant, including any steward or stewardess of such aircraft or engages in an unruly behavior onboard such aircraft, shall be guilty of an offence and shall upon conviction be liable to imprisonment for a term not less than two months or a fine not less than ₦200,000.00 or to both.
- (3) Any person who against instruction of the pilot-in-command or a flight crew member or cabin crew, uses or operates any equipment or device including mobile phone that may interfere with the aircraft, radio frequency or other navigational equipment onboard aircraft shall be guilty of an offence and shall upon conviction be liable to imprisonment for a term not less than 2 months or a fine not exceeding ₦200,000.00 or to both.
- (4) The pilot-in-command of an aircraft shall take such reasonable measures as may be necessary to ensure the safety of the aircraft and security of passengers on board whenever he is faced with an unruly passenger behavior and may request the assistance of any person on board the aircraft in that regard.

*Committee's Recommendation:*

*That the provision in Clause 85 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 85 do stand part of the Bill, put and agreed to.*

## PART XIII — JURISDICTION

**Clause 86: Jurisdiction to try offences under this Act.**

- (1) The Federal 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) offence is committed in the territory of Nigeria;
  - (b) offence is committed against or on board an aircraft registered in Nigeria;
  - (c) offence is committed by a national of Nigeria;
  - (d) aircraft on which the offence is committed lands within the territory of Nigeria with the offender still on board;
  - (e) offence is committed against or on board an aircraft leased without crew to lessee whose principal place of business or, if the lessee has no such place of business, whose permanent residence is in Nigeria;
  - (f) 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
  - (g) alleged offender is in Nigeria and not extradited to any other country for prosecution.
- (2) The Federal 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 Government of Nigeria; of any property, asset or fund with accrued interest, article, substance, device, material or conveyance which is reasonably believed to have been used in the commission of the offence or the proceed of any unlawful activity under this Act and is in the possession, custody or control of the convicted person.
- (4) Notwithstanding the provisions of subsection (3) of this section, the penalty imposed on a person convicted of an offence referred to in that subsection may be reduced in such manner as the court deems fit where that person has, before any proceeding, made possible or facilitated the identification of other accused persons and their sponsors or who, after the commencement of the proceedings, has made possible or facilitated the arrest of such persons.

**Committee's Recommendation:**

*That the provision in Clause 86 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 86 do stand part of the Bill, put and agreed to.*

**Clause 87: Adoption of measures to avoid delays.**

- (1) In any proceeding under this Act, the Court shall have power, notwithstanding anything to the contrary in any other law, to adopt all legitimate measures that it may deem necessary to avoid unnecessary delays and abuse in the conduct of proceedings.
- (2) Subject to the provisions of the Constitution of the Federal Republic of Nigeria, an application for stay of proceedings in respect of any criminal matter brought under this Act shall not be entertained until judgment is delivered.

**Committee's Recommendation:**

*That the provision in Clause 87 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 87 do stand part of the Bill, put and agreed to.*

**PART XIV — INVESTIGATION AND ENFORCEMENT****Clause 88: Issuance of warrant for investigation.**

- (1) An Officer of the Authority or a duly authorised law enforcement officer may apply ex-parte to the court for the issuance of a warrant for the purposes of conducting an investigation under this Act.
- (2) The court may issue a warrant authorising an officer of the Authority or any law enforcement officer to:—
  - (a) enter the premises or conveyance specified or described in the warrant;
  - (b) search the premises or conveyance and any person found in it; and
  - (c) seize and retain any relevant material found in it.
- (3) The court shall not issue a warrant under subsection (2) of this section unless the court is satisfied that:—
  - (a) the warrant is sought to prevent the commission of an offence under this Act or to prevent the interference in an investigation under this Act;
  - (b) there are reasonable grounds for believing that there is a person or material on the premises or conveyance which may be relevant to an investigation; or
  - (c) the person being sought is preparing to commit an offence under this Act.

**Committee's Recommendation:**

*That the provision in Clause 88 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*



*Question that Clause 88 do stand part of the Bill, put and agreed to.*

**Clause 89: Investigation or search without Warrant.**

- (1) Where in a case of verifiable urgency, or a life is threatened, or to prevent the commission of an offence provided under this Act, an application to the court or to a Judge in Chambers to obtain a warrant would cause delay that may be prejudicial to the maintenance of safety and security of air navigation, an Officer of the Authority or a law enforcement Officer may without prejudice to the provisions of section 88 of this Act or any other law; with the assistance of such other officers as may be necessary and while search warrant is being sought for:—
- (a) enter and search any premises or place if he has reason to suspect that, within those premises, place or conveyance:—
    - (i) an offence under this Act is being committed or likely to be committed, or
    - (ii) there is evidence of the commission of an offence under this Act, or
    - (iii) there is an urgent need to prevent the commission of an offence under this Act;
  - (b) search any person or conveyance found on any premises or place which such officer is empowered to enter and search under paragraph (a) of this subsection;
  - (c) require information from and attendance of any person, beneficiary or any person connected in any way in a matter under investigation;
  - (d) inspect premises, electronics, computer system 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 Authority or its authorised officer has reason 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; or
  - (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 Authority or a duly authorised 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.

**Committee's Recommendation:**

*That the provision in Clause 89 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 89 do stand part of the Bill, put and agreed to.*

**Clause 90: Protection of informants and witnesses.**

- (1) Where a person volunteers to the Authority or an official of the Authority any information which may be useful in the investigation or prosecution of an offence under this Act or of a violation of the provisions of this Act and the regulations, orders or directives made or given under this Act, the Authority shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.
- (2) The court may, on a motion by or on behalf of the Attorney-General, the Authority or a law enforcement agency, protect a witness or other persons in any proceeding before it.

**Committee's Recommendation:**

*That the provision in Clause 90 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 90 do stand part of the Bill, put and agreed to.*

**Clause 91: Complaints to and investigations by the Authority.**

- (1) The Authority shall have power to carry out investigations on its own initiative or upon receipt of a complaint or upon any other occurrence, save for accidents and serious incidents after due notice to the person concerned.
- (2) Upon investigation, if the Authority is satisfied that a person is or are violating any provisions of this Act, regulations, rules, directives or orders, it shall by order require such person to take such action consistent with the provisions of this Act, regulations, rules, directives or orders as the Authority may deem necessary to remedy the violation and prevent further violation.
- (3) The Authority shall have power to take all steps reasonably necessary, including the power to ground any aircraft and to seal the premises of any air transport service provider or provider of allied aviation service, in order to ensure compliance with the provisions of this Act and the regulations, rules and orders made pursuant to it.

- (4) Any person may file with the Authority a complaint in writing with respect to anything done or omitted to be done by any person in contravention of any provision of this Act, regulations, rules, directives or orders or of any requirement established pursuant to it.
- (5) Where the person complained against does not satisfy the complaint and there appears any reasonable ground for investigating the complaint, it shall be the duty of the Authority to investigate the matters set forth in the complaint and whenever the Authority is of the opinion that any complaint does not state facts which warrant an investigation or action, such complaint may be dismissed without hearing.
- (6) Where the Authority finds, after an investigation instituted upon complaint or upon the Authority's initiative, with respect to matters within the Authority's jurisdiction, that any person has failed to comply with any provision of this Act, regulations, rules, directives or orders or any requirement established pursuant to it, the Authority shall, consistent with the provisions of this Act, issue an appropriate order to compel such person to comply therewith without prejudice to other provisions in this Act with respect to the powers of the Authority to impose penalties.

***Committee's Recommendation:***

*That the provision in Clause 91 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 91 do stand part of the Bill, put and agreed to.*

**Clause 92: Oral, written and electronic evidence.**

- (1) The Authority may hold hearings, issue subpoenas, administer oaths, examine witnesses, and receive evidence.
- (2) For the purposes of this Act, the Authority shall have the power to require by subpoena the attendance and testimony of witnesses and the production of all books, papers, documents and information, whether electronically stored or otherwise.
- (3) The Authority may receive testimony by deposition in any proceeding or investigation pending before it and such depositions may be taken before any person designated by the Authority and having power to administer oaths.
- (4) Reasonable notice shall first be given in writing by the party or the party's attorney proposing to take such deposition to the opposite party or the party's attorney of record, which notice shall state the name of the witness and the time and place of the taking of the deposition.
- (5) Any person may be compelled to appear and be deposed, and to produce books, papers, documents and information, whether electronically stored or otherwise, in the same manner as witnesses may be compelled to appear and testify and produce like documentary evidence before the Authority, as hereinbefore provided.

- (6) Where a witness whose testimony may be desired to be taken by deposition is in a foreign country, the deposition may be taken, subject to the laws of the foreign country where the deposition is to be taken, by a person appointed by the Authority.

**Committee's Recommendation:**

*That the provision in Clause 92 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 92 do stand part of the Bill, put and agreed to.*

**Clause 93: Video recording and custody of Records.**

- (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 Authority.
- (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 Director-General.
- (3) Subject to the provisions of the Evidence Act, No. 18, 2011 a video recording and other forms of electronic evidence shall be admissible in evidence before any court of competent jurisdiction in Nigeria for the trial of offences under this Act.

**Committee's Recommendation:**

*That the provision in Clause 93 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 93 do stand part of the Bill, put and agreed to.*

**Clause 94: Designation of agent for service.**

- (1) It shall be the duty of every foreign air operator in Nigeria to designate in writing an agent in Nigeria upon whom service of all notices, letters and processes and all orders, directives, decisions, and requirements of the Authority may be made for and on behalf of the air operator or foreign air operator, and to file such designation with the Authority and such designation may be changed by subsequent filing.
- (2) Service of all notices, letters, processes and of orders, directives, decisions, and requirements of the Authority may be made upon any air operator or foreign air operator by service upon its designated agent at their office in Nigeria or place of residence in Nigeria or by electronic mail with the same effect as personal service upon such air operator or foreign air operator.
- (3) Where a designated agent is in default or is absent, service of any notice, letters, directives or other process in any proceedings before the Authority, or of any order, decision, or requirement of the Authority, may be made by posting such notice, process, order, requirement, or decision at the office or location of the designated agent or to his electronic mail address on file with the Authority.

- (4) Service of notices, processes, orders, rules, and directives upon any person may be made by personal service or upon an agent designated in writing for this purpose, or by courier, registered or certified mail or electronic mail addressed to such person or agent.
- (5) Whenever service is made by courier, registered or certified mail or electronic mail, the date of mailing or sending the electronic mail, if delivered, shall be considered as the date when service is made.

**Committee's Recommendation:**

*That the provision in Clause 94 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 94 do stand part of the Bill, put and agreed to.*

PART XV — AIR OPERATOR ECONOMIC REGULATION

**Clause 95: Control of air transport undertaking.**

- (1) Subject to the provisions of section 68 of this Act:—
  - (a) no aircraft shall be used by any person in Nigeria for flying, while carrying passengers or cargo for reward, on such journeys or classes of journeys (whether beginning and ending at the same point or at different points) or for such flying undertaking for the purpose of any trade or business, except under the authority of and in accordance with a licence, permit, or other authorization issued to him by the Authority; and
  - (b) no aircraft shall be used by any person in Nigeria for any other purpose save for military, police, customs, or immigration operations, except under the authority of and in accordance with a licence, permit, or other authorisation issued by the Authority.
- (2) The Authority may by regulations prescribe the types of licences, permits, certificates or other authorisation, which may be issued and the terms and conditions upon which they may be issued.
- (3) Nothing in this section shall restrict the right of a designated air transport undertaking, having its principal place of business in any country outside Nigeria, to provide transport for passengers, mail or cargo:—
  - (a) in accordance with the terms of any agreement for the time being in force between the Government of the Federal Republic of Nigeria and the government of that country; or
  - (b) in accordance with the terms of any permission granted by the Minister pending the completion of the negotiations for such an agreement referred to in subsection (3)(a) of this section.
- (4) An application for the grant of a licence, permit, certificate or other authorization shall be made in writing to the Authority and contain such particulars with respect to such matters as the Authority may specify in a notice published in the prescribed manner and where an application is made for the grant of any such licence, permit, certificate or other authorization, the Authority shall, either grant

such licence, permit, certificate or other authorization to the applicant in the terms requested in the application, or in those terms with such modifications as the Authority thinks fit, or refuse to grant such licence, permit, certificate or other authorisation.

- (5) Where the Authority is satisfied that an application made for the grant of any such licence, permit or authorisation has met and complied with the prescribed requirements, the Authority may grant such licence, permit, certificate or authorisation to the applicant with such modification as the Authority thinks fit or refuse to grant such licence, permit, certificate or authorisation if it is not in the public interest to do so.
- (6) Notwithstanding the provisions of subsections (1) and (3) of this section, the Authority shall have and exercise the powers generally to:—
- (a) regulate, supervise and monitor the activities of Nigerian and foreign carriers, travel and other aviation agents operating in Nigeria, and to keep a register in respect of it;
  - (b) require periodic statistical, financial and special returns and or reports from any air carrier; prescribe the manner and form in which such reports or returns shall be made, and require from any air carrier specific answers to questions upon which it deems information may be necessary;
  - (c) prescribe the form of financial records and data to be kept by air carriers and the length of time such records and data may be preserved;
  - (d) require every Nigerian and foreign carrier to file and keep open for public inspection, tariffs showing all rates, fares and charges charged by it, in such form and manner as may be prescribed by the Authority from time to time, and to reject tariffs so filed which are unfair and or inconsistent with any provisions of this Act or regulations, rules; orders and directives; provided that the rates, fares and charges shown in any tariff shall in the first instance be denominated in local currency, without prejudice to those being denominated in foreign currencies in the case of foreign carriers;
  - (e) require an air carrier to maintain reasonable and adequate rates of compensation and other conditions of service for its employees consistent with prevailing labour practices in the industry;
  - (f) require domestic air carriers to submit annually and at such other times as it may deem fit, a list showing the names of its shareholders or any person holding more than 5 percent of the shares in the air carrier together with the names of any person on whose behalf such shares are held;
  - (g) require every Nigerian carrier to file with the Authority, a true copy of every contract or agreement affecting air transportation or any modification or cancellation of it, between the air carrier and any other air carrier or other

- bodies or persons, for leases, pooling, ticket sales, service authority or apportioning earnings, losses, traffic, service or equipment or relating to establishment of transportation fares, charges or classifications, or for preserving and improving safety, maintenance, preventing or otherwise eliminating destructive, oppressive or wasteful competition or for any other co-operative working arrangement;
- (h) disapprove of such contract or agreement described in subsection (g) of this section, whether or not previously approved, if the Authority determines that such contract is adverse to the public interest or to be in violation of the provisions of this Act, regulations, rules and orders, directives made or given by the Authority under this Act;
  - (i) investigate and determine upon its own initiative or upon receipt of a complaint by any air carrier, air travel agent, consumer of air transport service or other allied aviation service, whether any air carrier, air travel agent or provider of any other allied aviation service has been or is engaged in unfair or deceptive practices or unfair methods of competition in air transportation, the sale of tickets thereof or in the provision of other allied aviation service and order such air carrier, air travel agent or other allied aviation service provider to desist from such practices or methods of competition and in addition, the Authority shall impose such fines or penalties as may be prescribed by this Act or regulations made under it.
  - (j) establish procedures for investigation and determination of requests or applications for special operating authorisations; such procedures may include written notice to holders of air operator certificates to make submissions which may be heard orally in support of such applications as will not unduly delay the issuance of the special operating authorisation, taking into consideration the degree or emergency involved;
  - (k) participate in and advise the Minister on technical matters including bilateral and multilateral air services agreements, and generally on activities of international and regional aviation organisations;
  - (l) regulate and institute programmes for the protection of aviation and allied services consumer interests and provide redress in a timely manner to complaints of consumers;
  - (m) specify the fees to be paid for the issue, validation, renewal, extension or variation of any certificate, licence, permit or other document issued pursuant to this Act or the undergoing of any examination or test required which may be expedient for the purpose of the regulation of fees charged;
  - (n) prescribe the minimum insurance cover to be maintained by air operator certificate holders, aerodrome operators, ground handling service providers, air traffic control service providers, and any other service provider, taking into account, the respective risks involved in such operations;

- (o) fix and impose charges in respect of the grant of any licence, permit, certificate or other authorisation to any person under this Act or regulations made pursuant to it and in respect of the registration of aircraft or mortgages in respect of it, approvals, consents and any other form of benefit conferred on any person pursuant to this Act or the regulations made pursuant to it;
  - (p) conduct economic regulation of airlines, aerodromes, air navigation service providers, other aviation and allied aviation service providers; and
  - (q) regulate the charges that may be made in respect of air traffic control and meteorological services and for the use of aerodromes certified under the regulations and for services provided at such aerodromes.
- (7) Subject to the provisions of any other law, the Authority shall make and enforce regulations to ensure fair competition in the provision of air transport services and for the protection of aviation and allied services consumers' interests.

***Committee's Recommendation:***

*That the provision in Clause 95 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 95 do stand part of the Bill, put and agreed to.*

**PART XVI— SUPPLEMENTARY PROVISIONS RELATING TO LICENCES, PERMITS, ETC**

**Clause 96: Eligibility for licences, permits, etc.**

- (1) Notwithstanding the provisions of section 17 of the Nigerian Investment Promotion Commission Act, the Authority shall not grant any licence, permit, certificate or other authorisation in pursuance of an application, unless it is satisfied that:—
  - (a) the applicant is:—
    - (i) a citizen of Nigeria, or
    - (ii) being a company or a body corporate, is registered in Nigeria and has its principal place of business within Nigeria, and is controlled by Nigerian nationals;
  - (b) the applicant is a fit person, having regard to:—
    - (i) his and his employees' experience in the field of aviation and his and their past activities generally, and
    - (ii) where the applicant is a body corporate, whether the person appearing to the Authority to exercise control over it, is a person possessing relevant and sufficient skill and experience in the field of aviation and fit and proper to operate aircraft under the authority of the licence, permit, certificate or other authorisation which the Authority shall grant to it; or



- (c) the resources of the applicant and the financial arrangements made by him are adequate for discharging his actual and potential obligations in respect of the business activities in which he is engaged if any, and in which he may be expected to engage if he is granted the licence, permit, certificate or other authorisation which the Authority considers should be granted to him in pursuance of the application.
- (2) The provisions of subsection (1) of this section shall not apply to any licence, permit, certificate or other authorisation needed by a person for the purpose of operating an aircraft for private use only.

**Committee's Recommendation:**

*That the provision in Clause 96 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 96 do stand part of the Bill, put and agreed to.*

**Clause 97: Refusal to grant licences, permits, etc.**

- (1) Where the Authority takes a decision refusing to grant, vary, cancel, suspend or revoke a licence, permit, certificate or other authorisation, the Authority shall subject to subsection (2) of this section, furnish a statement of the reasons for the decision to the applicant for the licence, permit, certificate or other authorisation, or as the case may be, to the holder and to any other person who in accordance with rules made pursuant to this Act has filed an objection in the case or requested such a statement, provided that, no statement of reasons need be furnished in pursuance of a request by the holder of a licence, permit, certificate or other authorisation for the variation, cancellation, suspension or revocation of it.
- (2) The Authority may refrain from furnishing a statement of reasons in pursuance of subsection (1) of this section, if it has reason to believe that it might adversely affect the security interest of Nigeria or the relationship of Nigeria with any other country.
- (3) The Authority may publish in such manner as it thinks fit particulars of, and of its reasons for, any decision taken with respect to a licence, permit, certificate or other authorisation or an application for such a licence, permit, certificate or other authorisation.
- (4) A person who, for the purpose of obtaining for himself or another person a licence, permit, certificate or other authorisation or with regard to a variation or the cancellation or suspension or revocation of a licence, permit, certificate or other authorization knowingly or recklessly furnishes to the Authority any information which is false, commits an offence and shall be liable on conviction to imprisonment for a term of not less than 6 months or a fine of not less than ₦500,000.00 or to both.

**Committee's Recommendation:**

*That the provision in Clause 97 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 97 do stand part of the Bill, put and agreed to.*

**Clause 98: General duties relating to licensing function of the Authority.**

- (1) The Authority shall perform its air transport licensing functions in the manner which it considers best to ensure that Nigerian registered airlines compete as effectively as possible with other airlines in providing air transport services on international routes; and in performing those functions the Authority shall also have regard to:—
  - (a) any advice received from the Minister with respect to the likely outcome of negotiations with the government of any other country or territory for the purpose of securing any right required for the operation by an airline in Nigeria of any air transport services outside Nigeria; and
  - (b) the need to secure the most effective use of aerodromes within Nigeria.
- (2) In considering whether to grant a licence, permit, certificate or other authorisation, it shall be the duty of the Authority to have regard to the effect on existing air transport services provided by Nigerian registered airlines, of authorising any new services the applicant proposes to provide under the licence, permit, certificate or other authorisation.
- (3) Where two or more applicants have applied for the same licence, permit, certificate or other authorisation under which each proposes to provide similar services, the Authority shall have regard in particular to any benefits which may arise from enabling two or more airlines to provide the services in question.

