



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Tuesday, 21st December, 2021

1. The Senate met at 10:43 a.m. The President of the Senate read prayers.
2. **Closed Session:**
Closed Session — 10:44 a.m.
Open Session — 11:29 a.m.

The President of the Senate reported that the Senate in a Closed Session deliberated on issues bordering on the workings of the Senate in particular and the National Assembly in general.

3. **Votes and Proceedings:**
The Senate examined the Votes and Proceedings of Wednesday, 15th December, 2021.

Question was put and the Votes and Proceedings were approved.

4. **Messages from Mr. President:**
The President of the Senate announced that he had received two (2) letters from Mr. President, Commander-in-Chief of the Armed Forces of the Federation, which he read as follows:

(a) **Withholding of Assent to Electoral Act (Amendment) Bill, 2021:**



**PRESIDENT
FEDERAL REPUBLIC OF NIGERIA**

13th December, 2021

*Distinguished Senator Ahmad Ibrahim Lawan
President of the Senate,
Senate Chambers,
National Assembly Complex,
Three Arms Zone,
Abuja.*

Dear Distinguished Senate President;

**WITHHOLDING OF ASSENT TO
ELECTORAL ACT (AMENDMENT) BILL 2021**

Further to the letter dated 18th November, 2021 forwarded for Presidential assent, the Electoral Act (Amendment) Bill 2021 as passed by the National Assembly, I have received informed advice from relevant Ministries, Departments and Agencies of the Government, and

have also carefully reviewed the Bill in light of the current realities prevalent in the Federal Republic of Nigeria in the circumstances. Arising from the review, Mr. Senate President may wish to note that the conduct of elections for the nomination of party candidates solely via direct primaries as envisaged by the Electoral Act (Amendment) Bill 2021 has serious adverse legal, financial, economic and security consequences which cannot be accommodated at the moment considering our Nation's peculiarities. It also has implications on the rights of citizens to participate in the government as constitutionally ensured.

2. The Electoral Act (Amendment) Bill 2021 seeks to amend certain provisions of the extant Electoral Act 2010. Part of the objective of the Bill is the amendment of the present Section 87 of the Electoral Act, 2010 to delete the provision for the conduct of indirect primaries in the nomination of party candidates such that party candidates can henceforth only emerge through direct primaries.

3. Arising from the review, Mr. Senate President may wish to particularly note the pertinent issues implicated as follows to wit:

a. The conduct of direct primaries across the 8,809 wards across the length and breadth of the country will lead to a significant spike in the cost of conducting primary elections by parties as well as increase in the cost of monitoring such electors by INEC who has to deploy monitors across these wards each time a party is to conduct direct primaries for the presidential, gubernatorial and legislative posts. The addition of these costs with the already huge cost of conducting general elections will inevitably lead to huge financial burden on both the political parties, INEC and the economy in general at a time of dwindling revenues.

b. The indirect consequences of the issues of high cost and monetization are that it will raise financial crimes and constitute further strain on the economy. It will also stifle smaller parties without the enormous resources required to mobilise all party members for the primaries. This is not healthy for the sustenance of multi-party democracy in Nigeria.

c. In addition to increased costs identified above, conducting and monitoring primary elections across 8,809 wards will pose huge security challenges as the security agencies will also be overstretched, direct primaries will be open to participation from all and sundry and such large turn-out without effective security coordination will also engender intimidation and disruptions, thereby raising credibility issues for the outcomes of such elections.

d. The amendment as proposed is a violation of the underlying spirit of democracy which is characterized by freedom of choices. Political party membership is a Voluntary exercise of the constitutional right to freedom of association. Several millions of Nigerians are not card-carrying members of any political party. Thus, the emphasis should be on enabling qualified Nigerians to vote for the candidate of their choice during general elections as a means of participation in governance and furtherance of the concept of universal adult suffrage or universal franchise.