***Committee's Recommendation:***

*That the provision in Clause 98 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 98 do stand part of the Bill, put and agreed to.*

**Clause 99: Permit to foreign air operators.**

- (1) A foreign air operator shall not engage in commercial air transport within Nigeria unless it has been issued a permit.
- (2) Application for a permit shall be made in writing to the Director-General and shall be in such form and contain such information as the Authority shall require.
- (3) The Authority may alter, amend, modify, or suspend any such permit, in whole or in part, for failure to comply with any provision of this section or any order, rule, regulation or directive issued or given under it or any term, condition, or limitation of such permit.
- (4) Any interested person may file with the Authority a protest or memorandum in support of or in opposition to the alteration, amendment, modification, suspension, or revocation of a permit pursuant to subsection (3) of this section.

***Committee's Recommendation:***

*That the provision in Clause 99 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 99 do stand part of the Bill, put and agreed to.*

**Clause 100: Power to establish training facility.**

- (1) The Authority may establish and operate a training facility, academy or similar establishment for the purpose of conducting training in safety, security and economic oversight in civil aviation.
- (2) The Authority may charge such fees as it deems necessary for conducting such training.

***Committee's Recommendation:***

*That the provision in Clause 100 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 100 do stand part of the Bill, put and agreed to.*

**Clause 101: Aviation safeguards.**

- (1) The Authority may by regulation make such provisions as it deems necessary, to prohibit and or discourage anti-competitive practices.
- (2) Without prejudice to the generality of sub-section (1) of this section, such practices may include:—
  - (a) charging fares and rates on routes at levels which are in aggregate, insufficient to cover the costs of providing the services to which they relate;
  - (b) the addition of excessive capacity or frequency of service;
  - (c) practices which have a serious negative economic effect on, or cause significant damage to another airline or allied aviation service provider;
  - (d) practices which reflect an apparent intent or have the probable effect of crippling, excluding or driving another airline or allied aviation service provider from the market; and
  - (e) any behavior indicating an abuse of dominant position on any route or in respect of any allied service.

***Committee's Recommendation:***

*That the provision in Clause 101 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 101 do stand part of the Bill, put and agreed to.*

**Clause 102: Compensation schemes for passengers and other aviation services consumers.**

- (1) The Authority shall make regulations for suitable compensation of passengers and other aviation and allied service consumers arising from different forms of grievances.
- (2) The regulations under subsection (1) of this section shall be formulated after holding consultations with air carriers and other stakeholders.

**Committee's Recommendation:**

*That the provision in Clause 102 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 102 do stand part of the Bill, put and agreed to.*

**Clause 103: Regulation of sale, distribution and provision of allied services.**

- (1) All persons engaged in the sale, distribution and provision of allied services shall obtain such licence, permit or authorisation from the Authority as may be specified.
- (2) The Authority may make rules and regulations in this behalf, which may, inter alia, include:—
  - (a) the categories, including aircraft equipment sale or leasing operations, in-flight catering services, ground handling operations, aviation fuel supplier and other businesses connected with or ancillary to civil aviation, amongst others, in which the licence, permit or authorisation may be granted;
  - (b) the information to be furnished by an applicant for the licence;
  - (c) the terms and conditions subject to which the licence, permit or authorisation may be granted; and
  - (d) the circumstances under which the licence, permit or authorisation may be suspended or revoked.

**Committee's Recommendation:**

*That the provision in Clause 103 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 103 do stand part of the Bill, put and agreed to.*

**Clause 104: Insurance.**

- (1) Any carrier operating air transport services to, from or within Nigeria, or aerodrome operator, aviation fuel supplier, or any provider of ground handling services, meteorological services, air traffic control services, aircraft maintenance services, or provider of such other class of allied service as the Authority may from time to time determine in writing, shall maintain adequate insurance covering its liability under this Act and also its liability towards compensation for damages that may be sustained by third parties for an amount to be specified in regulations made by the Authority.
- (2) Absence of such insurance shall be sufficient reason for refusal, suspension or revocation of the authorisation to operate the service or services in question.
- (3) Any person having a duty to maintain adequate insurance pursuant to the provision of subsection (1) of this section shall make quarterly returns to the Authority evidencing that such adequate insurance is maintained and that all conditions necessary to create an obligation on the insurer to provide indemnity in the event of a loss have for the time being been fulfilled.

- (4) Any carrier operating air transport services to, from or within Nigeria, or aerodrome operator, aviation fuel supplier, or any provider of ground services, meteorological services, air traffic control services, aircraft maintenance services, or provider of other allied aviation service, who contravenes the provisions of subsections (1) and (3) of this section, shall be guilty of an offence and liable on conviction to a fine of not less than ₦10,000,000.00 and its principal officers shall be liable to imprisonment for a term of not less than 2 years.

***Committee's Recommendation:***

*That the provision in Clause 104 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 104 do stand part of the Bill, put and agreed to.*

PART XVIII — MISCELLANEOUS

**Clause 105: Limitation of action against the Authority.**

- (1) Notwithstanding anything contained in any other law or enactment, no action shall lie against the Authority, a member of the Board, the Director-General or any other employee of the Authority, in the execution of any public duty under this Act or any law, or in respect of any alleged negligence or default in execution of any public duty under this Act or such law, unless it is commenced within 3 months next after the act, negligence, or default complained of, or in the case of continuance of damage or injury, within one year after the ceasing of it.
- (2) A suit shall not be commenced against the Authority, a member of the Board, the Director-General or any other employee of the Authority before the expiration of a period of 1 month after written notice of intention to commence the suit shall have been served upon the Authority by the intending plaintiff or his agent; and the notice shall clearly and explicitly state the cause of action, the particulars of the claim, the name and place of abode of the plaintiff and the relief sought
- (3) An action shall not lie against the Authority, a member of the Board, the Director-General, or any other employee of the Authority for an act done in pursuance or execution of the powers conferred upon the Authority in respect of any decision taken on matters relating to safety and security of civil aviation or in execution of any of the provisions of this Act.

***Committee's Recommendation:***

*That the provision in Clause 105 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 105 do stand part of the Bill, put and agreed to.*

**Clause 106: Restriction on execution against property of the Authority.**

- (1) In any action or suit against the Authority, no execution shall be levied or attachment process issued against the property of the Authority unless not less than 3 months' notice of the intention to execute or attach has been given to the Authority.

- (2) The funds or account of the Authority shall not be attached or garnisheed in furtherance of a judgment debt unless with the consent and approval of the Attorney General of the Federation.

***Committee's Recommendation:***

*That the provision in Clause 106 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 106 do stand part of the Bill, put and agreed to.*

**Clause 107: Indemnification of officers.**

A member of the Board, the Director-General, or employee of the Authority shall be indemnified by the Authority against any civil proceeding brought against him arising from the lawful discharge of any of the functions or the exercise of any of the powers conferred on the Authority under this Act or any other law.

***Committee's Recommendation:***

*That the provision in Clause 107 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 107 do stand part of the Bill, put and agreed to.*

**Clause 108: Cooperation with other agencies.**

The Authority shall have the power to co-operate and collaborate with any Authority, Commission or Agency in the discharge of the functions of the Authority under this Act.

***Committee's Recommendation:***

*That the provision in Clause 108 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 108 do stand part of the Bill, put and agreed to.*

**Clause 109: Power to acquire land.**

- (1) The Authority, may subject to the Land Use Act or the applicable law regulating the use of land in Nigeria, acquire any land for the purpose of discharging its functions under this Act.
- (2) Where there is any hindrance in the acquisition of any land by the Authority under this Act including any failure by the Authority to reach an agreement as to the amount to be paid in respect of the acquisition, the Authority may apply to the Minister for a declaration under subsection (3) of this section.
- (3) The Minister on receiving an application from the Authority and after such enquiry as he may think fit, may request the Governor of the State in which the land is situated to declare that the land is required for the service of the Authority and accordingly for an over-riding public purpose.
- (4) Where a declaration is made under subsection (3) of this section, the land to which the declaration relates shall be deemed to be land required for the public purpose of the Federation within the meaning of the Land Use Act and the Authority shall acquire the land accordingly.

- (5) Where a declaration has been made under subsection (3) of this section in respect of any land and:—
- (a) the land has been acquired pursuant to subsection (4) of this section; or
  - (b) the Governor of the State where the land is situate is satisfied that there is no right subsisting in respect of the land; the Governor may vest the land in the Authority by issuing a certificate of occupancy in respect of it, in favour and in the name of the Authority.
- (6) The compensation, if any, payable under the Land Use Act for the revocation of any right relating to the land, where applicable, shall in the first instance be paid by the Federal Government, but the Authority shall refund to the Federal Government any compensation so paid and all incidental expenses incurred by the Government.
- (7) A plan of any land referred to in subsection (2) of this section:—
- (a) containing measurements of the boundaries of the land;
  - (b) showing the relationship of the land to any sufficient identifying mark; and
  - (c) signed by a licensed surveyor and the Director-General, shall be sufficient description of the land for the purpose of an application under that subsection.

***Committee's Recommendation:***

*That the provision in Clause 109 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 109 do stand part of the Bill, put and agreed to.*

**Clause 110: Restriction on use of adjacent land.**

- (1) The Minister may request the Governor to make regulations, orders or give directives for the purposes of preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the operation of an aerodrome; preventing lands adjacent to or in the vicinity of an aerodrome or aerodrome site from being used or developed in a manner that is, incompatible with the safe operation of an aircraft; and preventing lands adjacent to or in the vicinity of equipment or facilities used to provide services relating to aeronautics from being used or developed in a manner that would cause interference with signals or communications to and from aircraft or to and from those facilities.
- (2) The Minister may request the Governor to acquire and reserve lands adjacent to or in the vicinity of an aerodrome or aerodrome site for future expansion of the aerodrome.
- (3) The Authority shall monitor developments on land adjacent to or in the vicinity of aerodromes or aerodrome sites in order to ensure compliance with the regulations, orders or directives made or given by the Governor.

**Committee's Recommendation:**

*That the provision in Clause 110 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 110 do stand part of the Bill, put and agreed to.*

**Clause 111: Service of notices.**

- (1) Any notice required or authorised under this Act to be served on any person may be served either by -
  - (a) delivering it to the person or his agents or servants;
  - (b) leaving it at the person's proper address; or
  - (c) posting it to the person's principal office by registered post or courier; or
  - (d) sending it to the person's electronic mail address
- (2) Any notice required or authorised to be served upon a body corporate shall be deemed to have been duly served if it is served on a Director of or the Secretary to the body corporate.
- (3) For the purposes of this section, the proper address of any person on whom such a notice is to be served shall :—
  - (a) in the case of a body corporate, be that of the registered or principal office of the body corporate; and
  - (b) in any other case, be the last known address of the person.

**Committee's Recommendation:**

*That the provision in Clause 111 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 111 do stand part of the Bill, put and agreed to.*

**Clause 112: Service of documents.**

A notice, summons or other document required or authorised to be served upon the Authority under the provisions of this Act shall be served by delivering same to the office of the Director-General of the Authority situate at the headquarters of the Authority.

**Committee's Recommendation:**

*That the provision in Clause 112 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 112 do stand part of the Bill, put and agreed to.*

**Clause 113: Registration of births and deaths.**

The Authority shall make regulations for the registration of births and deaths occurring in aircraft and particulars of persons missing from the aircraft.

**Committee's Recommendation:**

*That the provision in Clause 113 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 113 do stand part of the Bill, put and agreed to.*



**Clause 114: Repeals.**

The Civil Aviation (Repeal and Re-enactment) Act, 2006 is repealed.

**Committee's Recommendation:**

That the provision in Clause 114 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.

Question that Clause 114 do stand part of the Bill, put and agreed to.

**Clause 115: Savings provisions.**

- (1) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in section 114 of this Act, shall not affect anything done under or pursuant to the Act.
- (2) Every regulation, order, requirement, certificate, notice, directive, decision, authorisation, advisory circular, All Operators' Letter, 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.
- (3) All rights, liabilities, assets, funds, resources and other movable and immovable property which, immediately before the commencement of this Act, vested in the former Nigerian Civil Aviation Authority shall by virtue of this Act and without further assurance be vested in the Authority established under section 4 of this Act.
- (4) Every reference to the former Authority, Board, Minister, Director-General, Board Chairman or any person under their control or a document issued in the name of the former Authority, Board, Minister, Director-General, Chairman of the former Board or employee of the former Authority shall be read, unless the context otherwise requires, as a reference to the Authority, Minister, Board, Director-General, Chairman, or an employee of the Authority established under this Act, as the case may be.

**Committee's Recommendation:**

That the provision in Clause 115 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.

Question that Clause 115 do stand part of the Bill, put and agreed to.

**Clause 116: Transitional Provisions.**

- (1) Subject to the provisions of this Act, the Director-General of the Authority established under the repealed Act is deemed to have been transferred to the Authority established under this Act under the same conditions as Director-General of Civil Aviation.
- (2) Any person who immediately before the commencement of this Act was a staff of the Authority established under the repealed Act shall continue in office and be deemed to have been appointed under this Act for purposes of pension, where applicable.
- (3) Properties held immediately before the commencement date of this Act on behalf of the Authority by any person shall, by virtue of this Act, be vested in the Authority established under this Act.

- (4) The Authority established in section 4 of this Act shall be subject to all the obligations and liabilities to which the former Authority was subject immediately before the commencement of this Act and all other persons shall have the same rights, powers and remedies against the Authority established by this Act as they had against the Authority 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 Authority established under the repealed Act in respect of any right, interest, obligation or liability of the Authority 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 Authority 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 Authority 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 Authority shall be continued and completed by the Authority established under this Act.

***Committee's Recommendation:***

*That the provision in Clause 116 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 116 do stand part of the Bill, put and agreed to.*

**Clause 117: Interpretation.**

- (1) In this Act, unless the context otherwise requires —
  - "aerodrome" means a defined area on land or water including any buildings, installations, and equipment intended to be used either wholly or in part for the arrival, departure and surface movement of aircraft;
  - "aircraft" means any machine that can derive support in the atmosphere from reactions of the air other than reactions of the air against the earth's surface;
  - "air navigation services" includes information, "rection and other facilities furnished, issued or provided in connection with the navigation or movement of aircraft and the control of movement of vehicles in any part of an aerodrome used for the movement of aircraft;
  - "airfare" means the price of an airline ticket excluding statutory fees and taxes;
  - "airport" has the same meaning as aerodrome;
  - "allied aviation business" includes aircraft equipment sale or leasing operations, in-flight catering services, ground handling operations and other businesses connected with or ancillary to civil aviation;

"Authority" means the Nigeria Civil Aviation Authority established by section 4(1) of this Act;

"BCN weapon" means -

- (a) "biological weapons" which are —
- (i) microbial or other biological agents, toxins whatever their origin or method of production, of types and in quantities that have no justification for prophylactic, protective or other peaceful purposes,
  - (ii) weapons, equipment or means of delivery designed to use such agents or toxins for hostile purposes or in armed conflict,
- (b) "chemical weapons", which are, together or separately —
- (i) toxic chemicals and their precursors, except where intended for —
    - A. Industrial, agricultural, research, medical, pharmaceutical or other peaceful purposes,
    - B. Protective purposes, namely those purposes directly related to protection against toxic chemicals and to protection against chemical weapons,
    - C. Military purposes not connected with the use of chemical weapons and not dependent on the use of toxic properties of chemicals as a method of warfare, or
    - D. Law enforcement including domestic not control purposes, as long as the types and quantities are consistent with such purposes,
  - (ii) munitions and devices specifically designed to cause death or other harm through the toxic properties of those toxic chemicals specified in subparagraph (b)(i), which would be released as a result of the employment of such munitions and devices,
  - (iii) any equipment specifically designed for use directly in connection with the employment of munitions and devices specified in subparagraph (b)(ii),
- (c) Nuclear weapons and other nuclear explosive devices;

"cargo" means any property carried on an aircraft other than mail stores and accompanied or mishandled baggage;

"Chicago Convention" means the Convention on International Civil Aviation concluded at Chicago on the 7th December 1944, any Annex which relates to international standards and recommended practices and is adopted in accordance with the Convention and any amendment of the Convention or of such Annex which is made in accordance with the Convention;

"civil aviation operations" includes ground handling operations, air operations, aerodrome operations, meteorological services, air traffic control and provision of navigational aids, catering and allied services;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999 (As Altered);

"Director-General" means the Director-General of the Authority of civil aviation;

"foreign aircraft" means an aircraft other than a Nigerian registered aircraft;

"ICAO" means International Civil Aviation Organisation established under the Chicago Convention;

"in-flight" for the purpose of this Act, an aircraft is said to be in-flight at any time from the moment when all its external doors are closed following embarkation until the moment when any such door is opened for disembarkation and in the case of forced landing, the flight shall be deemed to continue until the competent authorities take over the responsibility for the aircraft and for the persons and property on board;

"in-service" for the purpose of this Act, an aircraft is said to be in-service from the beginning of the preflight preparation of the aircraft by ground personnel or by the crew or for the crew for a specific flight until twenty-four hours after any landing; the period of service shall, in any event, extend for the entire period during which the aircraft is in flight;

"licence" includes air transport licence, air operators permit, air travelers organisers licence, air operators certificate, certificates of airworthiness, certificate of registration, personnel licences and ratings, aerodrome licence, aviation training organisations approvals or certificates, aircraft maintenance organisation approvals or certificates and all other authorisations and approvals issued pursuant to this Act;

"mail" means dispatches of correspondence and other items tendered by and intended for delivery to postal services in accordance with the rules of the Universal Postal Union and includes electronic mail;

"member" means a member of the Governing Board of the Authority and includes the Chairman;

"Minister" means the Minister of the government of the Federation responsible for civil aviation;

"Nigerian aircraft" means an aircraft registered in Nigeria in pursuance of regulations made under this Act;

"person" when used in this Act includes a natural person, a juristic person, an inflight security officer or an air marshal deployed on a flight pursuant to a bilateral or multilateral treaty or agreement;

"precursors" means any chemical reactant which takes part at any stage in the production by whatever method of a toxic chemical and this includes any key component of a binary or multi component chemical system;

"premises" includes lands, plants, and ancillary works;

"prescribed" means prescribed by regulations made under this Act;

"Regulations" in this Act is a reference to all subsidiary legislations made pursuant to this Act; and includes orders, circulars, directives or any such other instrument as the Authority may issue from time to time; and

"reward" means -

- (1) in relation to a flight, includes any form of consideration received or required to be received wholly or partly in connection with the flight irrespective of the person by whom or to whom the consideration has been or is to be given.
- (2) Every other term shall have the same meaning as contained in the Chicago Convention and the Annexes to the Convention.

***Committee's Recommendation:***

*That the provision in Clause 117 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 117 do stand part of the Bill, put and agreed to.*

**Clause 118: Short title.**

This Bill may be cited as the Civil Aviation Bill, 2022.

***Committee's Recommendation:***

*That the provision in Clause 118 be retained (Senator Smart Adeyemi — Kogi West) — Agreed to.*

*Question that Clause 118 do stand part of the Bill, put and agreed to.*

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

[Section 5 (6)]

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 one ordinary meeting of the Board in each quarter of the 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. The minutes of the Board shall be recorded by the Secretary and signed by the Chairman or the person who presided at the meeting, after confirmation by the Board.
5. A quorum at a meeting of the Board shall be four members.

#### Convening of Meetings of the Board.

6. The Chairman shall, at any time, if five other members request in writing, convene an emergency meeting of the Board, provided that not less than 48 hours' notice is given to members for the meeting.
7. If the office of Chairman is at any time vacant, or the Chairman is absent from Nigeria or is in the opinion of the Board permanently or temporarily unable to perform the functions of his office, the Director-General shall convene such meetings of the Board as are required during the period of vacancy, absence or otherwise.
8. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.
9. 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.
10. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.
11. 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.

12. 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.
13. A committee appointed under paragraph 12 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.
14. A person who is not a member of the Board shall hold office on the committee in accordance with his letter of appointment.

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

Seal of the Authority

16. The application of the common seal of the Authority shall be authenticated by the signature of the Director-General on behalf of the Authority or by any other person authorised by him.

17. 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 Authority by the Director-General or by any person generally or specifically authorised to act for that purpose by the Board.

18. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the Authority shall be received in evidence and, unless the contrary is proved, be presumed without further proof, to have been properly signed or sealed.

Conflict of interest.

19. The Minister of Aviation, members of the Governing Board, the Director-General, and employees of the Ministry of Aviation and the Authority shall not control, manage or operate any aviation enterprise while in office.

20. Any of the persons specified in Paragraph 19 of this Schedule, having a financial interest in any aviation enterprise shall make full disclosure of such interest to their respective appointing authorities.

21. The persons mentioned in Paragraph 19 of this Schedule are prohibited from participating in any action or decision that may, whether directly or indirectly affect their financial interest in any aviation enterprise.

Miscellaneous.

22. 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.

23. 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.

24. A resolution of the Board is valid, even though it is not passed at a meeting of the Board, if —

- (a) the notice in writing of the proposed resolution was given to each member; and
- (b) the resolution is signed or assented to by a majority of members of the Board, including the Director-General.

*Question that the provision in the First Schedule stand part of the bill — Agreed to.*

## SECOND SCHEDULE

(Section 55)

MODIFICATIONS TO THE CONVENTION FOR THE UNIFICATION OF CERTAIN RULES RELATING TO  
INTERNATIONAL CARRIAGE BY AIR DONE AT MONTREAL ON 28 MAY, 1999 APPLICABLE TO  
DOMESTIC AIR TRANSPORTATION IN NIGERIA

## CHAPTER I

## GENERAL PROVISIONS

## ARTICLE 1 - SCOPE OF APPLICATION

1. This Convention applies to all carriage of persons, baggage or cargo performed by aircraft for reward within Nigeria. It applies equally to gratuitous carriage by aircraft performed by an air transport undertaking.
2. Carriage to be performed by several successive carriers is deemed, for the purposes of this Convention, to be one undivided carriage if it has been regarded by the parties as a single operation, whether it had been agreed upon under the form of a single contract or of a series of contracts.
3. This Convention applies also to carriage as set out in Chapter V, subject to the terms contained therein.

ARTICLE 2 — CARRIAGE PERFORMED BY STATE AND  
CARRIAGE OF POSTAL MATTERS

1. This Convention applies to carriage performed by the State or by legally constituted public bodies; provided it falls within the conditions laid down in Article 1.
2. In the carriage of postal items, the carrier shall be liable only to the relevant postal administration in accordance with the rules applicable to the relationship between the carriers and the postal administrations.
3. ~~Except~~ as provided in paragraph 2 of this Article, the provisions of this Convention shall not apply to the carriage of postal items.

## CHAPTER II

DOCUMENTATION AND DUTIES OF THE PARTIES RELATING TO  
THE CARRIAGE OF PASSENGERS, BAGGAGE AND CARGO

## ARTICLE 3 — PASSENGERS AND BAGGAGE

1. In respect of passengers, an individual or collective document of carriage shall be delivered containing an indication of the places of departure and destination.
2. Any other means which preserves the information indicated in paragraph 1 may be substituted for the delivery of the document referred to in that paragraph. If any such other means is used, the carrier shall offer to deliver to the passenger a written statement of the information so preserved.
3. The carrier shall deliver to the passenger a baggage identification tag for each piece of checked baggage.



4. The passenger shall be given written notice to the effect that where this Convention is applicable it governs and may limit the liability of carriers in respect of death or injury and for destruction or loss of, or damage to, baggage and for delay. —
5. Non-compliance with the provisions of the foregoing paragraphs shall not affect the existence or the validity of the contract of carriage, which shall nonetheless, be subject to the rules of this Convention including those relating to limitation of liability.

#### ARTICLE 4 — CARGO

1. In respect of the carriage of cargo, an air waybill shall be delivered.
2. Any other means which preserves a record of the carriage to be performed may be substituted for the delivery of an air waybill. If such other means are used, the carrier shall, if so requested by the consignor, deliver to the consignor a cargo receipt permitting identification of the consignment and access to the information contained in the record preserved by such other means.

#### ARTICLE 5 — CONTENTS OF AIR WAYBILL OR CARGO RECEIPT

The air waybill or the cargo receipt shall include —

- (a) an indication of the places of departure and destination;
- (b) an indication of the weight of the consignment.

#### ARTICLE 6 — DOCUMENT RELATING TO THE NATURE OF THE CARGO

The consignor may be required, if necessary to meet the formalities of customs, police, and similar public authorities, to deliver a document indicating the nature of the cargo. This provision creates for the carrier no duty, obligation or liability resulting therefrom.

#### ARTICLE 7 — DESCRIPTION OF AIR WAYBILL

1. The air waybill shall be made out by the consignor in three original parts.
2. The first part shall be marked "for the carrier"; it shall be signed by the consignor. The second part shall be marked "for the consignee"; it shall be signed by the consignor and by the carrier. The third part shall be signed by the carrier who shall hand it to the consignor after the cargo has been accepted.
3. The signature of the carrier and that of the consignor may be printed or stamped.
4. If, at the request of the consignor, the carrier makes out the air waybill, the carrier shall be deemed, subject to proof to the contrary, to have done so on behalf of the consignor.

#### ARTICLE 8 - DOCUMENTATION FOR MULTIPLE PACKAGES

When there is more than one package —

- (a) The carrier of cargo has the right to require the consignor to make out separate air waybills;
- (b) The consignor has the right to require the carrier to deliver separate cargo receipts when the other means referred to in paragraph 2 of Article 4 are used.

## ARTICLE 9 — NON-COMPLIANCE WITH DOCUMENTARY REQUIREMENT

Non-compliance with the provisions of Articles 4 to 8 shall not affect the existence or the validity of the contract of carriage, which shall nonetheless be subject to the rules of this Convention including those relating to limitation of liability.

## ARTICLE 10 — RESPONSIBILITY FOR PARTICULARS OF DOCUMENTATION

1. The consignor is responsible for the correctness of the particulars and statements relating to the cargo inserted by it or on its behalf in the air waybill or furnished by it or on its behalf to the carrier for insertion in the cargo receipt or for insertion in the record preserved by the other means referred to in paragraph 2 of Article 4. The foregoing shall also apply where the person acting on behalf of the consignor is also the agent of the carrier.
2. The consignor shall indemnify the carrier against all damages suffered by it, or by any other person to whom the carrier is liable, by reason of the irregularity, incorrectness or incompleteness of the particulars and statements furnished by the consignor or on its behalf.
3. Subject to the provisions of paragraphs 1 and 2 of this Article, the carrier shall indemnify the consignor against all damages suffered by it, or by any other person to whom the consignor is liable by reason of the irregularity, incorrectness or incompleteness of the particulars and statements inserted by the carrier on its behalf in the cargo receipt or in the record preserved by the other means referred to in paragraph 2 of Article 4.

## ARTICLE 11 — EVIDENTIARY VALUE OF DOCUMENTATION

1. The air waybill or the cargo receipt is prima facie evidence of the conclusion of the contract, of the acceptance of the cargo and of the conditions of carriage mentioned therein.
2. Any statements in the air waybill or the cargo receipt relating to the weight, dimensions and packaging of the cargo, as well as those relating to the number of packages, are prima facie evidence of the facts stated; those relating to the quantity, volume and condition of the cargo do not constitute evidence against the carrier except so far as they both have been, and are stated in the air waybill or the cargo receipt to have been, checked by it in the presence of the consignor, or relate to the apparent condition of the cargo.

## ARTICLE 12 — RIGHT OF DISPOSITION OF CARGO

1. Subject to its liability to carry out all its obligations under the contract of carriage, the consignor has the right to dispose of the cargo by withdrawing it at the airport of departure or destination, or by stopping it in the course of the journey on any landing, or by calling for it to be delivered at the place of destination or in the course of the journey to a person other than the consignee originally designated, or by requiring it to be returned to the airport of departure. The consignor must not exercise this right of disposition in such a way as to prejudice the carrier or other consignors and must reimburse any expenses occasioned by the exercise of this right.
2. If it is impossible to carry out the instructions of the consignor, the carrier must so inform the consignor forthwith.

3. If the carrier carries out the instructions of the consignor for the disposition of the cargo without requiring the production of the part of the air waybill or the cargo receipt delivered to the latter, the carrier will be liable without prejudice to its right of recovery from the consignor, for any damage which may be caused thereby to any person who is lawfully in possession of that part of the air way bill or the cargo receipt.
4. The right conferred on the consignor ceases at the moment when that of the consignee begins in accordance with Article 13; nevertheless, if the consignee declines to accept the cargo, or cannot be communicated with, the consignor resumes its right to disposition.

#### ARTICLE 13 — DELIVERY OF THE CARGO

1. Except when the consignor has exercised its right under Article 12, the consignee is entitled, on arrival of the cargo at the place of destination, to require the carrier to deliver the cargo to it, on payment of the charges due on complying with the conditions of carriage.
2. Unless it is otherwise agreed, it is the duty of the carrier to give notice to the consignee as soon as the cargo arrives.
3. If the carrier admits the loss of the cargo, or if the cargo has not arrived at the expiration of two days after the date on which it ought to have arrived, the consignee is entitled to enforce against the carrier the rights which flow from the contract of carriage.

#### ARTICLE 14 — ENFORCEMENT OF THE RIGHTS OF CONSIGNOR AND CONSIGNEE

The consignor and the consignee can respectively enforce all the rights given to them by Articles 12 and 13, each in its own name, whether it is acting in its own interest or in the interest of another, provided that it carries out the obligations imposed by the contract of carriage.

#### ARTICLE 15 — RELATIONS OF CONSIGNOR AND CONSIGNEE OR MUTUAL RELATIONS OF THIRD PARTIES

1. Articles 12, 13 and 14 do not affect either the relations of the consignor and the consignee with each other or the mutual relations of third parties whose rights are derived either from the consignor or from the consignee.
2. The provisions of Articles 12, 13 and 14 can only be varied by express provisions in the air waybill or the cargo receipt.

#### ARTICLE 16 — FORMALITIES OF CUSTOMS, POLICE OR OTHER PUBLIC AUTHORITIES

1. The consignor must furnish such information and such documents as are necessary to meet the formalities of customs, police and any other public authority before the cargo can be delivered to the consignee. The consignor is liable to the carrier for any damage occasioned by the absence, insufficiency or irregularity of any such information or documents, unless the damage is due to the fault of the carrier, its servants or agents.
2. The carrier is under no obligation to enquire into the correctness or sufficiency of such information or documents.

## CHAPTER III

## LIABILITY OF THE CARRIER AND EXTENT OF COMPENSATION FOR DAMAGE

## ARTICLE 17 - DEATH AND INJURY OF PASSENGERS DAMAGE TO BAGGAGE

1. The carrier is liable for damage sustained in case of death or bodily injury of a passenger upon condition only that the accident which caused the death or injury took place on board the aircraft or in the course of any of the operations of embarking or disembarking.
2. The carrier is liable for damage sustained in case of destruction or loss of, or damage to, checked baggage upon condition only that the event which caused the destruction, or loss or damage, took place on board the aircraft or during any period within which the checked baggage was in the charge of the carrier. However, the carrier is not liable if and to the extent that the damage resulted from the inherent defect, quality or vice of the baggage. In the case of unchecked baggage, including personal items, the carrier is liable if the damage resulted from its fault or that of its servants or agents.
3. If the carrier admits the loss of checked baggage, or if the checked baggage has not arrived at the expiration of seven days after the date on which it ought to have arrived, the passenger is entitled to enforce against the carrier the rights which flow from the contract of carriage.
4. Unless otherwise specified, in this Convention the term "baggage" means both checked baggage and unchecked baggage.

## ARTICLE 18 — DAMAGE OF CARGO

1. The carrier is liable for damage sustained in the event of the destruction or loss of, or damage to, cargo upon condition only that the event which caused the damage so sustained took place during the carriage by air. However, the carrier is not liable if and to the extent it proves that the destruction, or loss of, or damage to, the cargo resulted from one or more of the following —
  - (a) inherent defect, quality or vice of that cargo;
  - (b) defective packing of that cargo performed by a person other than the carrier or its servants or agents;
  - (c) an act of war or an armed conflict;
  - (d) an act of a public authority carried out in connection with the entry, exit or transit of the cargo.
2. The carriage by air within the meaning of paragraph 1 of this Article comprises the period during which the cargo is in the charge of the carrier.
3. The period of the carriage by air does not extend to any carriage by land, by sea or by inland waterway performed outside an airport. If, however, such carriage takes place in the performance of a contract for carriage by air, for the purpose of loading, delivery or transshipment, any damage is presumed, subject to proof to the contrary, to have been the result of an event which took place during the carriage by air.
- (4) If a carrier, without the consent of the consignor, substitutes carriage by another mode of transport for the whole or part of a carriage intended by the agreement between the parties to be carriage by air, such carriage by another mode of transport is deemed to be within the period of carriage by air.

## ARTICLE 19 — DELAY

The carrier is liable for damage occasioned by delay in the carriage by air of passengers, baggage or cargo. Nonetheless, the carrier shall not be liable for damage occasioned by delay if it proves that it and its servants and agents took all measures that could reasonably be required to avoid the damage or that it was impossible for it or them to take such measures.

## ARTICLE 20 — EXONERATION

1. If the carrier proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of the person claiming compensation, or the person from whom he or she derives his or her rights, the carrier shall be wholly or partly exonerated from its liability to the claimant to the extent that such negligence or wrongful act or omission caused or contributed to the damage.
2. When by reason of death or injury of a passenger compensation is claimed by a person other than the passenger, the carrier shall likewise be wholly or partly exonerated from its liability to the extent that it proves that the damage was caused or contributed to by the negligence or other wrongful act or omission of that passenger.
3. This Article applies to all the liability provisions in this Convention, including paragraph 1 of Article 21.

## ARTICLE 21 — COMPENSATION IN CASE OF DEATH OR INJURY OF PASSENGERS

1. For damages arising under paragraph 1 of Article 17 not exceeding 100,000 United States Dollars for each passenger, the carrier shall not be able to exclude or limit its liability.
2. The carrier shall not be liable for damages arising under paragraph 1 of Article 17 to the extent that they exceed for each passenger 100,000 United States Dollars if the carrier proves that —
  - (a) such damage was not due to the negligence or other wrongful act or omission of the carrier or its servants or agents; or
  - (b) such damage was solely due to the negligence or other wrongful act or omission of a third party.

## ARTICLE 22 — LIMITS OF LIABILITY IN RELATION TO DELAY, BAGGAGE AND CARGO

1. In the case of damage caused by delay as specified in Article 19 in the carriage of persons, the liability of the carrier for each passenger is limited to 4150 United States Dollars.
2. In the carriage of baggage, the liability of the carrier in the case of destruction, loss, damage or delay is limited to 1000 United States Dollars for each passenger unless the passenger has made, at the time when the checked baggage was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the passenger's actual interest in delivery at destination.
3. In the carriage of cargo, the liability of the carrier in the case of destruction, loss, damage or delay is limited to a sum of 20 United States Dollars per kilogram, unless the consignor has made, at the time when the package was handed over to the carrier, a special declaration of interest in delivery at destination and has paid a supplementary

sum if the case so requires. In that case the carrier will be liable to pay a sum not exceeding the declared sum, unless it proves that the sum is greater than the consignor's actual interest in delivery at destination.

4. In the case of destruction, loss, damage or delay of part of the cargo, or of any object contained therein, the weight to be taken into consideration in determining the amount to which the carrier's liability is limited shall be only the total weight of the package or packages concerned. Nonetheless, when the destruction, loss, damage of a part of the cargo, or of an object contained therein, affects the value of other packages covered by the same air waybill, or the same receipt or, if they were not issued, by the same record preserved by the other means referred to in paragraph 2 of Article 4, the total weight of such package or packages shall also be taken into consideration in determining the limit of liability.
5. The foregoing provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the carrier, its servants or agents, done with intent to cause damage or recklessly and with knowledge that damage would probably result; provided that, in the case of such act or omission of a servant or agent, it is proved that such servant or agent was acting within the scope of its employment.
6. The limits prescribed in Article 21 and in this Article shall not prevent the court from awarding, in accordance with its own rules of procedure, in addition, the whole or part of the court costs and of the other expenses of the litigation incurred by the plaintiff, including interest. The foregoing provision shall not apply if the amount of the damages awarded, including court costs and other expenses of the litigation, does not exceed the sum which the carrier has offered in writing to the plaintiff within a period of six months from the date of the occurrence causing the damage, or before the commencement of the action, if that is later.

#### ARTICLE 23 — CONVERSION OF MONETARY UNITS

The sums mentioned in Articles 21 and 22 shall be converted to Naira at the existing official exchange rate.

#### ARTICLE 24 — REVIEW OF LIMITS

Without prejudice to the provisions of Article 25 of this Convention, the limits of liability prescribed in Articles 21, 22 and 23 shall be reviewed by the Minister of Aviation upon advice by the Nigeria Civil Aviation Authority at seven year intervals, the first of such review to take place at the end of the seventh year following the date of entry into force of this Act.

#### ARTICLE 25 — STIPULATION ON LIMITS

A carrier may stipulate that the contract of carriage shall be subject to higher limits of liability than those provided for in this Convention or to no limits of liability whatsoever.

#### ARTICLE 26 — INVALIDITY OF CONTRACTUAL PROVISIONS

Any provision tending to relieve the carrier of liability or to fix a lower limit than that which is laid down in this Convention shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Convention.

## ARTICLE 27 — FREEDOM TO CONTRACT

Nothing contained in this Convention shall prevent the carrier from refusing to enter into any contract of carriage, from waiving any defences available under the Convention, or from laying down conditions which do not conflict with the provisions of this Convention.

## ARTICLE 28 — ADVANCE PAYMENTS

In the case of aircraft accidents resulting in death or injury of passengers, the carrier shall make advance payments without delay to the natural person or persons who are entitled to claim compensation in order to meet the immediate economic needs of such person or persons. Such advance payment shall not constitute a recognition or of liability and may be offset against any amounts subsequently paid as damages by the carrier.

## ARTICLE 29 — BASIS OF CLAIMS

In the carriage of passengers, baggage and cargo, any action for damages, however founded, whether under this Convention or in contract or in tort or otherwise, can only be brought subject to the conditions and such limits of liability as are set out in this Convention without prejudice to the question as to who are the persons who have the right to bring suit and what are their respective rights. In any such action, punitive, exemplary or any other non-compensatory damages shall not be recoverable.

## ARTICLE 30 — SERVANTS, AGENTS - AGGREGATION OF CLAIMS

1. If an action is brought against a servant or agent of the carrier arising out of damage to which the Convention relates, such servant or agent, if they prove that they acted within the scope of their employment, shall be entitled to avail themselves of the conditions and limits of liability which the carrier itself is entitled to invoke under this Convention.
2. The aggregate of the amounts recoverable from the carrier, its servants and agents, in that case, shall not exceed the said limits.
3. Save in respect of the carriage of cargo, the provisions of paragraphs 1 and 2 of this Article shall not apply if it is proved that the damage resulted from an act or omission of the servant or agent done with intent to cause damage or recklessly and with knowledge that damage would probably result.

## ARTICLE 31 — TIMELY NOTICE OF COMPLAINTS

1. Receipt by the person entitled to delivery of checked baggage or cargo without complaint is prima facie evidence that the same has been delivered in good condition and in accordance with the document of carriage or with the record preserved by the other means referred to in paragraph 2 of Article 3 and paragraph 2 of Article 4.
2. In the case of damage, the person entitled to delivery must complain to the carrier forthwith after the discovery of the damage, and, at the latest, within two days from the date of receipt in case of checked baggage and seven days from the date of receipt in the case of cargo. In the case of delay, the complaint must be made at the latest within fourteen days from the date on which the baggage or cargo has been placed at his or her disposal.
3. Every complaint must be made in writing and given and dispatched within the times aforesaid.

4. If no complaint is made within the times aforesaid, no action shall lie against the carrier, save in the case of fraud.

#### ARTICLE 32 — DEATH OF PERSON LIABLE

In the case of the death of the person liable, an action for damages lies in accordance with the terms of this Convention against those legally representing his or her estate.

#### ARTICLE 33 — ARBITRATION

1. Subject to the provisions of this Article, the parties to the contract of carriage for cargo may stipulate that any dispute relating to the liability of the carrier under this Convention shall be settled by arbitration. Such agreement shall be in writing.
2. The arbitrator or arbitration tribunal shall apply the provisions of this Convention.
3. The provisions of paragraph 2 New Insertion of this Article shall be deemed to be part of every arbitration clause or agreement, and any term of such clause or agreement which is inconsistent with the said paragraph shall be null and void.