e. The proposed amendment may also give rise to plethora of litigations based on diverse grounds and issues of Law including but not limited to the fact that the proposed amendment cannot work in retrospect given that the existing constitution of the Parties already registered with the Independent National Electoral Commission (INEC) permits direct, indirect and consensus primaries. This real possibility, will, without doubt, truncate the electoral program of the Nation as another electoral exercise is imminent towards a change of Government in 2023.

f. Nigeria is at the moment still grappling with the issues of monetization of the political process and vote buying at both party and general elections. The direct implication of institutionalizing only direct primaries is the aggravation of over monetization of the process as there will be much more people a contestant needs to reach out to thereby further fuelling

corruption and abuse of office by incumbent contestants who may resort to public resources to satisfy the increased demands and logistics of winning party primaries.

g. Direct primaries are also subject or susceptible to manipulation or malpractices as most parties cannot boast of reliable and verified Membership Register or valid means of identification which therefore means non-members can be recruited to vote by wealthy contestants to influence the outcome. Rival parties can also conspire and mobilize people to vote against a good or popular candidate in a party during its primaries just to pave way for their own candidates. Whereas where voting is done by accredited delegates during indirect primaries, the above irregularities are not possible.

4. The major conclusions arrived at upon the review are highlighted hereunder, to wit:
a. Asides its serious adverse legal, financial, economic and, security consequences, the limitation or restriction of the nomination procedures available to political parties and their members constitutes an affront to the right to freedom of association. It is thus undemocratic to restrict the procedure or means of nomination of candidates by political parties, as it also amounts to undue interference in the affairs of political parties.

b. Indirect primaries or collegiate elections are part of internationally accepted electoral practices. More so, direct primaries are not free from manipulations and do not particularly guarantee the emergence of the will of the people especially in circumstances like ours where it is near impossible to sustain a workable implementation framework or structure thereof.

5. In the premise of the above, I hereby signify to the National Assembly that I am constrained to withhold assent to the Electoral Act (Amendment) Bill 2021 in line with the provisions of Section 58(1) & (4) of the 1999 Constitution (as amended). It is my considered position that the political parties should be allowed to freely exercise right of choice in deciding which of direct or indirect primaries to adopt in the conduct of their primary elections as their respective realities may permit.

6. Please accept, Distinguished Senate President, the assurance of my highest consideration and esteem.

*Yours sincerely,
 (Signed)*

Muhammadu Buhari

(b) Virement:



**PRESIDENT
 FEDERAL REPUBLIC OF NIGERIA**

16th December, 2021

Distinguished Senator Ahmad Ibrahim Lawan
 President of the Senate,
 Senate Chambers,
 National Assembly Complex,
 Three Arms Zone,
 Abuja.

Dear Distinguished Senate President,

2021 APPROPRIATION ACT:
REQUEST FOR VIREMENT TO FUND CRITICAL EXPENDITURES

The Senate may wish to recall that I signed the 2021 Appropriation on December 31st,

2020, for a total expenditure of ₦13.588 trillion and a Supplementary Appropriation to cater for critical needs for the Security and Health Sector in the sum of ₦983 billion on July 26th, 2021.

You may also recall that during the signing of the 2021 Appropriation Act, I mentioned that, where necessary, I will revert to the National Assembly with a request for amendment, virement or other appropriate adjustments to ensure that the core objectives of the Budget are accomplished.

Accordingly, the 2021 Budget implementation is faced with challenges that will require additional funding for some critical and urgent line items in the Budget.

The purpose of this letter, therefore, is to forward the comprehensive Virement Proposal for the consideration and approval of the National Assembly.

The details of the expenditures proposed for the virement are attached herewith as schedule 1 while Schedule 2 shows the sources of the funds to be vired for the items in Schedule 1.

In the light of the above, I implore the Senate to urgently consider the virement proposals to support our efforts to improve the well-being of our citizens.

Please accept, Distinguished Senate President, the assurances of my highest regards.

Yours sincerely,
(Signed)

Muhammadu Buhari

5. Announcements:

(a) Constitution of Committee on Oil and Gas Host Community:

The President of the Senate announced Senator Biobaraku W. Degi-Eremienyo (Bayelsa East) as the Chairman of the Committee on Oil and Gas Host Community.