#### ARTICLE 34 — LIMITATION OF ACTIONS

The right to damages shall be extinguished if an action is not brought within a period of two years, reckoned from the date of arrival at the date of destination, or from the date on which the aircraft ought to have arrived, or from the date on which the carriage stopped.

#### ARTICLE 35 — SUCCESSIVE CARRIAGE

1. In the case of carriage to be performed by various successive carriers and falling within the definition set out in paragraph 3 of Article 1, each carrier which accepts passengers, baggage or cargo is subject to the rules set out in this Convention and is deemed to be one of the parties to the contract of carriage in so far as the contract deals with that part of the carriage which is performed under its supervision.
2. In the case of carriage of this nature, the passenger or any person entitled to compensation in respect of him or her can take action only against the carrier which performed the carriage during which the accident or the delay occurred, save in the case where, by express agreement, the first carrier has assumed liability for the whole journey.
3. As regards baggage or cargo, the passenger or consignor will have a right of action against the first carrier, and the passenger or consignor who is entitled to delivery will have a right of action against the last carrier, and further, each may take action against the carrier which performed the carriage during which the destruction, loss, damage or delay took place. These carriers will be jointly and severally liable to the passengers or to the consignor or consignee.

#### ARTICLE 36 — RIGHT TO RECOURSE AGAINST THIRD PARTIES

Nothing in this Convention shall prejudice the question whether a person liable for damage in accordance with its provisions has a right of recourse against any other person.

#### CHAPTER IV

#### ARTICLE 37 — COMBINED CARRIAGE



1. In the case of combined carriage performed partly by air and partly by any other mode of carriage, the provisions of this Convention shall, subject to paragraph 4 of Article 18, apply only to the carriage by air, provided that the carriage by air falls within the terms of Article 1.
2. Nothing in this Convention shall prevent the parties in the case of combined carriage from inserting in the documents of air carriage conditions relating to other modes of carriage, provided that the provisions of this Convention are observed as regards the carriage by air.

## CHAPTER V

### CARRIAGE BY AIR PERFORMED BY A PERSON OTHER THAN THE CONTRACTING CARRIER

#### ARTICLE 38 — CONTRACTING CARRIER - ACTUAL CARRIER

The provisions of this Chapter apply when a person (hereinafter referred to as "the contracting carrier") as a principal makes a contract of carriage governed by the Convention with a passenger or consignor or with a person acting on behalf of the passenger or consignor, and another (hereinafter referred to as "the actual carrier"), performs, by virtue of authority from the contracting carrier, the whole or part of the carriage, but is not with respect to such a part a successive carrier within the meaning of this Convention. Such authority shall be presumed in the absence of proof to the contrary.

#### ARTICLE 39 — RESPECTIVE LIABILITY OF CONTRACTING AND ACTUAL CARRIERS

If an actual carrier performs the whole or part of carriage which, according to the contract referred to in Article 39 is governed by this Convention, both the contracting carrier and the actual carrier shall, except as otherwise provided in this chapter, be subject to the rules of this Convention, the former for the whole of the carriage contemplated in the contract, the latter solely for the carriage which it performs.

#### ARTICLE 40 — MUTUAL LIABILITY

1. The acts and omissions of the actual carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the contracting carrier.
2. The acts and omissions of the contracting carrier and of its servants and agents acting within the scope of their employment shall, in relation to the carriage performed by the actual carrier, be deemed to be also those of the actual carrier. Nevertheless, no such act or omission shall subject the actual carrier to liability exceeding the amounts referred to in Articles 21, 22, 23 and 24. Any special agreement under which the contracting carrier assumes obligations not imposed by this Convention or any special declaration of interest in delivery at destination contemplated in Article 22 shall not affect the actual carrier unless agreed to by it.

#### ARTICLE 41 — ADDRESSEE OF COMPLAINTS AND INSTRUCTIONS

Any complaint to be made or instruction to be given under this Convention to the carrier shall have same effect whether addressed to the contracting carrier or to the actual carrier. Nevertheless, instructions referred to in Article 12 shall only be effective if addressed to the contracting carrier.

## ARTICLE 42 — SERVANTS AND AGENTS

In relation to the carriage performed by the actual carrier, any servant or agent of that carrier or of the contracting carrier shall, if they prove that they acted within the scope of their employment, be entitled to avail themselves of the conditions and limits of liability which are applicable under this Convention to the carrier whose servant or agent they are, unless it is proved that they acted in a manner that prevents the limits of liability from being invoked in accordance with this Convention.

## ARTICLE 43 — AGGREGATION OF DAMAGES

In relation to the carriage performed by the actual carrier, the aggregate of the amounts recoverable from that carrier and the contracting carrier, and from their servants and agents acting within the scope of their employment, shall not exceed the highest amount which could be awarded against either the contracting carrier or the actual carrier under this Convention, but none of the persons mentioned shall be liable for a sum in excess of the limit applicable to that person.

## ARTICLE 44 — ADDRESSEE OF CLAIMS

In relation to the carriage performed by the actual carrier, an action for damages may be brought, at the option of the plaintiff, against the carrier or the contracting carrier, or against both together or separately. If the action is brought against only one of those carriers, that carrier shall have the right to require the other carrier to be joined in the proceedings, the procedure and effects being governed by the law of the court seized of the case.

## ARTICLE 45 — INVALIDITY OF CONTRACTUAL PROVISIONS

Any contractual provision tending to relieve the contracting carrier or the actual carrier of liability under this Chapter or to fix a lower limit than that which is applicable according to this Chapter shall be null and void, but the nullity of any such provision does not involve the nullity of the whole contract, which shall remain subject to the provisions of this Chapter.

## ARTICLE 46 — MUTUAL RELATIONS OF CONTRACTING AND ACTUAL CARRIERS

Except as provided in Article 45, nothing in this Chapter shall affect the rights and obligations of the carriers between themselves, including any right of recourse to indemnification.

## CHAPTER VI

## OTHER PROVISIONS

## ARTICLE 47 — MANDATORY APPLICATION

Any clause contained in the contract of carriage and all special agreements entered into before the damage occurred by which the parties purport to infringe the rules laid down by this Convention, whether by deciding the law to be applied, or by altering the rules as to jurisdiction, shall be null and void.

## ARTICLE 48 — CARRIAGE PERFORMED IN EXTRAORDINARY CIRCUMSTANCES

The provisions of Articles 3 to 5, 7 and 8 relating to the documents of carriage shall not apply in the case of carriage performed in extra-ordinary circumstances outside the normal scope of a carrier's business.

## ARTICLE 49 — DEFINITION OF DAYS

The expression "days" when used in this Convention means working days, not calendar days.

*Question that the provision in the Second Schedule stand part of the bill — Agreed to.*

Chairman to report Bill.

## (SENATE IN PLENARY)

The Deputy President of the Senate reported that the Senate in the Committee of the Whole considered the Report of the Committee on Aviation on A Bill for an Act to Repeal the Civil Aviation Act, 2006 and to Re-enact the Civil Aviation Act for the Regulation of Civil Aviation in Nigeria; and Other Purposes Connected Therewith, 2022 and approved as follows:

Clauses 1-118 — As Recommended

Schedules 1-2 — As Recommended

*Question: That the Senate do approve the Report of the Committee of the Whole — Resolved in the Affirmative.*

*Motion made: That the Bill be now Read the Third Time (Senate Leader).*

*Question put and agreed to.*

*Bill accordingly Read the Third Time and Passed.*

10. **Committee on Tertiary Institutions and TETFUND:**

*Report on the School of Mines and Geological Studies Guyuk (Establishment) Bill, 2022 (SB. 267):*

*Motion made: That the Senate do receive and consider the Report of the Committee on Tertiary Institutions and TETFUND on the School of Mines and Geological Studies Guyuk (Establishment) Bill, 2022 (Senator Babba K. Ahmad — Katsina North).*

*Question put and agreed to.*

*Report Laid and Presented.*

*Motion Made: That the Senate do Resolve Into the Committee of the Whole to Consider the Report.*

*Question put and agreed to.*

## (SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL COLLEGE OF MINES AND GEOLOGICAL STUDIES GUYUK, ADAMAWA STATE AND FOR OTHER MATTERS CONNECTED THEREWITH, 2022.

## PART I - ESTABLISHMENT OF FEDERAL COLLEGE OF MINES AND GEOLOGICAL STUDIES

**Clause 1: Establishment of The Federal College of Mines and Geological Studies Guyuk, Adamawa State.**

There is established a body to be known as The Federal College of Mines and Geological Studies Guyuk, Adamawa State which shall have such powers and exercise such functions as is conferred on it by this Bill

**Committee's Recommendation:**

That the provision in Clause 1 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 1 do stand part of the Bill, put and agreed to.*

**Clause 2: Objects of The College.**

The functions of the College shall be:

- [a] to provide full-time courses in Mining and Geological Studies:
  - [i] To serve as a home for research activities in all fields of Geology, Survey and Exploration, in such other fields of applied learning relevant to the needs of the development of Nigeria.
  - [ii] research in the development and adaptation of techniques as the council may from time to time determine;
  - [iii] to train manpower for the mineral exploration, mining, processing and extraction industries.
- [b] to conduct courses in Mining and Geological Studies for miners;
- [c] to arrange conferences, seminars and workshops in relevant fields of learning; and
- [d] to perform such other functions as in the opinion of the Council may promote the objectives of the College.

**Committee's Recommendation:**

That the provision in Clause 2 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 2 do stand part of the Bill, put and agreed to.*

**Clause 3: Establishment of the Governing Council.**

- [1] There is established for the College a Governing Council [in this Bill referred to as ["the Council"]] which shall be responsible for the consideration and approval of:
  - [a] the plan of activities of the College;
  - [b] the programme of studies, courses, and research to be undertaken by the College,
  - [c] the annual budget estimates of the College; and
  - [d] the investment plans of the College.
- [2] The provisions of the Schedule to this Bill shall have effect with respect to the Council as specified therein.

**Committee's Recommendation:**

That the provision in Clause 3 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 3 do stand part of the Bill, put and agreed to.*

**Clause 4: Constitution and Principal Officers of the College.**

- [1] The College shall consist of: -
- [a] A Provost;
  - [b] - Deputy provost
  - [c] Academic Board;
  - [d] the persons holding the offices constituted by the First Schedule to this Bill other than those mentioned in paragraphs [a] to [c] of this subclause;
  - [e] all graduates and undergraduates of the College; and
  - [f] all other persons who are members of the College in accordance with provisions made by Regulation in that behalf.
- [2] The First Schedule to this Bill shall have effect with respect to the principal officers of the College.
- [3] Subject to Clause 5 of this Bill provision shall be made by Regulation with respect to the constitution of the Council, the Academic Board.

***Committee's Recommendation:***

That the provision in Clause 4 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 4 do stand part of the Bill, put and agreed to.*

**Clause 5: Composition, Tenure and Powers of the Council of the College.**

- [1] The Council of the College shall consist of: -
- [a] the Provost;
  - [c] the Deputy Provost[s];
  - [d] one person from the Ministry responsible for Education;
  - [e] four persons representing a variety of interests and broadly representative of the whole Federation to be appointed from:
    - [i] the Teacher's Registration Council;
    - [ii] Tertiary Education Trust Fund; and
    - [iii] Two other persons, one of whom shall be a representative of the College host community.
  - [f] four persons appointed by the Academic Board from among its members;
  - [g] One person appointed by Academic Board from among its members.
  - [h] Two persons representing the community appointed by the President.

- [2] Persons to be appointed to the Council shall be of proven integrity, knowledgeable and familiar with the affairs and tradition of the College.
- [3] The Council so constituted shall have a tenure of four years from the date of its inauguration provided that where a Council is found to be incompetent and corrupt, it shall be dissolved by the Visitor and a new Council shall be immediately constituted for the effective functioning of the College.
- [4] The powers of the Council shall be exercised, as in this Bill and to that extent establishment circulars that are inconsistent with this Bill shall not apply to the College.
- [5] The Council shall be free in the discharge of its functions and exercise of its responsibilities for the good management, growth and development of the College.
- [6] The Council in the discharge of its functions shall ensure that disbursement of funds of the College complies with the approved budgetary ratio for -
- [a] personnel cost;
  - [b] overhead cost;
  - [c] research and development;
  - [d] library developments; and
  - [e] The balance in expenditure between academic vis-à-vis non-academic Activities.

***Committee's Recommendation:***

That the provision in Clause 5 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 5 do stand part of the Bill, put and agreed to.*

**Clause 6: Functions of the Council and its Finance and General Purpose Committee.**

- [1] Subject to the provisions of this Bill relating to the Visitor, the Council shall be the governing body of the College and shall be charged with the general control and superintendence of the policy, finances and property of the College.
- [2] There shall be a committee of the Council, to be known as the Finance, and General Purposes Committee, which shall, subject to the directions of the Council, exercise control over the property and expenditure of the College and perform such other functions of the Council as the Council may from time to time delegate to it.
- [3] Provision shall be made by Regulation with respect to the constitution of the Finance and General Purposes Committee.

- [4] The Council shall ensure that proper accounts of the College are kept and that the accounts of the College are audited annually by an independent firm of auditors approved by the Council and that an annual report is published by the College together with certified copies of the said accounts as audited.
- [5] Subject to this Bill and the Regulations, the Council and the Finance and General Purposes Committee may each make rules for the purpose of exercising any of their respective functions or of regulating their own procedure.
- [6] Rules made under sub-Clause [5] of this Clause by the Finance and General Purposes Committee shall not come into force unless approved by the Council; and in so far and to the extent that any rules so made by that Committee conflict with any direction given by the Council, whether before or after the coming into force of the rules in question, the directions of the Council shall prevail.
- [7] There shall be paid to the members respectively of the Council, the Finance and General Purposes Committee and of any other committee set up by the Council, allowances in respect of travelling and other reasonable expenses, at such rates as may from time to time be fixed by the Minister.
- [8] The Council shall meet as and when necessary for the performance of its functions under this Bill and shall meet at least three times in every year.
- [9] If requested in writing by any five members of the Council, the chairman shall within 28 days after the receipt of such request call a meeting of the Council.
- [10] Any request made under sub-Clause [9] of this Clause shall specify the business to be considered at the meeting and no business not so specified shall be Considered at that meeting.

***Committee's Recommendation:***

That the provision in Clause 6 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 6 do stand part of the Bill, put and agreed to.*

**Clause 7: Term of Office of Membership of the Council.**

- [1] A member of the Council [other than an ex-officio member] shall hold office for a term of three years and be eligible for reappointment for a further period of three years.
- [2] The office of a member appointed under Clause 3 of this Bill shall become vacant if:
- [a] the member resigns his/her appointment by notice in writing under his/her hand, addressed to the Minister; or
- [b] the Minister is satisfied that it is not in the interest of the College for the person appointed to continue in office and notifies the member in writing to that effect

**Committee's Recommendation:**

That the provision in Clause 7 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 7 do stand part of the Bill, put and agreed to.*

**Clause 8: Powers of the Council.**

The Council shall have powers to:

- [a] hold examination and grant NCE, professional certificates and other distinctions to persons who have pursued a course of study approved and accredited by the National Commission for Colleges of Education [NCCE],
- [b] demand and receive from any student or any other person attending the College for the purpose of instruction such fees as the council may, with the prior approval of the Minister, from time to time determine;
- [c] hold public lectures and undertake printing, publishing and selling;
- [d] provide amenities for the welfare of the staff of the College;
- [e] invest the surplus funds of the College on programmes that by law as may be approved by the Council; enter into such contracts as may be necessary or expedient for carrying into effect the objectives of the College;
- [f] recruit staff of the right caliber and determine the career structure of such staff;
- [g] establish and maintain such College and other units within the College or extra-mural departments as the Council may, from time to time decide;
- [h] institute and award fellowships, medals, prizes and other titles;
- [i] mount exhibitions and display designs to foster appreciation of techniques and technology; erect, provide, equip and maintain such educational, recreational and residential facilities as the College may require;
- [j] create lectureships and other academic posts and offices to make appointments thereto;
- [k] Encourage and make provision for research in the College and; do such things incidental to the foregoing powers as may advance the objects of the College.

**Committee's Recommendation:**

That the provision in Clause 8 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 8 do stand part of the Bill, put and agreed to.*



**Clause 9: Visitation.**

- [1] The Minister of Education shall be the visitor of the College.
- [2] The Visitor shall, not less than once in every two years, conduct a visitation of the college or appoint a visitation panel consisting of not less than five experts to conduct the visitation:
  - [a] for the purpose of evaluating the academic and administrative performance of the College; or
  - [b] For such other purpose the Visitor may deem fit.

**Committee's Recommendation:**

That the provision in Clause 9 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 9 do stand part of the Bill, put and agreed to.*

**Clause 10: The Academic Board and Its Functions.**

- [1] There shall be established for the College a board to be known as the Academic Board which shall consist of the following members:
  - [a] the Provost of the College who shall be the Chairman;
  - [b] the Deputy Provost, Deans of Departments, Professors Reader/ Chief- Readers and the Registrar who shall be the Secretary;
  - [c] the College Librarian; and
  - [d] Not more than two members of the academic staff other than heads of departments to be elected by the Congregation.
- [2] The Academic Board shall be responsible for:
  - [a] the direction and management of academic matters to the College including the regulation of admission of students, the award of certificates, scholarships, prizes, and other academic distinctions;
  - [b] making periodic reports on such academic matters to the Council as the Council may from time to time direct;
  - [c] Discharging any other functions which the Council may from time to time delegate to it.

**Committee's Recommendation:**

That the provision in Clause 10 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 10 do stand part of the Bill, put and agreed to.*

**Clause 11: Power of Minister to Give Direction to the Council.**

Subject to the provisions of this Bill, the Minister may give to the Council directions of a general character or relating generally to matters of policy with regards to the exercise by the Council of its functions under this Bill and it shall be the duty of the Council to comply with such directions.

**Committee's Recommendation:**

That the provision in Clause 11 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 11 do stand part of the Bill, put and agreed to.*

**Clause 12: The Provost of the College.**

- [1] There shall be a Provost of the College [in this Bill referred to as ["the Provost"]] who shall be appointed by the Minister of Education, in accordance with the provisions of this Clause.
- [2] where a vacancy exists in the post of Provost, the Council shall:
- [a] advertise the vacancy in a reputable journal or a widely read newspaper in Nigeria specifying:
- [i] the qualifications of the person who may apply for the post;
- [ii] the terms and conditions of service applicable to the post, and thereafter draw up a short list of suitable candidates for consideration;
- [b] constitute a search team consisting of:
- [i] a member of the Council not being a member of the Academic Board, as Chairman;
- [ii] two members of the Academic Board not below the rank of Chief Lecturer;
- [iii] Two members of the academic community of the College not below the rank of Chief Lecturer to be selected by the Council, to identify and draw up a short list of suitable person who are not likely to apply for the post for any reason whatsoever.

**Committee's Recommendation:**

That the provision in Clause 12 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 12 do stand part of the Bill, put and agreed to.*

**Clause 13: Deputy Provost.**

- [1] There shall be for the College a Deputy Provost.
- [2] The Council shall appoint the Deputy Provost from among the Chief Lecturers in the College in the following ways, that is:
- [a] from a list of three candidates in order of preference, submitted by the Provost;
- [b] on the recommendation of a selection Board constituted under this Clause for that purpose; or
- [c] on the nomination of the Provost.
- [3] The selection Board referred to in this sub Clause [2] of this Clause shall:
- [a] consist of:

- [i] the Chairman of the Council;
  - [ii] the Provost;
  - [iii] two members of the Council not being members of the Academic Board, one of whom shall be the member appointed by the Minister;
  - [iv] two members of the Academic Board; and
- [b] Make such inquiries as it deems fit before making the recommendation required under that sub Clause.
- [4] The Deputy Provost shall:
- [a] be in charge of academic activities and assist the Provost in the performance of his/her functions;
  - [b] act in the place of Provost when the post of Provost is vacant or if, for any reason, the Provost is unable to perform his/her functions as Provost, and
  - [c] Perform such other functions as the Provost or the Council may assign to him.
- [5] The Deputy Provost:
- [a] shall hold office for a period of two years beginning from the effective date of his/her appointment and on such terms and conditions as may be specified in his/her letter of appointment; and
  - [b] May be reappointed for one further period of two years and no more.

***Committee's Recommendation:***

That the provision in Clause 13 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 13 do stand part of the Bill, put and agreed to.*

**Clause 14: Tenure and Procedure for the removal of Provost.**

- [1] The Provost shall hold office for a period of 5 years only beginning with the effective date of his/her appointment and on such terms and conditions as may be specified in his/her letter of appointment.
- [2] Where on the commencement of this Bill a Provost appointed before the commencement of this Bill has held office-
  - [a] for less than five years, he/she shall be deemed to be serving his/her 5 years' single tenure and shall not have right for the renewal of his/her appointment for a further term of five years;
  - [b] for more than five years and has more than 1 year to complete his/her second term, the Council may allow him/her to serve as Provost for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College;

- [c] for more than 5 years and has less than 1 year to complete his/her second term, the Council may allow him/her to serve as Provost to complete his/her second term and thereafter he/she shall relinquish his/her post and be assigned other duties in the College.
- [3] [a] The Provost may be removed from office by the Visitor on grounds of gross misconduct or inability to discharge the functions of his/her office as a result of infirmity of the body or mind after due consultation with the Council and the Academic Board Billing through the Minister of Education.
- [b] When the proposal for the removal of the Provost is made, the Council shall constitute a Joint Committee of Council and Academic Board consisting of-
- [i] three members of the Council one of whom shall be the chairman of the Committee; and
- [ii] Two members of Academic Board, provided that where the ground for the removal is infirmity of the body or mind, the Council shall seek appropriate medical opinion.
- [c] The Committee shall conduct investigation into the allegations made against the Provost and shall report its findings to the Council.
- [d] The Council shall where the allegations are proved inform the Visitor who shall remove the Provost.
- [e] There shall be no sole administrator in any Nigerian College of Education.
- [f] In any case of a vacancy in the office of the Provost, the Council shall appoint a Billing Provost on the recommendation of the Academic Board.
- [g] A Billing Provost in all circumstances shall not be in office for more than 6 months.

*Committee's Recommendation:*

That the provision in Clause 14 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 14 do stand part of the Bill, put and agreed to.*

**Clause 15: The Registrar or other Staff of the College.**

- [1] The Council of the College shall appoint a Registrar to the College [hereinafter referred to as the Registrar] who shall keep the records and conduct the correspondence of the Council and shall perform such other duties as the Council and subject thereto as the Provost may from time to time direct.
- [2] The Registrar shall, in addition to other duties conferred on him/her by or under this Bill, be the Secretary of the Council, the Academic Board and any committee of the Council and in his/her absence, the

Councilor of any such Committee may appoint some/other person to act as Secretary, and he/she shall not vote on any question before the Council or count towards a quorum.

[3] A Registrar:

- [a] shall hold office for a period of five years beginning from the effective date of his/her appointment and on such terms and conditions as may be specified in his/her letter of appointment; and
- [b] May be reappointed for one further period of five years and no more.

[4] where on the commencement of this Clause a Registrar appointed before the commencement of the Clause has held office:

- [a] for five years or less he/she shall be deemed to be serving his/her first term of office and may be reappointed for a further term of five years;
- [b] for more than five years but less than ten years, he/she shall complete the maximum period often years and thereafter relinquish his/her post and be assigned other duties in the College;
- [c] For ten years or more, the Council may allow him/her serve as Registrar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College.

**Committee's Recommendation:**

That the provision in Clause 15 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 15 do stand part of the Bill, put and agreed to.*

**Clause 16: Other Principal Officers of the College.**

- [1] There shall be for the College the following principal officers in addition to the Registrar, that is:
  - [a] the Bursar; and
  - [b] The College Librarian, who shall be appointed by the Council on the recommendation of the selection Board constituted under Clause 10 this Bill.

**Committee's Recommendation:**

That the provision in Clause 16 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 16 do stand part of the Bill, put and agreed to.*

**Clause 17: Functions of Registrar and Tenure,**

- [1] The Registrar shall keep the records and conduct the correspondence of the Council and shall perform such other duties as the Council subject thereto as the Provost may from time to time direct.

- [2] The Registrar shall, in addition to the other duties conferred on him/her by or under this Bill, be a Secretary to the Council, Secretary to Academic Board and any committee of the Council and in his/her absence, the Council or any such committee may appoint some other persons to act as Secretary. The Registrar shall not vote on any question before the Council or count towards a quorum.
- [3] A Registrar shall
- [a] hold office for a single term of five years only beginning from the effective date of his/her appointment and such terms and conditions as may be specified in his/her letter of appointment.
- [b] Where on the commencement of this Bill a Registrar appointed before the commencement of this Bill has held office:
- [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
- [ii] for more than five years and has more than 1 year to complete his/her second term, the council may allow him/her to serve as Registrar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College;
- [iii] for more than five years and has less than 1 year to complete his/her second term, the council may allow him/her to serve as Registrar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College.

***Committee's Recommendation:***

That the provision in Clause 17 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 17 do stand part of the Bill, put and agreed to*

**Clause 18: Functions of the Bursar and Tenure.**

- [1] The Bursar shall be the Chief Financial Officer of the College and be responsible to the Provost for the day-to-day administration and control of financial affairs of the College.
- [2] [a] A Bursar shall hold office for a single term of five years only beginning from the effective date of his/her appointment and such terms and conditions as may be specified in his/her letter of appointment.
- [b] Where on the commencement of this Bill a Bursar appointed before the commencement of this Bill has held office-

- [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
- [ii] for more than five years and has more than 1 year to complete his/her second term, The Council may allow him/her to serve as Bursar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College;
- [iii] for more than five years and has less than 1 year to complete his/her second term, The Council may allow him/her to serve as Bursar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College.

***Committee's Recommendation:***

That the provision in Clause 18 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 18 do stand part of the Bill, put and agreed to.*

**Clause 19: Functions of the College Librarian and Tenure.**

- [1] The College Librarian shall be responsible to the Provost for the administration of the College Library and co-ordination of the Library services in the teaching units of the College.
- [2] A College Librarian shall;
  - [a] hold office for a single term of five years only and upon such terms and conditions as may be specified in his/her letter of appointment.
  - [b] Where on the commencement of this Bill a College Librarian appointed before the commencement of this Bill has held office-
    - [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
    - [ii] for more than five years and has more than 1 year to complete his/her second term, the Council may allow him/her to serve as College Librarian for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the College;
    - [iii] for more than 5 years and has less than 1 year to complete his/her second term, the Council may allow him/her to serve as College Librarian to complete his/her second term and thereafter he/she shall

relinquish his/her post and be assigned other duties in the College.

***Committee's Recommendation:***

That the provision in Clause 19 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 19 do stand part of the Bill, put and agreed to.*

**Clause 20: Resignation of Appointment of Principal Officer.**

A principal officer may resign his/her appointment:

[a] in the case of the provost, by notice to the Visitor; and of

[b] in any other case, by notice to the Council.

***Committee's Recommendation:***

That the provision in Clause 20 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 20 do stand part of the Bill, put and agreed to.*

**Clause 21: Other Employee.**

[1] The Council may appoint such other persons to be employees of the College as the Council may determine to assist the Provost and the Principal Officers of the College in the performance of their functions under this Bill.

[2] Subject to the provisions of this Bill the remuneration, tenure of and conditions of service of the employees of the Council shall be determined by the Council in consultation with the Federal Civil Service Commission.

***Committee's Recommendation:***

That the provision in Clause 21 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 21 do stand part of the Bill, put and agreed to.*

**Clause 22: Selection Board for other Principal Officers.**

[1] There shall be for the College, a selection Board which shall consist of:

[a] the Chairman of the Council;

[b] the Provost;

[c] four members of the Council not being members of the Academic Board; and

[d] Two members of the Academic Board.

[2] The functions, procedures and other matters relating to the selection Board constituted under sub Clause [1] of this Clause shall be as the Council may, from time to time, determine.



**Committee's Recommendation:**

That the provision in Clause 22 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 22 do stand part of the Bill, put and agreed to.*

**Clause 23: Remuneration of Provost and other employees.**

The remuneration, tenure of office and conditions of service of the Provost and other employees of the Council shall be determined by the Council, in consultation with the Head of the Civil Service of the Federation/Revenue Mobilization, Allocation and Fiscal Commission, National Salaries, Income and Wages Commission.

**Committee's Recommendation:**

That the provision in Clause 23 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 23 do stand part of the Bill, put and agreed to.*

**Clause 24: Pension.**

[1] It is hereby declared that service in the College shall be approved service for the purposes of the Pension Reform Act 2004 and accordingly, officers and other persons employed in the College shall in respect of their service in the College be entitled to pension, gratuities and other retirement benefits as are prescribed thereunder, however, that nothing in this Bill shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.

[2] For the purpose of the application of the provisions of the pension Reform Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation [other than the power to make regulations] shall be exercisable by the College and not by any other person or authority.

**Committee's Recommendation:**

That the provision in Clause 24 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 24 do stand part of the Bill, put and agreed to.*

**PART II - FINANCIAL PROVISIONS****Clause 25: General Fund.**

[1] The Council shall establish and maintain a fund which shall be applied towards the promotion of the objectives specified in this Bill.

[2] There shall be paid and credited to the fund established under sub Clause [1] of this Clause:

[a] such sums as may from time to time be granted to the Council by the Minister of Education or as may be renamed at any point in time;

[b] all moneys raised for the purposes of the college by way of gifts, grants-in-aids or testamentary disposition; and all subscriptions, fees and charges for services rendered by the

college and all other sums that may accrue to the Council from any source.

- [3] The Council shall submit to the Minister not later than three months before the end of each financial year or at such other time as he/she may direct, an estimate of its revenue and expenditure for the next succeeding financial year

***Committee's Recommendation:***

That the provision in Clause 25 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 25 do stand part of the Bill, put and agreed to.*

**Clause 26: Power to Accept Gifts.**

The Council may accept gifts of land, money, or other property upon such terms and conditions if any, as may be specified by the person making the gift provided such conditions do not conflict with or undermined the objectives of the College as provided in this Bill.

***Committee's Recommendation:***

That the provision in Clause 26 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 26 do stand part of the Bill, put and agreed to.*

**Clause 27: Account and audit.**

The Council shall keep proper accounts of its receipts, payments, assets and liabilities and shall in respect of each year cause the accounts to be audited.

***Committee's Recommendation:***

That the provision in Clause 27 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 27 do stand part of the Bill, put and agreed to.*

**Clause 28: Transfer of Property.**

[1] All property held by or on behalf of the Provisional Council of the College shall, by virtue of this sub-Clause and without further assurance, vest in the College and be held by it for the purpose of the College.

[2] The provisions of the Schedule to this Bill shall have effect with respect to, and to matters arising from, the transfer of property by this Clause and with respect to the other matters mentioned in that Schedule.

***Committee's Recommendation:***

That the provision in Clause 28 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 28 do stand part of the Bill, put and agreed to.*

**Clause 29: Annual Report.**

The Council shall soon as may be after the expiration of each financial year prepare and submit to the Minister a report of its activities during the immediately preceding financial year and shall include in the report copy of the audited accounts of the College for that year and of the auditor's report on the accounts

**Committee's Recommendation:**

That the provision in Clause 29 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 29 do stand part of the Bill, put and agreed to.*

## PART III - MISCELLANEOUS AND SUPPLEMENTARY

**Clause 30: Office Premises.**

- [1] for the purposes of providing offices and premises necessary for the performance of its functions, the Council may:
  - [a] purchase any interest in or take on lease any land; and
  - [b] Build, equip and maintain offices and premises.
- [2] The Council may with the approval of the Minister sell any interest in or lease any land, offices or premises held by it and no longer required for the performance of its function.

**Committee's Recommendation:**

That the provision in Clause 30 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 30 do stand part of the Bill, put and agreed to.*

**Clause 31: Discipline of Staff and Students.**

- [1] The Council may make rules providing for the Provost to conduct enquiries into alleged breaches of discipline, dereliction of duties and gross misconduct [including lack of diligence] by students or staff, and such rules may make different provisions for different circumstances.
- [2] The rules shall provide for the procedure and rules of evidence to be followed at enquiries under this Clause.
- [3] Subject to the provisions of sub Clause [1] of this Clause, where it is proved during the enquiry that any staff or student of the College has been guilty of misconduct, the Provost may, without prejudice to any other disciplinary powers conferred on him/her by this Bill or any regulations made hereunder direct:
  - [a] that the staff or student shall not, during such period as may be specified in the direction, participate in such activities of the College or make use of such facilities of the College, as may be so specify;
  - [b] specified on the directions, be restricted in such manner as may be so specified; or that the staff or student may be suspended for such period as may be specified in the direction; or

- [c] That the staff or student be expelled from the College.
- [4] Where there is temporarily no Provost or where the Provost refuses to apply any disciplinary measures, the Council may, either directly or through some other staff, apply such disciplinary measures, the Council may, either directly or through some other staff, apply such disciplinary actions as are specified in sub Clause [a] of this Clause to any staff or student of the College who is guilty of misconduct.
- [5] where a direction is given under sub Clause [3][a] or [d] of this Clause in respect of any staff or student, the staff or student may, within twenty-one days from the date of the letter communicating the decision to him, appeal from the direction to the Council, and where such an appeal is brought, the Council shall, after causing such inquiry to be made in the matter as the Council considers just, either confirm or set aside the direction or modify it in such manner as the Council may think fit.
- [6] The fact that an appeal from a direction is brought in pursuance of sub Clause of this Clause shall not affect the operation while the appeal is pending.
- [7] The Provost may delegate his/her powers under this Clause to a disciplinary committee consisting of such members of the College as he/she may nominate.
- [8] Nothing in this Clause shall be construed as preventing the restriction or termination of a staff's appointment or student's activities at the College otherwise than on the ground of misconduct.
- [9] It is hereby declared that the direction under sub Clause [3] [a] of this Clause may be combined with a direction under sub Clause [3] [b] of this Clause.
- [10] In all cases under this Clause, the decision of the Council shall be final unless reversed by the Minister on appeal by the staff or student.

***Committee's Recommendation:***

That the provision in Clause 31 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 31 do stand part of the Bill, put and agreed to.*

**Clause 32: Interpretation.**

In this Bill, unless the context otherwise requires:

"Chairman" means the Chairman of the Council;

"College" means the Federal College of Mines and Geological Studies established by Clause 1 of this Bill and "Colleges" shall be construed accordingly;

"Council" means the Governing Council of the College established by Clause 2 of this Bill;

"Congregation" means academic and non-academic staff of the College with first degree or Higher National Diploma [HND];

"Functions" includes powers and duties;

"Member" means a member of Council including the Chairman;

"Minister" means the Minister charged with responsibility for matters relating to the Federal Ministry of Mines and Steel Development;

"Provost" means the Provost of the College appointed under Clause 12 of this Bill;

"The person responsible for the advancement and development of Mining and Geological Studies" means the person appointed by the Minister to oversee the Federal College in Guyuk, Adamawa State

**Committee's Recommendation:**

That the provision in Clause 31 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 31 do stand part of the Bill, put and agreed to.*

**Clause 33: Short Title.**

This Bill may be cited as the Federal College of Mines and Geological Studies [Establishment] Bill, 2022

**Committee's Recommendation:**

That the provision in Clause 33 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 33 do stand part of the Bill, put and agreed to.*

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

1. Remuneration of Council Members
  - [1] There may be paid to the members of the council any committee, other than ex-officio members, such remunerations and allowances as may from time to time be determined by the Minister.
  - [2] Where a vacancy occurs in respect of the membership specified in Clause 3 [1] [d], it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his/her predecessor in office and such successor shall represent the same interest as his/her predecessor.
  - [3] The Council may act notwithstanding any vacancy in its membership or any defect in the appointment of a member or the absence of a member.
2. Vacancy of Council Seats
  - [1] where a vacancy occurs in respect of the membership specified it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his/her predecessor in office shall represent the same interest at his/her predecessor.

- [2] The validity of proceedings of the council shall not be adversely affected; notwithstanding any vacancy in its membership or any defect in the appointment of a member or the absence of a member.
- 3 Proceedings
- [1] The Council shall meet for the conduct of business at such times, places and on such days the Chairman may appoint but shall meet not less than once every four months.
- [2] The Chairman may at any time at the request in writing of not less than 6 members, convene a meeting of the Council.
- [3] At any meeting of the Council the Chairman shall preside; but in his/her absence, member present shall elect one of their members to preside at the meeting.
- [4] Where the Council desires to obtain the advice of any person on any particular matter, the Council may co-opt persons who are not members of the Council but persons co-opted shall not be entitled to vote at a meeting.
4. Miscellaneous
- [1] The fixing of the seal of the College shall be authenticated by the signature of the Chairman, Provost and of some other members of the Council authorized generally or specially by the Council to act for that purpose.
- [2] Any contract or instrument which, if made or executed by a person other than a body corporate would not be required to be under seal may be made or executed on behalf of the College by any person generally or specially authorized to act for that purpose by the Council.
- [3] Any document purporting to be duly executed under the seal of the College shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

*Question that the provision in this Schedule stands part of the Bill — Agreed to:*

Chairman to report Bill.

**(SENATE IN PLENARY)**

The Deputy President of the Senate reported that the Senate in the Committee of the Whole considered the Report of the Committee on Tertiary Institutions and TETFUND on A Bill for an Act to Provide for the Establishment of the Federal College of Mines and Geological Studies Guyuk, Adamawa State and for Other Matters Connected Therewith, 2022 and approved as follows:

Clauses 1-33 — As Recommended

Schedule — As Recommended

*Question: That the Senate do approve the Report of the Committee of the Whole — Resolved in the Affirmative.*

*Motion made: That the Bill be now Read the Third Time (Senate Leader).*

*Question put and agreed to.*

*Bill accordingly Read the Third Time and Passed.*

**11. Committee on Tertiary Institutions and TETFUND:**

***Report on the Federal Universities of Technology Act Cap F23 LFN 2004 (Amendment) Bill, 2022 (SB. 702):***

*Motion made:* That the Senate do receive and consider the Report of the Committee on Tertiary Institutions and TETFUND on the Federal Universities of Technology Act Cap F23 LFN 2004 (Amendment) Bill, 2022 (*Senator Babba K. Ahmad — Katsina North*).

*Question put and agreed to.*

*Report Laid and presented.*

*Motion made:* That the Senate do resolve into the Committee of Whole to consider the Report (*Senate Leader*).

*Question put and agreed to.*

**(SENATE IN THE COMMITTEE OF THE WHOLE)**

CONSIDERATION OF A BILL FOR AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE FEDERAL UNIVERSITY OF TECHNOLOGY OFFA, KWARA STATE BY UPGRADING THE FEDERAL POLYTECHNIC OFFA, KWARA STATE FROM A DIPLOMA AWARDDING INSTITUTION TO A FULL-FLEDGE DEGREE AWARDDING UNIVERSITY AND FOR OTHER MATTERS CONNECTED THEREWITH, 2022.

**PART I - ESTABLISHMENT, CONSTITUTION AND FUNCTIONS OF THE  
FEDERAL UNIVERSITY OF TECHNOLOGY, OFFA, KWARA STATE**

**Clause 1: Establishment of Federal University of Technology, Offa, Kwara State.**

[1] There is hereby established, a body to be known as Federal University of Technology Offa, Kwara State. [hereafter in this Bill referred to as "the University"].

[2] The University:

[a] shall be a body corporate with perpetual succession and a common seal; and

[b] may sue and be sued in its corporate name.

***Committee's Recommendation:***

That the provision in Clause 1 be retained (*Senator Babba K. Ahmad — Katsina North*) — *Agreed to.*

*Question that Clause 1 do stand part of the Bill, put and agreed to.*

**Clause 2: Objects of the University.**

The objects of the University shall be to—

[a] encourage the advancement of learning and to hold out to all persons without distinction of race, creed, sex or political conviction.

[b] develop and offer academic and professional programmes leading to the award of certificates, first degrees, post-graduate research, diploma and higher degrees with emphasis on planning, developmental and adaptive skills in technology education, technology, applied science, management and allied professional disciplines.

- [c] produce socially mature technology specialists with capabilities not to only understand technology need of Nigeria as a nation, but also to exploit existing technological infrastructure and improve on it to develop new ones.
- [d] act as agents and catalysts for effective technological system, through post graduate training, research and innovation, for effective economic utilization and conservation of the country's human resources.
- [e] bring quality change in education by focusing on teacher education through teaching and learning innovations.
- [f] collaborate with other national and international institutions involved in training, research and development of technology with a view to promoting governance, leadership and management skills among technology managers.
- [g] identify technological needs of the society with a view to finding solutions to them within the context of overall national development.
- [h] provide and promote sound basic education training as a foundation for the development of Nigeria, taking into account indigenous culture and the need to enhance national unity.
- [i] provide higher education and foster a systematic advancement of science and act of technology education.
- [j] to provide for instruction in such branches of technology education as it may deem necessary to make provision for research advancement and dissemination of knowledge in such manner as it may determine.
- [k] provide teachers with operational competence for teaching in pre-tertiary institutions, basic, senior secondary schools and non-formal education institutions.
- [l] undertake any other activities that is appropriate for a university of technology of the highest standard.