(b) Notification of my Intention to Contest the 2022 Ekiti State Gubernatorial Election:

The President of the Senate read a letter from Senator Biodun C. Olujimi (Ekiti South) as follows:



THE SENATE
FEDERAL REPUBLIC OF NIGERIA
Sen. Biodun Christine Olujimi
Ekiti South

20th December, 2021

His Excellency
Senator Ahmad Lawan Phd, CON
President of the Senate
The Senate
National Assembly Complex
Three Arms Zone
Abuja

Your Excellency,

**NOTIFICATION OF MY INTENTION TO CONTEST THE 2022
EKITI STATE GUBERNATORIAL ELECTION.**

It is with a great sense of humility, duty and responsibility that I write to formally notify Mr. President and my Distinguished Colleagues of my intention to contest the 2022 Ekiti State gubernatorial election under the platform of our great party, the People's Democratic Party (PDP).

Having risen through the ranks of leadership in Ekiti State as a Member of the House of Representatives, Deputy Governor, and a second term in the Senate, I can say with all sense of deep responsibility that I have garnered enough experience to lead the good people of Ekiti State as I understand absolutely their yearnings and aspirations.

Mr. President, Distinguished Colleagues, Ekiti my dear State, which is the 'Fountain of knowledge, is one of the pride of Nigeria and since its inception has been blessed with dynamic, purposeful and transformational leadership.

The realities of governance today require pragmatic, experienced and tested hands for purposeful and effective leadership hence my decision to present myself to the people of Ekiti State for election as their Governor. I am convinced that I can bring my vast knowledge and wealth of experience to bear on the governance of the State, continue with and advance the legacies of previous administrations.

Mr. President, Distinguished Colleagues, I therefore on this note humbly solicit your kind support for the actualization of this aspiration which is borne out of a genuine and profound desire to serve.

As I count on your usual kind consideration and collaboration, accept Mr. Senate President and my distinguished colleagues as always, the assurances of my highest regards and best wishes.

*Yours faithfully,
(Signed)*

Senator Biodun Christine Olujimi

6. Petitions:

Rising on Order 41, Senator Patrick A. Akinyelure (*Ondo Central*) drew the attention of the Senate to five (5) petitions received from the Office of the President of the Senate as follows:

- (i) Garba Abubakar Jibrin on behalf of Procurement Procedures Awareness Initiative against Members of the Senate and House of Representatives Committees on Land Transport of the National Assembly, the Chairman and Members of the Governing Council as well as the Management of Nigeria Institute of Transport Technology over alleged corruption, violation of relevant sections of Public Procurement Act, 2007 misappropriations and siphoning of public fund;
- (ii) Barr. Benjamin Ogunloye and five others on behalf of owner of affected properties along Oyo-Ogbomoso Route A2 Section II in the ongoing Ibadan-Ilorin Express Way against the Hon. Minister of Works and Housing over an alleged non payment of outstanding compensation to affected owners of structures along the section of the road;
- (iii) Prof. Mnguember Vicky Sylvester against the Hon. Minister of Federal Capital Territory (FCT) over an alleged seizure of Assets;
- (iv) Joe Ajaero on behalf of the National Union of Electricity Employees against the Economic and Financial Crime Commission (EFCC) over an alleged malicious prosecution; and

- (v) Ogu-Etoh Clarion Clara against the Council for the Regulation of Freight Forwarding in Nigeria over an alleged wrongful removal from the Council.

He urged the Senate to look into the matters.

Petitions laid and accordingly referred to the Committee on Ethics, Privileges and Public Petitions [Order 41(3)] to report within four (4) weeks.

7. Presentation of a Bill:

2021 Appropriation Act (Amendment) Bill, 2021 (SB. 887) — *Read the First Time.*

8. Confirmation of Nomination of Mu'azu Jaji Sambo (Taraba State):

Motion made: That the Senate do consider the request of Mr. President, Commander-in-Chief of the Armed Forces of the Federation, for the confirmation of Mu'azu Jaji Sambo (Taraba State) as a Minister of the Government of the Federal Republic of Nigeria (*Senate Leader*).