***Committee's Recommendation:***

That the provision in Clause 2 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 2 do stand part of the Bill, put and agreed to.*

**Clause 3: Constitution and Principal Officers of the University**

- [1] The University shall consist of—
  - [a] a Chancellor;
  - [b] a Pro-Chancellor and a Council;
  - [c] a Vice-Chancellor and a Senate;
  - [d] a body to be called Congregation;
  - [e] a body to be called Convocation;



- [f] the campuses and colleges of the University;
  - [g] the faculties, schools, institutes and other teaching and research units of the University;
  - [h] the persons holding the offices constituted by the First Schedule to this Bill other than those mentioned in paragraphs [a] to [c] of this subclause;
  - [i] all graduates and undergraduates; and
  - [j] all other persons who are members of the University in accordance with provision made by statute in that behalf.
- [2] The First Schedule to this Bill shall have effect with respect to the principal officers of the University therein mentioned.
- [3] Provision shall be made by Statute with respect to the constitution of the following bodies, namely the Council, the Senate, Congregation and Convocation.

***Committee's Recommendation:***

That the provision in Clause 3 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 3 do stand part of the Bill, put and agreed to.*

**Clause 4: Powers of the University, and their Exercise**

- [1] For the carrying out its objects as specified in clause 1 of this Bill the University shall have power—
- [a] to establish such campuses, colleges, faculties, institutes, schools, extra-mural departments and other teaching and research units within the University as may from time to time seem necessary or desirable subject to the approval of the National Universities Commission;
  - [b] to institute professorships, readerships, lectureships and other posts and offices and to make appointments thereto;
  - [c] to institute and award fellowships, scholarships, exhibitions, bursaries, medals, prizes and other titles, distinctions, awards and forms of assistance;
  - [d] to provide for the discipline and welfare of members of the University;
  - [e] to hold examinations and grant degrees, diplomas, certificates and other distinctions to persons who have pursued a course of study approved by the University and have satisfied such other requirements as the University may lay down;
  - [f] to grant honorary degrees, fellowships or academic titles;

- [g] to demand and receive from any student or any other person attending the University for the purpose of instruction such fees as the University may from time to time determine, subject to the overall directives of the Minister;
  - [h] subject to clause 19 of this Bill, to acquire, hold, grant, charge or otherwise deal with or dispose of movable and immovable property wherever situate;
  - [i] to accept gifts, legacies and donations, but without obligation to accept the same for a particular purpose unless it approves the terms and conditions attaching thereto;
  - [j] to enter into contracts, establish trusts, act as trustee, solely or jointly with any other person, and employ and act through agents;
  - [k] to erect, provide, equip and maintain libraries, laboratories, lecture halls, halls of residence, refectories, sports grounds, playing fields and other buildings or things necessary or suitable or convenient for any of the objects of the University;
  - [l] to hold public lectures and to undertake printing, publishing and book selling;
  - [m] subject to any limitations or conditions imposed by statute, to invest any moneys appertaining to the University by way of endowment, whether for general or special purposes, and such other moneys as may not be immediately required for current expenditure, in any investments or securities or in the purchase or improvement of land, with power from time to time to vary any such investments, and to deposit any moneys for the time being un-invested with any bank on deposit or current account;
  - [n] to borrow, whether on interest or not and if need be upon the security of any or all of the property movable or immovable of the University, such moneys as the Council may from time to time in its discretion find it necessary or expedient to borrow or to guarantee any loan, advances or credit facilities;
  - [o] to make gifts for any charitable purpose;
  - [p] to arrange for the general welfare of children of members of staff;
  - [q] to do anything which it is authorised or required by this Bill or by statute to do; and
  - [r] to do all such acts or things, whether or not incidental to the foregoing powers, as may advance the objects of the University.
- [2] Subject to the provisions of this Bill and of the statutes and without prejudice to clause 7 [2] of this Bill, the powers conferred on the University by subclause [1] of this clause shall be exercisable on

behalf of the University by the Council or by the Senate or in any other manner which may be authorised by statute.

- [3] The power of the University to establish further campuses and colleges within the University shall be exercisable by statute and not otherwise.

***Committee's Recommendation:***

That the provision in Clause 4 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 4 do stand part of the Bill, put and agreed to.*

**Clause 5:      *Functions of the Chancellor and Pro-Chancellor***

- [1] The chancellor shall, in relation to the University, take precedence before all other members of the University, and when he is present shall preside at all meetings of convocation held for conferring degrees.
- [2] The Pro-Chancellor shall, in relation to the University, take precedence before all other members of the University except the Chancellor and except the Vice-Chancellor when acting as chairman of congregation or convocation the Pro-Chancellor shall, when he is present, be the chairman at all meetings of the Council.

***Committee's Recommendation:***

That the provision in Clause 5 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 5 do stand part of the Bill, put and agreed to.*

**Clause 6:      *Composition, Tenure and Powers of the Council of the University***

- [1] The Council of the University shall consist of:—
- [a] the Pro-Chancellor who shall be appointed by the President on the recommendation of the Honourable Minister of Education;
- [b] the Vice-Chancellor;
- [c] the Deputy Vice-Chancellor [s];
- [d] The Permanent Secretary, Federal Ministry of Education or, in his/her absence, one Person from the Federal Ministry responsible for Education to represent him/her.;
- [e] Four persons representing a variety of interests and broadly representative of the whole Federation appointed by the Federal Executive Council; by virtue of the Universities [Miscellaneous Provisions] Act 1993 [As amended].
- [i] the Teacher's Registration Council;
- [ii] Tertiary Education Trust Fund; and
- [iii] two other persons, one of whom shall be a representative of the University host community.

- [f] four persons appointed by the Senate from among its members;
  - [g] two persons appointed by Congregation from among its members;
  - [h] one person appointed by Convocation from among its members.
  - [i] two persons representing the community appointed by the President.
- [2] Persons to be appointed to the Council shall be of proven integrity, knowledgeable and familiar with the affairs and tradition of the University.
- [3] The Council so constituted shall have a tenure of four years from the date of its inauguration provided that where a Council is found to be incompetent and corrupt, it shall be dissolved by the Visitor and a new Council shall be immediately constituted for the effective functioning of the University.
- [4] The powers of the Council shall be exercised, as in this Bill and to that extent establishment circulars that are inconsistent with this Bill shall not apply to the University.
- [5] The Council shall be free in the discharge of its functions and exercise of its responsibilities for the good management, growth and development of the University.
- [6] The Council in the discharge of its functions shall ensure that disbursement of funds of the University complies with the approved budgetary ratio for—
- [a] personnel cost;
  - [b] overhead cost;
  - [c] research and development;
  - [d] library developments; and
  - [e] the balance in expenditure between academic vis-à-vis non-academic activities.

***Committee's Recommendation:***

That the provision in Clause 6 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 6 do stand part of the Bill, put and agreed to.*

- Clause 7: Functions of the Council and its Finance and General Purposes Committee**
- [1] Subject to the provisions of this Bill relating to the visitor, the Council shall be the governing body of the University and shall be charged with the general control and superintendence of the policy, finances and property of the university, including its public relations.

- [2] There shall be a committee of the Council, to be known as the finance and general purposes committee, which shall, subject to the directions of the Council, exercise control over the property and expenditure of the University and perform such other functions of the Council as the Council may from time to time delegate to it.
- [3] Provision shall be made by statute with respect to the constitution of the finance and general purposes committee.
- [4] The Council shall ensure that proper accounts of the University are kept and that the accounts of the University are audited annually by auditors appointed by the Council from the list and in accordance with guidelines supplied by the Auditor-General of the Federation; and that an annual report is published by the University together with certified copies of the said accounts as audited.
- [5] Subject to This Bill the statutes, the Council and the finance and general purposes committee may each make rules for the purpose of exercising any of their respective functions or of regulating their own procedure.
- [6] Rules made under subclause [5] of this clause by the finance and general purposes committee shall not come into force unless approved by the Council; and in so far and to the extent that any rules so made by that committee conflict with any directions given by the Council [whether before or after the coming into force of the rules in question], the directions of the Council shall prevail.
- [7] There shall be paid to the members of the Council, of the finance and general purposes committee and of any other committee set up by the Council respectively allowances in respect of traveling and other reasonable expenses, at such rates as may from time to time be fixed by the Council.
- [8] The Council shall meet as and when necessary for the performance of its functions under This Bill, and shall meet at least three times in every year.
- [9] If requested in writing by any five members of the Council, the chairman shall within twenty-eight days after the receipt of such request call a meeting of the Council; and the request shall specify the business to be considered at the meeting and no business not so specified shall be transacted at that meeting.

***Committee's Recommendation:***

That the provision in Clause 7 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 7 do stand part of the Bill, put and agreed to.*

**Clause 8: Functions of The Senate**

- [1] Subject to clause 5 of This Bill and subclauses [3] and [4] of this clause, and to the provisions of This Bill relating to the visitor, it shall be the general function of the Senate to organise and control the teaching of the University, the admission [where no other enactment provides to the contrary] of students and the discipline of students and to promote research at the University.

- [2] Without prejudice to the generality of subclause [1] of this clause and subject as there mentioned, it shall in particular be the function of the Senate to make provision for—
- [a] the establishment, organisation and control of campuses, colleges, faculties, departments, schools, institutes and other teaching and research units of the University, and the allocation of responsibility for different branches of learning;
  - [b] the organisation and control of courses of study at the University and of the examinations held in conjunction with those courses, including the appointment of examiners, both internal and external;
  - [c] the award of degrees, and such other qualifications as may be prescribed, in connection with examinations held as aforesaid;
  - [d] the making of recommendations to the Council with respect to the award to any person of an honorary fellowship or honorary degree or the title of professor emeritus;
  - [e] the establishment, organisation and control of halls or residence and similar institutions at the University;
  - [f] the supervision of the welfare of students at the University and the regulations of their conduct;
  - [g] the granting of fellowships, scholarships, prizes and similar awards in so far as the awards are within the control of the University; and
  - [h] determining what descriptions of dress shall be academic dress for the purposes of the University, and regulating the use of academic dress.
- [3] The Senate shall not establish any new campus, college, faculty, department, school, institute or other teaching and research units of the University, or any hall of residence or similar institution at the University, without the approval of the Council.
- [4] Subject to This Bill and the statutes, the Senate may make regulations for the purpose of exercising any function conferred on it either by the foregoing provisions of this clause or otherwise or for the purpose of making provision for any matter for which provision by regulation is authorised or required by This Bill or by statute.
- [5] Regulations shall provide that at least one of the persons appointed as the examiners at each final or professional examination held in conjunction with any course of study at the University is not a teacher at the University but is a teacher of the branch of learning to which the course relates at some other university of high repute.
- [6] Subject to a right of appeal to the Council from a decision of the Senate under this subclause, the Senate may deprive any person of any degree, diploma, or other award of the University which has been conferred upon him/her if after due enquiry he is shown to have been guilty of dishonourable or scandalous conduct in gaining admission into the University or obtaining that award.

**Committee's Recommendation:**

That the provision in Clause 8 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 8 do stand part of the Bill, put and agreed to.*

**Clause 9: Functions of the Vice-Chancellor**

[1] The Vice-Chancellor shall, in relation to the University, take precedence before all other members of the University except the chancellor and, subject to clause 4 of This Bill, except the Pro-Chancellor and any other person for the time being acting as chairman of the Council.

[2] Subject to clause 5, 6 and 13 of This Bill, the Vice-Chancellor shall have the general function, in addition to any other functions conferred on him/her by This Bill or otherwise, of directing the activities of the University, and shall to the exclusion of any other person or authority be the chief executive and academic officer of the University and ex-officio chairman of the Senate.

**Committee's Recommendation:**

That the provision in Clause 9 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 9 do stand part of the Bill, put and agreed to.*

**PART II—TRANSFER OF PROPERTY, ETC., TO THE UNIVERSITY**

- Clause 10:** [1] There shall be a general fund of the university which shall consist of the following:—
- [a] Annual budgetary allocation by the Federal Government through; Appropriation by the National Assembly
  - [b] grants-in-aid;
  - [c] fees;
  - [d] income derived from investments;
  - [e] gifts, legacies, endowments and donations not accepted for a particular purpose;
  - [f] income derived from the exercise of any functions conferred or imposed on the University by this Bill;
  - [g] any other amounts, charges or dues recoverable by the University;
  - [i] revenue, from time to time, accruing to the University by way of subvention;
  - [j] interests on investments;
  - [k] donations and legacies accruing to the University from any source for the general or special purposes of the University; and

- [2] The general fund shall be applied for the purposes of the University.

**Committee's Recommendation:**

That the provision in Clause 10 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 10 do stand part of the Bill, put and agreed to.*

**Clause 11: Transfer of Property.**

- [1] All property held by or on behalf of the Provisional Council of the University shall, by virtue of this sub-Clause and without further assurance, vest in the University and be held by it for the purpose of the University.
- [2] The provisions of the Second Schedule to this Bill shall have effect with respect to, and to matters arising from, the transfer of property by this Clause and with respect to the other matters mentioned in that Schedule

**Committee's Recommendation:**

That the provision in Clause 11 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 11 do stand part of the Bill, put and agreed to.*

PART III—STATUTES OF THE UNIVERSITY

**Clause 12: Statutes of the University**

- [1] Subject to This Bill, the University may make statutes for any of the following purposes, that is to say—
- [a] making provision with respect to the composition and constitution of any authority of the University;
  - [b] specifying and regulating the powers and duties of any authority of the University, and regulating any other matter connected with the University or any of its authorities;
  - [c] regulating the admission of students where it is done by the University, and their discipline and welfare;
  - [d] determining whether any particular matter is to be treated as an academic or non-academic matter for the purposes of This Bill and of any statute, regulation or other instrument made thereunder; or
  - [e] making provision for any other matter for which provision by statute is authorised or required by This Bill.
- [2] Subject to clause 22 [6] of This Bill, the Interpretation Act shall apply in relation to any statute made under this clause as it applies to a subsidiary instrument within the meaning of clause 27 [1] of that Act.
- [3] The Statute contained in the Third Schedule to This Bill shall be deemed to have come into force on the commencement of This Bill and shall be deemed to have been made under this clause.



- [4] The power to make statutes conferred by this clause shall not be prejudiced or limited in any way by reason of the inclusion or omission of any matter in or from the Statute contained in the Third Schedule to This Bill or any subsequent statute.

**Committee's Recommendation:**

That the provision in Clause 12 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 12 do stand part of the Bill, put and agreed to.*

**Clause 13: Mode of Exercising Power to Make Statutes**

- [1] The power of the University to make statutes shall be exercised in accordance with the provisions of this clause and not otherwise.
- [2] A proposed statute shall not become law unless it has been approved—
- [a] at a meeting of the Senate, by the votes of not less than two-thirds of the members present and voting; and
- [b] at a meeting of the Council, by the votes of not less than two-thirds of the members present and voting.
- [3] A proposed statute may originate either in the Senate or in the Council, and may be approved as required by subclause [2] of this clause by either one of those bodies before the other.
- [4] A statute which—
- [a] makes provision for or alters the composition or constitution of the Council, the Senate or any other authority of the University; or
- [b] provides for the establishment of a new campus or college or for the amendment or revocation of any statute whereby a campus or college is established, shall not come into operation unless it has been approved by the National Council of Ministers.
- [5] For the purposes of clause 2 [2] of the Interpretation Act, a statute shall be treated as being made on the date on which it is duly approved by the Council after having been duly approved by the Senate, or on the date on which it is duly approved by the Senate after having been duly approved by the Council, as the case may be or, in the case of a statute falling within subclause [4] of this clause, on the date on which it is approved by the National Council of Ministers.

**Committee's Recommendation:**

That the provision in Clause 13 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 13 do stand part of the Bill, put and agreed to.*

**Clause 14: Proof of statutes**

A statute may be proved in any court by the production of a copy thereof bearing or having affixed to it a certificate purporting to be signed by the Vice-Chancellor or the secretary to the Council to the effect that the copy is a true copy of a statute of the University.

**Committee's Recommendation:**

That the provision in Clause 14 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 14 do stand part of the Bill, put and agreed to.*

**Clause 15: Power of Visitor to Decide Meaning of Statutes**

- [1] In the event of any doubt or dispute arising at any time as to the meaning of any provision of a statute, the matter may be referred to the visitor, who shall take such advice and make such decision thereon as he shall think fit.
- [2] The decision of the visitor on any matter referred to him/her under this clause shall be binding upon the authorities, staff and students of the University, and where any question as to the meaning of any provision of a statute has been decided by the visitor under this clause, no question as to the meaning of that provision shall be entertained by any court of law in Nigeria:—  
Provided that nothing in this subclause shall affect any power of a court of competent jurisdiction to determine whether any provision of a statute is wholly or partly void as being ultra vires or as being inconsistent with the Constitution of the Federal Republic of Nigeria.
- [3] The foregoing provisions of this clause shall apply in relation to any doubt or dispute as to whether any matter is for the purposes of This Bill an academic or a non-academic matter as they apply in relation to any such doubt or dispute as is mentioned in subclause [1] of this clause; and accordingly the references in subclause [2] of this clause to any question as to the meaning of any provision of a statute shall include references to any question as to whether any matter is for the said purposes an academic or a non-academic matter.

**Committee's Recommendation:**

That the provision in Clause 15 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 15 do stand part of the Bill, put and agreed to.*

**PART III — SUPERVISION AND DISCIPLINE****Clause 16: The Visitor**

- [1] The President shall be the visitor of the University.
- [2] The Visitor shall as often as the circumstances may require, not being less than once every five years, conduct a visitation of the University or direct that such a visitation be conducted by such persons as the visitor may deem fit and in respect of any of the affairs of the University.
- [3] It shall be the duty of the bodies and persons comprising the University—
  - [a] to make available to the visitor, and to any other persons conducting a visitation in pursuance of this clause, such facilities and assistance as he or they may reasonably require for the purposes of a visitation; and

- [b] to give effect to any instructions consistent with the provisions of This Bill which may be given by the visitor in consequence of a visitation

**Committee's Recommendation:**

That the provision in Clause 16 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 16 do stand part of the Bill, put and agreed to.*

**Clause 17: Removal of Certain Members of Council**

- [1] If it appears to the Council that a member of the Council [other than the Pro-Chancellor, or the Vice-Chancellor] should be removed from office on the ground of misconduct or inability to perform the functions of his/her office or employment, the Council shall make a recommendation to that effect through the Minister to the President and if the President, after making such enquiries [if any] as may be considered appropriate, approves the recommendation, may direct the removal of the person in question from office.
- [2] It shall be the duty of the Minister to use his/her best endeavours to cause a copy of the instrument embodying a direction under subclause [1] of this clause to be served as soon as reasonably practicable on the person to whom it relates.

**Committee's Recommendation:**

That the provision in Clause 17 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 17 do stand part of the Bill, put and agreed to.*

**Clause 18: Removal of and Discipline of Academic, Administrative and Professional Staff.**

- [1] If it appears to the Council that there are reasons for believing that any person employed as a member of the academic or administrative or professional staff of the University other than the Vice-Chancellor, should be removed from his/her office or employment on the ground of misconduct or of inability to perform the functions of his/her office or employment the Council shall—
- [a] give notice of those reasons to the person in question;
- [b] afford him/her an opportunity of making representations in person on the matter to the Council; and
- [c] if he or any three members of the Council so request within the period of one month beginning with the date of the notice, make arrangements—
- [i] for a joint committee of the Council and the Senate to investigate the matter and to report on it to the Council, or
- [ii] for the person in question to be afforded an opportunity of appearing before and being heard by the investigating committee with respect to the matter, and if the Council, after considering the report of the investigating committee, is satisfied that the person in

question should be removed as aforesaid, the Council may so remove him/her by an instrument in writing signed on the directions of the Council.