Question put and agreed to.

Privileges of the Floor:

- (i) *Admission of Senator Babajide C. Omoworare, Special Adviser to the President on National Assembly Matters, Former Senators and Serving Honourable Members:*

Motion made: That the Senate do invoke Order 17(1) to admit Senator Babajide C. Omoworare, Special Adviser to the President on National Assembly Matters, Former Senators and Serving Honourable Members to the Floor of the Senate (*Senate Leader*).

Question put and agreed to.

Senator Babajide C. Omoworare, Former Senators and Serving Honourable Members according admitted.

- (ii) *Admission of Ministerial nominee and his entourage:*

Motion made: That the Senate do suspend Order 17(1) to admit the Ministerial nominee and his entourage to the Floor of the Senate (*Senate Leader*).

Question put and agreed to.

Ministerial nominee and his entourage accordingly admitted.

Motion made: That the Senate do resolve into the Committee of the Whole to consider the request of Mr. President, Commander-in-Chief of the Armed Forces of the Federation, for confirmation of Mu'azu Jaji Sambo (Taraba State) as a Minister of the Government of the Federal Republic of Nigeria (*Senate Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

(Screening of Ministerial Nominee)

Nominee screened:

Mu'azu Jaji Sambo (*Taraba State*)

— Agreed to

Chairman to report progress.

(SENATE IN PLENARY)

The President of the Senate reported that the Senate in the Committee of the Whole considered the request of the President, Commander-in-Chief of the Armed Forces of the Federation, for the confirmation of Mu'azu Jaji Sambo for appointment as a Minister of the Government of the Federal Republic of Nigeria and approved the nomination.

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

Confirmation of Nominee:

Question:

"Will the Senate confirm the nomination of Mu'azu Jaji Sambo (Taraba State) as a Minister of the Government of the Federal Republic of Nigeria?" — *Resolved in the Affirmative.*

Nomination of Mu'azu Jaji Sambo (Taraba State) as a Minister of the Government of the Federal Republic of Nigeria accordingly confirmed.

9. 2021 Appropriation Act (Amendment) Bill, 2021 (SB. 887)

Motion made: Pursuant to Order 79(1) that a Bill for an Act to Amend the Appropriation Act 2021 in order to extend the implementation of the capital aspect of the Appropriation Act 2021 from 31st December, 2021 to 31st March, 2022 and for Related Matters, 2021 *be read the Second Time (Senate Leader).*

Question put and agreed to.

Bill accordingly read the Second Time and the referred to the Committee of Supply.

Motion made: Pursuant to Order 81, that the Senate do resolved into the Committee of Supply to consider a Bill for an Act to Amend the Appropriation Act 2021 in order to extend the implementation of the capital aspect of the Appropriation Act 2021 from 31st December, 2021 to 31st March, 2022 and for Related Matters, 2021 *(Senate Leader).*

Question put and agreed to.

(SENATE IN THE COMMITTEE OF SUPPLY)

CONSIDERATION OF A BILL FOR AN ACT TO AMEND THE APPROPRIATION ACT, 2021 IN ORDER TO EXTEND THE IMPLEMENTATION OF THE CAPITAL ASPECT OF THE APPROPRIATION ACT, 2021 FROM 31ST DECEMBER, 2021 TO 31ST MARCH, 2022 AND FOR RELATED MATTERS, 2021

Clause 1: Amendment of the Appropriation Act, 2021:

The Appropriation Act, 2021 is hereby amended as set out hereunder "The authorizing and operative clause in Section 12 is hereby amended by deleting from the last line thereof the words "31st December, 2021" and substituting therefore the words "31st March, 2022".

Committee Recommendation: That the provision in Clause 1 be retained *(Senate Leader) — Agreed to.*

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

Clause 2:**Citation:**

This Bill may be cited as the Appropriation Act, 2021 (Amendment) Bill, 2021.