- [2] The Vice-Chancellor may, in a case of misconduct by a member of the staff which in the opinion of the Vice-Chancellor is prejudicial to the interests of the University, suspend such member and any such suspension shall forthwith be reported to the Council.
- [3] For good cause, any member of staff may be suspended from his/her duties or his/her appointment may be terminated by Council; and for the purposes of this subclause "good cause" means—
- [a] conviction for any offence which the Council considers to be such as to render the person concerned unfit for the discharge of the functions of his/her office; or
  - [b] any physical or mental incapacity which the Council, after obtaining medical advice, considers to be such as to render the person concerned unfit to continue to hold his/her office; or
  - [c] conduct of a scandalous or other disgraceful nature which the Council considers to be such as to render the person concerned unfit to continue to hold his/her office; or
  - [d] conduct which the Council considers to be such as to constitute failure or inability of the person concerned to discharge the functions of his/her office or to comply with the terms and conditions of his/her service.
- [4] Any person suspended pursuant to subclause [2] or [3] of this clause shall be on half pay and the Council shall before the expiration of a period of three months after the date of such suspension consider the case against that person and come to a decision as to—
- [a] Whether to continue such person's suspension and if so on what terms [including the proportion of his/her emoluments to be paid to him/her];
  - [b] Whether to reinstate such person in which case the Council shall restore his/her full emoluments to him/her with effect from the date of suspension;
  - [c] whether to terminate the appointment of the person concerned, in which case such a person shall not be entitled 'to the proportion of his/her emoluments withheld during the period of suspension; or
  - [d] whether to take such lesser disciplinary action against such person [including the restoration of such proportion of his/her emoluments that might have been withheld] as the Council may determine; and in any case where the Council, pursuant to this clause, decides to continue a person's suspension or decides to take further disciplinary action against a person, the Council shall before the expiration of a period of three months from such decision come to final determination in respect of the case concerning any such person.

- [5] It shall be the duty of the person by whom an instrument of removal is signed in pursuant of subclause [1] above to use his/her best endeavours to cause a copy of the instrument to be served as soon as reasonably practicable on the person to whom it relates.
- [6] Nothing in the foregoing provisions of this clause shall prevent the Council from making regulations for the discipline of other categories of staff and workers of the University as may be prescribed.

**Committee's Recommendation:**

That the provision in Clause 18 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 18 do stand part of the Bill, put and agreed to.*

**Clause 19: Removal of Examiners**

- [1] If on the recommendation of the Senate, it appears to the Vice-Chancellor that a person appointed as an examiner for any examination of the University ought to be removed from his/her office or appointment, then except in such cases as may be prescribed, he may, after affording the examiner an opportunity of making representation in person on the matter to the Vice-Chancellor, remove the examiner from the appointment by an instrument in writing signed by the Vice-Chancellor and, subject to the provisions of regulations made in pursuance of clause 6 [5] of This Bill, the Vice-Chancellor may, on the recommendation of the Senate, appoint an appropriate person as examiner in the place of the examiner removed in pursuance of this subclause.
- [2] It shall be the duty of the Vice-Chancellor, on signing an instrument of removal in pursuance of this clause, to use his/her best endeavours to cause a copy of the instrument to be served as soon as reasonably practicable on the person to whom it relates.

**Committee's Recommendation:**

That the provision in Clause 19 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 19 do stand part of the Bill, put and agreed to.*

**Clause 20: Discipline of Students**

- [1] Subject to the provisions of this clause, where it appears to the Vice-Chancellor that any student of the University has been guilty of misconduct, the Vice-Chancellor may, without prejudice to any other disciplinary powers conferred on him/her by statute or regulations, direct—
- [a] that the student shall not, during such period as may be specified in the direction, participate in such activities of the University, or make use of such facilities of the University, as may be so specified; or
- [b] that the activities of the student shall, during such period as may be specified in the direction, be restricted in such manner as may be so specified; or

- [c] that the student be rusticated for such period as may be specified in the direction; or
- [d] that the student be, expelled from the University.
- [2] Where a direction is given under subclause [1] [c] or [d] of this clause in respect of any student, the student may, within the prescribed period and in the prescribed manner, appeal from the direction to the Council; and where such an appeal is brought, the Council shall, after causing such inquiry to be made in the matter as the Council considers just, either confirm or set aside the direction or modify it in such manner as the Council thinks fit.
- [3] The fact that an appeal from a direction is brought in pursuance of the last foregoing subclause shall not affect the operation of the direction while the appeal is pending.
- [4] The Vice-Chancellor may delegate his/her powers under this clause to a disciplinary board consisting of such members of the University as he may nominate.
- [5] Nothing in this clause shall be construed as preventing the restriction or termination of a student's activities at the University otherwise than on the ground of misconduct.
- [6] It is hereby declared that a direction under subclause [1] [a] of this clause may be combined with a direction under subclause 1 [b] of this clause.

***Committee's Recommendation:***

That the provision in Clause 20 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 20 do stand part of the Bill, put and agreed to.*

— PART IV—MISCELLANEOUS AND GENERAL

**Clause 21: Exclusion of Discrimination on Account of Race, Religion, etc.**

No person shall be required to satisfy requirements as to any of the following matters, that is to say, race [including ethnic grouping], sex, place of birth or of family, origin, or religious or political persuasion, as a condition of becoming or continuing to be a student at the University, the holder of any degree of the University or of any appointment or employment at the University, or a member of anybody established by virtue of This Bill; and no person shall be subjected to any disadvantage or accorded any advantage in relation to the University, by reference to any of those matters:

Provided that nothing in this clause shall be construed as preventing the University from imposing any disability or restriction on any of the aforementioned persons where such person willfully refuses or fails on grounds of religious belief to undertake any duty generally and uniformly imposed on all such persons or any group of them which duty, having regard to its nature and the special circumstances pertaining thereto, is in the opinion of the University reasonably justifiable in the national interest.

**Committee's Recommendation:**

That the provision in Clause 21 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 21 do stand part of the Bill, put and agreed to.*

**Clause 22: Restriction on Disposal of Land by University**

Without prejudice to the provisions of the Land Use Act, the University shall not dispose of or charge any land or an interest in any land [including any land transferred to the University by This Bill] except with the prior written consent, either general or special, of the Minister:—

Provided that such consent shall not be required in the case of any lease or tenancy at a rack-rent for a term not exceeding twenty-one years or lease or tenancy to a member of the University for residential purposes.

**Committee's Recommendation:**

That the provision in Clause 22 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 22 do stand part of the Bill, put and agreed to.*

**Clause 23: Quorum**

Except as may be otherwise provided by statute or by regulations, the quorum and procedure of any body of persons established by This Bill shall be such as may be determined by that body.

**Committee's Recommendation:**

That the provision in Clause 23 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 23 do stand part of the Bill, put and agreed to.*

**Clause 24 Transfer of Land to the University**

[1] For the purpose of the Land Use Act [which provides for the compulsory acquisition of land for public purposes] any purpose of the University shall be the same as that of the Federation.

[2] Where an estate or interest in land is acquired by the Government pursuant to this clause, the Government may, by a certificate under the hand and seal of the person so authorized or any other person authorized in that behalf transfer it to the University.

**Committee's Recommendation:**

That the provision in Clause 24 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 24 do stand part of the Bill, put and agreed to.*

**Clause 25: Appointment of committees, etc.**

[1] Any body of persons established by this Act shall, without prejudice to the generality of the powers of that body, have power to appoint committees, which need not consist exclusively of members of that body, and to authorize a committee established by it—

[a] to exercise, on its behalf, such of its functions as it may determine;

- [b] to co-opt members, and may direct whether or not co-opted members [if any] shall be entitled to vote in that committee.
- [2] Any two or more such bodies may arrange for the holding of joint meetings of those bodies, or for the appointment of committees consisting of members of those bodies, for the purpose of considering any matter within the competence of those bodies or any of them, and either of dealing with it or of reporting on it to those bodies or any of them.
- [3] Except as may be otherwise provided by statute or by regulations, the quorum and procedure of a committee established or meeting held in pursuance of this section, shall be such as may be determined by the body or bodies which have decided to establish the committee or hold the meeting.
- [4] Nothing in the provisions of subsections [1], [2] and [3] of this section shall be construed as—
- [a] enabling the statutes to be made otherwise than in accordance with section 11 of this Act; or
- [b] enabling the Senate to empower any other body to make regulations or to award degrees or other qualifications.
- [5] The Pro-Chancellor and the Vice-Chancellor shall be members of every committee of which the members are wholly or partly appointed by the Council [other than a committee appointed to inquire into the conduct of the officer in question]; and the Vice-Chancellor shall be a member of every committee of which the members are wholly or partly appointed by the Senate.

***Committee's Recommendation:***

That the provision in Clause 25 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 25 do stand part of the Bill, put and agreed to.*

**Clause 26: Retiring Age of Academic Staff**

- [1] Notwithstanding anything to the contrary in the Pension Act, the compulsory retiring age of the following categories of staff shall be as follows:—
- [a] Academic staff of the University in the non-Professorial cadre shall be 65 years;
- [b] Academic staff of the University in the Professorial Cadre shall be 70 years;
- [c] Non-academic staff of the University shall be 65 years.
- [2] A law or rule requiring a person to retire from the public service after serving for 35 years shall not apply to an academic staff of the University.

***Committee's Recommendation:***

That the provision in Clause 26 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.



*Question that Clause 26 do stand part of the Bill, put and agreed to.*

**Clause 27: Special Provisions Relating to Pension of Professors**

A person who retires as a professor having served—

- [a] a minimum period of fifteen years as a professor in the University or continuously in the service of a University in Nigeria up to the retiring age; and
- [b] who during the period of service was absent from the University only on approved National or University assignments, shall be entitled to pension at a rate equivalent to his last annual salary and such allowances as the Council may, from time to time, determine as qualifying for pension and gratuity, in addition to any other retirement benefits to which he may be entitled.

***Committee's Recommendation:***

That the provision in Clause 27 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 27 do stand part of the Bill, put and agreed to.*

**Clause 28: Transition and Savings Provision**

- [1] On the commencement of this Bill, any person employed by or serving in, Federal University Technology, Offa, Kwara State shall be deemed to have been employed or serving in the University established under this Bill.
- [2] All Assets or liabilities belonging to Federal University of Technology, Offa, Kwara State shall be deemed to belong to the University established under this Bill.

***Committee's Recommendation:***

That the provision in Clause 28 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 28 do stand part of the Bill, put and agreed to.*

**Clause 29: Miscellaneous Administrative Provisions**

- [1] The seal of the University shall be such as may be determined by the Council and approved by the chancellor; and the affixing of the seal shall be authenticated by any member of the Council and by the vice-chancellor, registrar or any other person authorized by statute.
- [2] Any document purporting to be a document executed under the seal of the University shall be received in evidence and shall, unless the contrary is proved, be deemed to be so executed.
- [3] Any contract or instrument which, if made or executed by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the University by any person generally or specially authorized to do so by the Council.
- [4] The validity of any proceedings of anybody established in pursuance of This Bill shall not be affected by any vacancy in the membership of the body, or by any defect in the appointment of a member of the body or by reason that any person not entitled to do so took part in the proceedings.

- [5] Any member of any such body who has a personal interest in any matter proposed to be considered by that body shall forthwith disclose his/her interest to the body and shall not vote on any question relating to that matter.
- [6] Nothing in clause 2 of the Interpretation Act [which provides for the application, in relation to subordinate legislation, of certain incidental provisions] shall apply to statutes or regulations made in pursuance of This Bill; but the power conferred by This Bill to make statutes or regulations shall include power to revoke or vary any statute [including the Statute contained in the Third Schedule of This Bill] or any regulation by a subsequent statute or, as the case may be, by a subsequent regulation, and statutes and regulations may make different provision in relation to different circumstances.
- [7] No stamp or other duty shall be payable in respect of any transfer of property to the University by virtue of clause 8 and 19 of This Bill or the Second Schedule to This Bill.
- [8] Any notice or other instrument authorized to be served by virtue of This Bill may, without prejudice to any other mode of service, be served by post.

***Committee's Recommendation:***

That the provision in Clause 29 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 29 do stand part of the Bill, put and agreed to.*

**Clause 30: Restriction of Suits and Execution**

[1] Pre-Action Notice:—

- [a] No legal proceeding shall be instituted and/or commenced against the University or any of its agents in the course of their official duties unless a 3 months' Pre-Action Notice of such intention is served on the University by an aggrieved party.
- [b] The Notice shall state the reason and the cause of action intended to be taken against the University, the particulars of the claim, the name and place of abode of the intending plaintiff and the relief which he claims.
- [c] For the avoidance of doubt, it is hereby declared that no suit shall be commenced against an officer or servant of the University, in any case where the University is vicariously liable for any alleged act, neglect or default of the officer or servant in the performance or intended performances of his/her duties, unless three months at least has elapsed after written notice of intention to commence the same shall have been served on the University by the intending plaintiff or his/her agent.
- [d] In any suit against this University, no execution or attachment or process in the nature thereof shall be issued against the University, but any sums of money which may be judgment of the court be awarded against the University shall, subject

to any direction given by the court where notice of appeal has been given by the University in respect of the said judgment, be paid by the University from its general fund.

- [2] Service of Notices Service upon the University of any notice, order or other document may be effected by delivering the same or by sending it by registered post addressed to the Registrar and Secretary of the Council.

**Committee's Recommendation:**

That the provision in Clause 30 be retained (*Senator Babba K. Ahmad — Katsina North*) —  
*Agreed to.*

*Question that Clause 30 do stand part of the Bill, put and agreed to.*

**Clause 31: Interpretation**

- [1] In this Bill, unless the context otherwise requires —
- "Campuses" means any campus which may be established by the University;
  - "College" means any college which may be established by the University;
  - "Council" means the Council established by This Bill for the University;
  - "Graduate" means a person on whom a degree [other than an honorary degree] has been conferred by the University;
  - "Minister" means the Minister charged with responsibility for education;
  - "Senate" means the senate of the University
  - "Notice" means notice in writing;
  - "Officer" does not include the visitor;
  - "Prescribed" means prescribed by statute or regulations;
  - "Professor" means a person designated as a professor of the University in accordance with provision made in that behalf by statute or by regulations;
  - "Property" includes rights, liabilities and obligations;
  - "Regulations" means regulations made by the Senate or Council;
  - "Statute" means the statute of the University under clause 9 of This Bill and in accordance with the provisions of clause 10 of This Bill, and "the statute" means all such statutes as are in force from time to time;
  - "Teacher" means a person holding a full time appointment as a member of the teaching or research staff of the University;

"Undergraduate" means a person in statu pupillari at the University, other than—

[a] a graduate; and

[b] a person of such description as may be prescribed for the purposes of this definition;

"University" means the Federal University of Technology as incorporated and constituted by This Bill.

- [2] It is hereby declared that where in any provision of This Bill it is laid down that proposals are to be submitted or a recommendation is to be made by one authority to another through one or more intermediate authorities, it shall be the duty of every such intermediate authority to forward any proposals or recommendations received by it in pursuance of that provision to the appropriate authority; but any such intermediate authority may, if it thinks fit, forward therewith its own comments thereon.

***Committee's Recommendation:***

That the provision in Clause 31 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 31 do stand part of the Bill, put and agreed to.*

**Clause 32: Short Title**

This Bill may be Cited as the Federal University of Technology Offa, Kwara State, Bill, 2022

***Committee's Recommendation:***

That the provision in Clause 32 be retained (*Senator Babba K. Ahmad — Katsina North*) — Agreed to.

*Question that Clause 32 do stand part of the Bill, put and agreed to.*

FIRST SCHEDULE

PRINCIPAL OFFICERS OF THE UNIVERSITY

1. **The Chancellor**

The chancellor shall be appointed by the President.

[1] The chancellor shall hold office for a period of five years.

[2] If it appears to the visitor, that the chancellor should be removed from his/her office on the ground of misconduct or of inability to perform the functions of his/her office, the visitor may by notice in the Federal Gazette remove the chancellor from office.

2. **The Pro-Chancellor**

The Pro-Chancellor shall be appointed or removed from office by the President.

3. **The Vice-Chancellor**

[1] There shall be a Vice-Chancellor of the University who shall be appointed by the Council in accordance with the provisions of this paragraph.

- [2] Where a vacancy occurs in the post of a Vice-Chancellor, the Council shall:—
- [a] advertise the vacancy in a reputable journal or a widely read newspaper in Nigeria, specifying:—
    - [i] the qualities of the persons who may apply for the post; and
    - [ii] the terms and conditions of service applicable to the post, and thereafter draw up a short list of suitable candidates for the post for consideration:
  - [b] constitute a Search Team consisting of:—
    - [i] a member of the Council, who is not a member of the Senate, as chairman;
    - [ii] two members of the Senate who are not members of the Council, one of whom shall be a Professor;
    - [iii] two members of Congregation who are not members of the Council, one of whom shall be a Professor, to identify and nominate for consideration, suitable persons who are not likely to apply for the post on their own volition because they felt that it is not proper to do so.
- [3] A Joint Council and Senate Selection Board consisting of:—
- [a] the Pro-Chancellor, as chairman;
  - [b] two members of the Council, not being members of the Senate;
  - [c] two members of the Senate who are Professors, but who were not members of the Search Team, shall consider the candidates and persons in the shortlist drawn up under Subclause [2] of this paragraph through an examination of their curriculum vitae and interaction with them, and recommend to the Council three candidates for further consideration.
- [4] The Council shall select and appoint as the Vice-Chancellor one candidate from among the three candidates recommended to it under Subclause [3] of this clause and thereafter inform the Visitor.
- [5] The Vice-Chancellor shall hold office for a single term of five years only on such terms and conditions as may be specified in his/her letter of appointment.
- [6] The Vice Chancellor may be removed from office by the Council on grounds of gross misconduct or inability to discharge the functions of his/her office as a result of infirmity of the body or mind, at the initiative of the Council, Senate or the Congregation after due process.
- [7] When the proposal for the removal of the Vice-Chancellor is made, the Council shall constitute a Joint Committee of Council and Senate of the University consisting of:—
- [i] three members of the Council, one of whom shall be the Chairman of the committee; and
  - [ii] two members of the Senate, provided that where the ground for removal is infirmity of the body or mind, the Council shall seek appropriate medical opinion.

- [8] The committee shall conduct investigation into the allegations made against the Vice-Chancellor and shall report its findings to the Council.
- [9] The Council may, where the allegations are proved, remove the Vice-Chancellor or apply any other disciplinary action it may deem fit and notify the Visitor accordingly provided that a Vice-Chancellor who is removed shall have right of appeal to the Visitor.
- [10] There shall be no sole administrator in the University.
- [11] In any case of a vacancy in the office of the Vice-Chancellor, the Council shall appoint an acting Vice-Chancellor on recommendation of the Senate.
- [12] An acting Vice Chancellor in all circumstances shall not be in office for more than 6 months.

**4. Deputy Vice-Chancellors**

- [1] There shall be for the University, two Deputy Vice-Chancellors or such number of Deputy Vice Chancellors as the Council may, from time to time, deem necessary for the proper administration of the University.
- [2] The procedure for the appointment and removal of the Deputy Vice-Chancellor shall be in accordance with the provision of the University [Miscellaneous Provisions] Act 1993 as amended.
- [3] A Deputy Vice-Chancellor shall:—
- [a] assist the Vice-Chancellor in the performance of his/her functions;
  - [b] act in place of the Vice-Chancellor when the post of the Vice-Chancellor is vacant or if the Vice-Chancellor is, for any reason, absent or unable to perform his/her functions as Vice-Chancellor; and
  - [c] perform such other functions as the Vice-Chancellor or the Council may, from time to time, assign to him/her.

**5. Director of Works**

There shall be for the University, a Director of Works, who shall be responsible to the Vice Chancellor for the administration of the Works Department. He/she shall be responsible for all works, services and maintenance of University facilities

**6. Director of Health Services**

There shall be for the University, a Director of Health Services who shall be responsible to the Vice Chancellor for the administration of the Health Centre and he/she shall be the Chief Medical Officer of the University and shall coordinate all matters relating to the health of all staff and students.

**7. Office of the Registrar**

- [1] There shall be for the University, a Registrar, who shall be the Chief Administrative Officer of the University and shall be responsible to the Vice-Chancellor for the day-to-day administration of the University except as regards matters for which the Bursar is responsible in accordance with paragraph 6 [2] below.
- [2] The person holding the office of Registrar shall, by virtue of that office, be Secretary to the Council, the Senate, Congregation and Convocation.

- [3] The Registrar shall hold office for such period and on such terms and conditions as may be specified in his/her letter of appointment

**8. Other principal Officers of the Universities**

- [1] There shall be for the University, the following Principal Officers in addition to the Registrar, that is:—
- [a] the Bursar; and
  - [b] the University Librarian.
- [2] The Bursar shall be the Chief Financial Officer of the University and shall be responsible to the Vice-Chancellor for the day-to-day administration and control of the financial affairs of the University.
- [3] The University Librarian shall be responsible to the Vice-Chancellor for the administration of the University Library and the co-ordination of all library services in the University and its campuses, colleges, faculties, schools, departments and institutes and other teaching or research units.
- [4] The Bursar and the University Librarian shall each hold office for such period and on such terms and conditions may be specified in his/her letter of appointment.