Committee Recommendation: That the provision in Clause 2 be retained (*Senate Leader*) — Agreed to.

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

Chairman to report Bill.

(SENATE IN PLENARY)

The President of the Senate reported that the Senate in the Committee of Supply considered a Bill for an Act to Amend the Appropriation Act 2021 in Order to Extend the Implementation of the capital aspect of the Appropriation Act 2021 from 31st December, 2021 to 31st March, 2022 and for Related Matters, 2021 and approved as follows:

Clauses 1-2 — As Recommended.

Question that the Senate do approve the Report of the Committee of Supply — *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.

9. ***Joint Committee on Finance; Customs, Excise and Tariff; and Trade and Investment: Report on the Finance Bill, 2021 (SB. 873):***

Motion made: That the Senate do receive and consider the Report of the Joint Committee on Finance; Customs, Excise and Tariff; and Trade and Investment on the Finance Bill, 2021 (*Senator Solomon O. Adeola — Lagos West*).

Question put and agreed to.

Report Laid and presented.

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

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

CONSIDERATION OF THE REPORT OF THE JOINT COMMITTEE ON FINANCE; CUSTOMS, EXCISE AND TARIFF; AND TRADE AND INVESTMENT ON A BILL FOR AN ACT TO AMEND RELEVANT TAX, EXCISE AND DUTY STATUTES IN LINE WITH MACROECONOMIC POLICY REFORMS OF THE FEDERAL GOVERNMENT; TO AMEND AND MAKE FURTHER PROVISIONS IN SPECIFIC LAWS IN CONNECTION WITH THE PUBLIC FINANCIAL MANAGEMENT OF THE FEDERATION AND FOR OTHER MATTERS CONNECTED THEREWITH, 2021.

Clause 1: Stocks and Shares, etc.

Section 30 of the Capital Gains Tax Act is amended by replacing the section with a new section as follows —

(1) Gains accruing to a person from a disposal by it of Nigerian government securities shall not be chargeable gains under this Act.

(2) Without prejudice to any other applicable law, the gains accruing to a person on disposal of its shares in any Nigerian company registered under the Companies and Allied Matters Act shall be chargeable gains under this Act except where —

(a) the proceeds from such disposal are reinvested within the same year of assessment in the acquisition of shares in the same or other Nigerian companies.

Provided that tax shall accrue proportionately on the portion of the proceeds which are not reinvested in the manner stipulated in this subsection;

(b) the disposal proceeds, in aggregate, is less than ₦100,000,000.00 in any twelve consecutive months, provided that the person making the disposals shall render appropriate returns to the Service on an annual basis; or

(c) the shares are transferred between an approved Borrower and Lender in a regulated Securities Lending Transaction as defined in the Companies Income Tax Act.

(3) Without prejudice to the provisions of Section 2 of this Act, the rate of capital gains on disposal of shares pursuant to this Section shall be ten per cent.

(4) The tax due in respect of a disposal under this section shall be paid —

(a) For individuals, to the relevant tax authority in line with the provisions of the Personal Income Tax Act; and

(b) For companies, to the Federal Inland Revenue Service.

(5) In this section —

"Nigerian government securities" include Nigerian treasury bonds, savings certificates, premium bonds issued under the Savings Bonds and Certificates Act or any other long-term security issued by the Nigerian government.

"Regulated Securities Lending Transaction" shall have the meaning provided under the Companies Income Tax Act.

Companies Income Tax Act ('CITA')

Committee's Recommendation:

That the provision in Clause 1 be retained (*Senator Solomon O Adeola — Lagos West*) — Agreed to.

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

Clause 2: Charge of Tax

Section 9 of the Companies Income Tax Act (as amended by Finance Act 2019) is further amended by substituting for Subsection (9)(1)(d)(ii), a new Subsection (9)(1)(d)(ii) -

(ii) "Dividends includes compensating payments received by a lender from its approved agent or borrower in a Regulated Securities Lending Transaction."