**9. Functions of Registrar and Tenure**

- [1] The Registrar shall keep the records and conduct the correspondence of the Council and shall perform such other duties as the Council may from time to time direct.
- [2] The Registrar shall, in addition to the other duties conferred on him/her by or under this Bill, be a Secretary to the Council, Secretary to Academic Board and any committee of the Council and in his/her absence, the Council or any such committee may appoint some other persons to Act as Secretary. The Registrar shall not vote on any question before the Council or count towards a quorum.
- [3] A Registrar shall:—
- [a] hold office for a single term of five years only beginning from the effective date of his/her appointment and such terms and conditions as may be specified in his/her letter of appointment.
  - [b] Where on the commencement of this Bill a Registrar appointed before the commencement of this Bill has held office:—
    - [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
    - [ii] for more than five years and has more than 1 year to complete his/her second term, the council may allow him/her to serve as Registrar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the School;
    - [iii] for more than five years and has less than 1 year to complete his/her second term, the council may allow him/her to serve as Registrar for a further period of one year only and

thereafter he/she shall relinquish his/her post and be assigned other duties in the School.

**10. Functions of the Bursar and Tenure**

- [1] The Bursar shall be the Chief Financial Officer of the University and be responsible to the Vice Chancellor for the day-to-day administration and control of financial affairs of the University.
- [2] [a] A Bursar shall hold office for a single term of five years only beginning from the effective date of his/her appointment on such terms and conditions as may be specified in his/her letter of appointment.
- [b] Where on the commencement of this Bill a Bursar appointed before the commencement of this Bill has held office—
- [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
- [ii] for more than five years and has more than 1 year to complete his/her second term, The Council may allow him/her to serve as Bursar for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the University;

**11. Functions of the University Librarian and Tenure**

- [1] The University Librarian shall be responsible to the Vice Chancellor for the administration of the University Library and co-ordination of the Library services in the teaching units of the University.
- [2] A University Librarian shall:—
- [a] hold office for a single term of five years only and upon such terms and conditions as may be specified in his/her letter of appointment.
- [b] Where on the commencement of this Bill a University Librarian appointed before the commencement of this Bill has held office—
- [i] for less than five years, he/she shall be allowed to complete the five years specified in his/her appointment letter and shall not have right for the renewal of his/her appointment for a further term of five years;
- [ii] for more than five years and has more than 1 year to complete his/her second term, the Council may allow him/her to serve as University Librarian for a further period of one year only and thereafter he/she shall relinquish his/her post and be assigned other duties in the University;
- [iii] for more than 5 years and has less than 1 year to complete his/her second term, the Council may allow him/her to serve as University Librarian to complete his/her second term and thereafter he/she shall relinquish his/her post and be assigned other duties in the University.



**12. Resignation and Re-appointment**

- [1] Any officer mentioned in the foregoing provisions of this schedule may resign his/her office in:—
- [a] the case of the Chancellor or Pro-Chancellor, by notice to the President;
- [b] the case of the Vice-Chancellor by notice to the Council which shall immediately notify the Minister; and
- [2] A person who has ceased to hold an office so mentioned otherwise than by removal for misconduct shall be eligible for re-appointment to that office.

*Question that the provision in First Schedules stand part of the Bill — Agreed to.*

**SECOND SCHEDULE****TRANSITIONAL PROVISIONS AS TO PROPERTY, FUNCTIONS, ETC.****1. The Provisional Council**

- [1] All agreements, contracts, deeds and other instruments to which the provisional Council was a party shall, so far as possible and subject to any necessary modifications, have effect as if the University established by This Bill had been a party to it in place of the provisional Council.
- [2] Documents not falling within sub-paragraph [1] above, including enactments, which refer whether specially or generally to the provisional Council shall be construed in accordance with that sub-paragraph so far as applicable.
- [3] Any legal proceedings or application to any authority pending by or against the provisional Council may be continued by or against the University established by This Bill.

**2. Registration of Transfers**

- [1] If the law in force at the place where any property transferred by This Bill is situated provides for the registration of transfers of property of the kind in question [whether by reference to an instrument of transfer or otherwise], the law shall, so far as it provides for alterations of a register [but not for avoidance of transfers, the payment of fees of any other matter] apply, with the necessary modifications to the transfer of the property in question.
- [2] It shall be the duty of the body to which any property is transferred by This Bill to furnish the necessary particulars of the transfer to the proper officer of the registration authority, and of that officer to register the transfer accordingly

**3. Transfer of functions. etc.**

- [1] The first meeting of the Council shall be convened by the Pro-Chancellor on such date and in such manner as he/she may determine.
- [2] The persons who were members of the provisional Council shall be deemed to constitute the Council until the date when the Council set up under the Third Schedule to This Bill must have been duly constituted.
- [3] The first meetings of the Senate as constituted by This Bill shall be convened by the Vice-Chancellor on such date and in such manner as he/she may determine.

- [4] The persons who were members of the Senate immediately before the coming into force of This Bill shall be deemed to constitute the Senate of the University until the date when the Senate as set up under the Third Schedule of This Bill must have been duly constituted.
- [5] Subject to any regulations which may be made by the Senate after the date on which This Bill is made, the facilities, faculty boards and students of the University immediately before the coming into force of This Bill shall on that day become faculties, faculty boards and students of the University as established by This Bill.
- [6] Persons who were deans or associate deans of faculties or members of faculty boards shall continue to be deans or associate deans or become members of the corresponding faculty boards, until new appointments are made in pursuance of the Statutes under This Bill.

**4. The Staff**

Any person who was a member of the staff of the University as established or was otherwise employed by the provisional Council shall be employed at the University on such designation, status and functions which correspond as nearly as possible to those which pertained to him/her as a member of that staff or as such an employee.

**5. The Scope**

Questions as to the scope of the responsibilities of the aforesaid officers shall be determined by the Vice-Chancellor.

*Question that the provision in Second Schedules stand part of the Bill — Agreed to.*

THIRD SCHEDULE

**[1] The Council**

[1] The Council shall consist of:—

- [a] the Pro-Chancellor;
- [b] the Vice-Chancellor and the deputy Vice-Chancellor;
- [c] Four persons representing a variety of interests and broadly representative of the whole Federation appointed by the Federal Executive Council; by virtue of the Universities Miscellaneous Provisions Act, 1993 [As amended].
- [d] four person appointed by the Senate from among the members of that body;
- [e] Two Persons appointed by congregation from amongst the members of that body; of the Universities Miscellaneous Act, 1993 [As Amended];
- [f] one person appointed by convocation from among the members of that body;
- [g] The Permanent Secretary, Federal Ministry of Education or, in his/her absence, one Person from the Federal Ministry responsible for Education to represent him/her.

- [h] one person to represent the armed forces of the Federation and the Police Force.
- [2] Any member of the Council holding office otherwise than in pursuance of paragraph [1] [a], [b], [g] or [h] of this article may, by notice to the Council, resign his/her office.
- [3] A member of the Council holding office otherwise than in pursuance of paragraph [1] [a], [b], [g] or [h] of this article shall, unless he/she previously vacates it, vacate that office on the expiration of the period of four years beginning with effect from the 1st of August in the year in which he/she was appointed.
- [4] Where a member of the Council holding office otherwise than in pursuance of paragraph [1] [a], [b], [g] or [h] of this article vacates office before the expiration of the period aforesaid, the body or person by whom he//she was appointed may appoint a successor to hold office for the residue of the term of his/her predecessor.
- [5] A person ceasing to hold office as a member of the Council otherwise than by the removal for misconduct shall be eligible for re-appointment for only one further period of four years.
- [6] The quorum of the Council shall be five at least one of whom shall be a member appointed pursuant to paragraph [1] [c], [f], [g] and [h] of this article.
- [7] If the Pro-Chancellor is not present at a meeting of the Council such other member of the Council present at the meeting as the Council may appoint as respects that meeting shall be the chairman at that meeting, and subject to clause 4 of the Bill and the foregoing provisions of this paragraph, the Council may regulate its own procedure.
- [8] Where the Council desires to obtain advice to with respect to any particular matter, it may co-opt not more than two persons for that purpose; and the persons co-opted may take part in the deliberations of the Council at any meeting but shall not be entitled to vote.
- [2] **The Finance and General Purposes Committee**
- [1] The Finance and General Purposes Committee of the Council shall consist of—
- [a] the Pro-Chancellor, who shall be the chairman of the Committee at any meeting at which he/she is present;
- [b] the Vice-Chancellor and Deputy Vice-Chancellors;
- [c] six other members of the Council appointed by the Council, two of whom shall be selected from among the four members of the Council appointed by the Senate and one member appointed to the Council by Congregation
- [2] The quorum of the Committee shall be five.
- [3] Subject to any directions given by the Council, the Committee may regulate its own procedure.

**[3] The Senate**

- [1] There shall be a Senate for the University consisting of—
- [a] the Vice-Chancellor;
  - [b] the Deputy Vice-Chancellor;
  - [c] all Professors of the University;
  - [d] all Deans, Vice Chancellors and Directors of Academic Units of the University;
  - [e] all Heads of Academic Departments, Units and Research Institutes of the University;
  - [f] the University Librarian; and
  - [g] academic members of the congregation who are not Professors as specified in the Laws of the University.
- [2] The Vice-Chancellor shall be the Chairman at all meetings of the Senate when he/she is present and in his/her absence, one of the Deputy Vice-Chancellors appointed by him/her shall be the Chairman at the meeting.
- [3] The quorum of the Senate shall be one-quarter [or the nearest whole number less than one quarter], and subject to paragraph [2] above the Senate may regulate its own procedure.
- [4] If so requested in writing by any ten members of the Senate, the Vice-Chancellor, or in his/her absence a person duly appointed by him/her, shall convene a meeting of the Senate to be held not later than the tenth day following that on which the request was received.

**[4] Congregation**

- [1] Congregation shall consist of:—
- [a] the Vice-Chancellor and the Deputy Vice-Chancellor
  - [b] the full time members of the academic staff;
  - [c] the Registrar;
  - [d] the Bursar; and
  - [e] Every member of the administrative and technical staff who holds a degree of any University recognized for the purpose of this Statute by the Vice-Chancellor, not being an honorary degree.
- [2] Subject to Clause 5 of This Bill, the Vice-Chancellor shall be the Chairman at all meetings of congregation when he/she is present, and in his/her absence one of the Deputy Vice-Chancellors appointed by him/her shall be the Chairman at the meeting.
- [3] The quorum of congregation shall be one-third [or the nearest whole number to one-third] of the total number of members of congregation or fifty, whichever is less
- [4] A certificate signed by the Vice-Chancellor specifying:—

- [a] the total number of members of Congregation for the purposes of any particular meeting or meetings of Congregation; or
  - [b] the names of the persons who are members of Congregation during a particular period; shall be conclusive evidence of that number or as the case may be of the names of those persons.
- [5] Subject to the provisions of this schedule, congregation may regulate its own procedure.
- [6] Congregation shall be entitled to express by resolution or otherwise its opinion on all matters affecting the interest and welfare of the University and shall have such other functions in addition to the function of electing a member of the Council, as may be provided by Statute.

[5] **Convocation**

- [1] Convocation shall consist of:—
- [a] the Officers of the University mentioned in Schedule 1 to This Bill;
  - [b] all teachers within the meaning of This Bill; and
  - [c] all other persons whose names are registered in accordance with paragraph [2] below.
- [2] A person shall be entitled to have his/her name registered as a member of convocation if he/she—
- [a] is either a graduate of the University or a person satisfying such requirements as may be prescribed for the purposes of this paragraph; and
  - [b] applies for the registration of his/her name in the prescribed manner and pays the prescribed fee.
- [3] Regulations shall provide for the establishment and maintenance of a register for the purpose of this paragraph and, subject to paragraph [3] below, may provide for the payment from time to time of further fees by persons whose names are on the register and for the removal from the register of the name of any person who fails to pay those fees.
- [4] The person responsible for maintaining the register shall, without the payment of any fees, ensure that the names of all persons who are for the time being members of convocation by virtue of paragraph [1][a] or [b] of this paragraph are entered and retained on the register.
- [5] A person who reasonably claims that he/she is entitled to have his/her name on the register shall be entitled on demand to inspect the register, or a copy of the register at the principal offices of the University at all reasonable times.
- [6] The register shall, unless the contrary is proved, be sufficient evidence that any person named therein is, and that any person not named therein is not, a member of convocation; but for the purpose of ascertaining whether a particular person was such a member on a particular date, any entries in and deletions from the register made on or after that date shall be disregarded.

[7] The quorum of convocation shall be fifty or one-third [or the whole number nearest to one-third] of the total number of members of convocation whichever is less.

[8] Subject to Clause 5 of This Bill, the Chancellor shall be Chairman at all meetings of convocation when he/she is present, and in his/her absence the Vice Chancellor shall be the Chairman at the meeting.

[9] Convocation shall have such functions, in addition to the function of appointing a member of the Council, as may be provided by Statute.

[6] **Annual Budget and Estimates**

[1] The estimates of income and expenditure for a financial year shall be presented by the Vice-Chancellor to the Council and may be approved by the Council before the beginning of that financial year; Provided that the Vice-Chancellor may during any financial year present and the Council may approve supplementary estimates of income or expenditure.

[2] The annual and supplementary estimates shall be prepared in such form and shall contain

[7] **Gift, donations etc.**

[i] The Council may on behalf of the University accept by way of grants, gift, testamentary disposition or otherwise, property and money in aid of the finances of the University on such conditions as it may approve.

[ii] Registers shall be kept of all donations to the University including the names of donors and any special conditions under which any donation may have been given.

Provided that the University shall not be obliged to accept a donation for a particular purpose unless it approves of the terms and conditions attaching to such donation.

[iii] All property, money or funds donated for any specific purposes shall be applied and administered in accordance with the purposes for which they are donated and shall be accounted for separately.

[8] **Payment into Bank**

All sums of money received on account of the University shall be paid into such bank as may be approved by the Council for the credit of the University's general, current or deposit account: Provided that the Council may invest, as it deems fit, any money not required for immediate use other than donations of money referred to in Subclause [1] of this clause.

[9] **Audit**

[1] The Council shall cause the accounts of the University to be audited by auditors appointed by the Council as soon as may be after the end of each financial year or for any such other period as the Council may require.

[2] The appointment and other matters relative to the auditors, their continuance in office and their functions, as the case may be, shall, subject to the provisions of this clause, be prescribed by statute.

**[10] Organization of Faculties and Branches Thereof**

Each Faculty shall be divided into such number of branches as may be prescribed.

- [1] There shall be established in respect of each Faculty, a Faculty Board, which, subject to the provisions of this Bill, and subject to the directions of the Vice Chancellor shall:—
  - [a] regulate the teaching and study of, and the conduct of examinations connected with, the subjects assigned to the faculty;
  - [b] deal with other matters assigned to it by Statute, the Vice Chancellor or the Senate; and
  - [c] advise the Vice Chancellor or Senate on any matter referred to it by the vice Chancellor or Senate.
- [2] Each Faculty Board shall consist of—
  - [a] the Vice Chancellor;
  - [b] the persons severally in charge of the branches of the faculty
  - [c] such number of the teachers assigned to the faculty and having the prescribed qualifications as the Board may determine; and
  - [d] such persons whether or not members of the University as the Board may determine with the general or special approval of Senate.
- [3] The quorum of the Board shall be 8 members or one-quarter of the members of the Board for the time being, whichever is greater.
- [4] Subject to the provisions of this Statute and any provision made by regulations in that behalf, the Board may regulate its own procedure.

**[11] The Dean of the Faculty**

- [1] The Dean of a faculty shall be a professor elected by the Faculty Board and such Dean shall hold office for a term of two years. He/she will be eligible for re-election for another term of two years after which he/she may not be elected again until two years have elapsed.
- [2] If there is no professor in a faculty, the Vice-Chancellor shall appoint an Acting Dean who shall not be below the rank of Senior Lecturer for the faculty, who will act for a period of one year in the first instance, renewable for another one year only.
- [3] In the absence of the Vice-Chancellor, the Dean shall be the Chairman at all meetings of the Faculty Board when he/she is present and he/she shall be a member of all committees and other boards appointed by the faculty.
- [4] The Dean of a faculty shall exercise general superintendence over the academic and administrative affairs of the faculty and it shall be the function of the Dean to present to the convocation for the conferment of Degrees, persons who have qualified for the Degrees of the University at examinations held in the branches of learning for which responsibility is allocated to that faculty.

[5] There shall be a committee to be known as the Committee of Deans which shall consist of all the Deans of the several faculties and that committee shall advise the Vice-Chancellor on all academic matters and on particular matters referred to the Committee by the Senate.

[6] The Dean of a faculty may be removed from office for a good cause by the Faculty Board after a vote would have been taken at a meeting of the Board, and in the event of a vacancy occurring following the removal of the Dean, an Acting Dean may be appointed by the Vice-Chancellor provided that at the next faculty board meeting an election shall be held for a new Dean.

[7] In this article, "good cause" has the same meaning as in Clause 17 [4] of This Bill.

[12] **Departmental Board of Studies**

[1] There shall be a Departmental Board of Studies whose membership shall be made of all academic staff of the Department;

[2] It shall be headed by a Professor who shall be appointed by the Vice Chancellor and in the absence of a Professor, a senior academic staff shall be appointed in acting capacity;

[3] For a Professor the term is for 3 years while 1 year is for acting capacity.

[4] The Board shall superintend over all teachings and examinations in the Department;

[5] The Board shall handle all disciplinary matters in the Department and make recommendations to the Senate where necessary;

[6] Allocation of courses in the department shall be done by the Departmental Board on recommendation of the Head of Department.

[13] **Selection of Certain Principal and other Key Officers**

[1] When a vacancy occurs in the Office of the Registrar, Bursar, the University Librarian, Director of Works or Director of Health Services, a Selection Board shall be constituted by the Council and shall consist of:—

[i] the Pro-Chancellor;

[ii] the Vice-Chancellor;

[iii] two members appointed by the Council, not being members of Senate; and

[iv] two members appointed by the Senate not being members of Council.

[2] The Selection Board, after making such inquiries as it thinks fit, shall recommend a candidate to the Council for appointment to the vacant office, and after considering the recommendation of the Board the Council may make an appointment to that office.

[3] A person appointed to the office of Director of Works or Director of Health Services shall hold office for such period and on such terms and conditions as may be specified in his/her letter of appointment.



- [14] **Tenure of Directors**  
A Director shall hold office on such terms and conditions as may be specified in his/her letter of appointment subject to the extant Regulations.
- [15] **Creation of Academic Post**  
Recommendation for the creation of posts other than those mentioned in paragraph 9 of this Schedule shall be made by the Senate to the Council through the Finance and General Purposes Committee.
- [16] **Appointment of academic staff**  
Subject to This Bill and the Statutes derived from it, the filling of vacancies in academic posts [including newly created ones] shall be as prescribed from time to time by Statutes.
- [17] **Appointment of administrative and professional staff**
- [1] The administrative and technical staff of the University, other than those mentioned in paragraph 9 of this schedule shall be appointed by the Council or on its behalf by the Vice-Chancellor or the Registrar in accordance with any delegation of powers made by the Council in that behalf.
- [2] In the case of administrative or technical staff that has close and important contacts with the academic staff, there shall be Senate participation in the process of selection.

*Question that the provision in Third Schedules stand part of the Bill — Agreed to.*

Chairman to report Bill.

**(SENATE IN PLENARY)**

The Deputy President of the Senate reported that the Senate in the Committee of the Whole considered the Report of the Committee on Tertiary Institutions and TETFUND on A Bill for an Act to Provide for the Establishment of the Federal University of Technology Offa, Kwara State by Upgrading the Federal Polytechnic Offa, Kwara State from a Diploma Awarding Institution to a Full-fledged Degree Awarding University and for Other Matters Connected Therewith, 2022 and approved as follows:

Clauses 1-32 — As Recommended

Schedules 1-3 — As Recommended

*Question:* That the Senate do approve the Report of the Committee of the Whole — *Resolved in the Affirmative.*

*Motion made:* That the Bill be now Read the Third Time (*Senate Leader*).

*Question put and agreed to.*

*Bill accordingly Read the Third Time and Passed.*

**12. Adjournment:**

*Motion made:* That the Senate do now adjourn till Wednesday, 2<sup>nd</sup> February, 2022 at 10.00 a.m. (*Senate Leader*).

*Question put and agreed to.* —

*Adjourned accordingly at 12:59 p.m.*

**Ovie Augustine Omo-Agege**  
*Deputy President,*  
*Senate of the Federal Republic of Nigeria*