Committee's Recommendation:

That the provision in Clause 2 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 3: Nigerian Companies

Section 13 of the Companies Income Tax Act is amended by repealing subsection (2) and re-enacting a new subsection (2) as follows —

- "(2) The profits of a company other than a Nigerian company from any trade or business shall be deemed to be derived from or taxable in Nigeria where:
- (a) that company has a fixed base of business in Nigeria to the extent that the profit is attributable to the fixed base;
 - (b) it does not have such a fixed base in Nigeria but habitually operates a trade or business through a person in Nigeria authorised to conduct on its behalf or on behalf of some other companies controlled by it or which have a controlling interest in it; or habitually maintains a stock of goods or merchandise in Nigeria from which deliveries are regularly made by a person on behalf of the company, to the extent that the profit is attributable to the business or trade or activities carried on through that person;
 - (c) it transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria and profit can be attributable to such activity;
 - (d) that trade or business or activities involves a single contract for surveys, deliveries, installations or construction, the profit from that contract;
 - (e) the trade or business comprises the furnishing of technical, management, consultancy or professional services outside of Nigeria to a person resident in Nigeria to the extent that the company has significant economic presence in Nigeria;

Provided that the withholding tax applicable to the income under this paragraph shall be the final tax on the income of a non-resident recipient who does not otherwise fall within the scope of subsection 2(a) - (d); and

- (f) the trade or business or activities is between the company and another person controlled by it or which has a controlling interest in it and conditions are made or imposed between the company and such person in their commercial or financial relations which in the opinion of the Board is deemed to be artificial or fictitious, so much of the profit adjusted by the Board to reflect arm's length transaction."

Committee's Recommendation:

That the provision in Clause 3 be retained (*Señator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 4: Insurance Companies.

Section 16 of the Companies Income Tax Act is amended by repealing Section 16 and re-enacting a new Section (16) —

"(1) An insurance business shall be taxed as —

- (a) A general insurance company, whether proprietary or mutual, other than a life insurance company; or
- (b) a life insurance company, provided that the profits on which tax may be imposed for an insurance business shall be in line with Section 13 of this Act.
- (2) For a general insurance company, the profit on which tax may be imposed, shall be ascertained by taking the gross premium and other income receivable, less reinsurance, and deducting from the balance so arrived at, a reserve for unexpired risks, determined in line with subsection (10)(a), of this section.
- (3) For a life insurance company, the profits on which tax may be imposed shall be the investment income less the management expenses, including commission.
- (4) Any amount distributed in any form as dividend from an actuarial revaluation of unexpired risks or from any other revaluation shall be deemed to be part of the total profits of the company for tax purposes.
- (5) Not more than three months after an actuarial revaluation of unexpired risks or any other revaluation has taken place, the company shall provide the Service with full particulars of the revaluation carried out, including a copy of the actuary's revaluation certificate.
- (6) The profits on which tax may be imposed —
- (a) in a general Nigerian insurance company, shall be ascertained in accordance with the provisions of subsection (2) of this section as though the whole premium and investment incomes of the company were derived from Nigeria; and
- (b) in a Nigerian life insurance company, shall be ascertained in accordance with the provisions of subsections (3), (4) and (5) of this section as though the whole investment and other incomes were received in Nigeria and all the expenses and other outgoings of the company were incurred in Nigeria.

- (7) Investment income for the purpose of taxation of a life insurance company under this section means income derived from investment of shareholders' funds.
- (8) Where an insurance company carries on a life class and a general or non-life class insurance business, the funds and books of accounts of one class shall be kept separate from the other as though one class does not relate to the other class, and the annual tax returns of the two classes of insurance businesses shall be made separately.
- (9) Each class of insurance shall be assessed separately as "life insurance assessment" and "non-life (other) insurance assessment" and in respect of each class of insurance business where there are more than one type of insurance and in the same class, they form one type of business and shall not be allowed against the income from another type of insurance business but the loss shall be available to be carried forward against profits from the same class of insurance business.
- (10) An insurance company, other than a life insurance company, shall be allowed as deductions from its premium the following reserves for tax purposes —
- (a) Reserve for unexpired risks, calculated on a time apportionment basis of the risks accepted in the year;
 - (b) For outstanding claims and outgoings, an amount equal to the total estimated amount of all outstanding claims and outgoings, provided that any amount not utilised towards settlement of claims and outgoings shall be added to the total profits of the following year.
- (11) An insurance company, in respect of its life insurance business shall be allowed the following deductions from its investment incomes and other incomes —
- (a) an amount which makes a general reserve and fund equal to the net liabilities on policies in force at the time of an actuarial valuation;
 - (b) an amount which is equal to 1 percent of gross premium earned or 10 percent of profits (whichever is greater) to a special reserve fund and accommodation until it becomes the amount of the statutory minimum paid-up capital;
 - (c) all normal allowable business outgoing.
- (12) A reinsurance company shall be allowed the following deductions from its gross profit to be credited to a general reserve fund —
- (a) an amount not more than 50 percent of the gross profits of the reinsurer for the year where the general reserve fund is less than the initial statutory minimum authorised share capital; or
 - (b) an amount not more than 25 percent of the gross profits of the reinsurer for the year, where the fund is equal to or exceeds the initial statutory minimum authorised share capital.

- (13) An insurance company that engages the services of an insurance agent, a loss adjuster and an insurance broker shall include in its annual tax returns, a schedule showing the name and address of that agent, loss adjuster and insurance broker, the date their services were employed and terminated, as applicable, and payments made to each such agent, loss adjuster and insurance broker for the period covered by the tax returns.
- (14) The provisions on minimum tax in Section 33 of this Act shall apply to insurance business, provided that "gross turnover" shall mean "gross premium and other income", in the case of non-life insurance business and "gross income", in the case of life insurance business.
- (15) For the purpose of subsection (14) —
"gross premium" means the total premiums written, received and receivable excluding unearned premium and premiums returned to the insured;
- "gross income" means total income earned by a life insurance business including all investment income (excluding franked investment income), fees, commission and income from other assets but excluding premiums received and claims paid by re-insurers; and
- "Other income", for the purposes of non-life insurance businesses shall be taken to refer to all the income of the non-life insurance business other than gross premium (excluding franked investment income).

Committee's Recommendation:

That the provision in Clause 4 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 5: Profits of a Company from Certain Dividends

Section 18 of the Companies Income Tax Act is amended by deleting paragraph (c) (iii).

Committee's Recommendation:

That the provision in Clause 5 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 6: Profits Exempted

Section 23 of the Companies Income Tax Act is amended by —

(a) repealing and re-enacting subsection 1 as follows —

"(1) there shall be exempt from tax —

(a) the profits of any company being a statutory or registered friendly society, in so far as such profits are not derived from a trade or business carried on by such society;

- (b) the profits of any company being a co-operative society registered under any enactment or law relating to co-operative societies, not being profits from any trade or business carried on by that company other than co-operative activities solely carried out with its members or from any share or other interest possessed by that company in a trade or business in Nigeria carried on by some other persons or authority;
- (c) the profits of any company engaged in ecclesiastical or charitable of a public character in so far as such profits are not derived from a trade or business carried on by such company;
- (d) the profits of any company formed for the purpose of promoting sporting activities where such profits are wholly expendable for such purpose, subject to such conditions as the Service may prescribe;
- (e) the profits of any company being a trade union registered under the Trade Unions Act in so far as such profits are not derived from a trade or business carried on by such trade union;
- (f) dividend distributed by Unit Trust;
- (g) the profits of any company being a body corporate established by or under any Local Government Law or Edict in force in any State in Nigeria;
- (h) the profits of anybody corporate being a purchasing authority established by an enactment and empowered to acquire any commodity for export from Nigeria from the purchase and sale (whether for the purposes of export or otherwise) of that commodity;
- (i) the profits of any company or any corporation established by the law of a State for the purpose of fostering the economic development of that State, not being profits derived from any trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority;
- (j) any profits of a company other than a Nigerian company which, but for this paragraph, would be chargeable to tax by reason solely of their being brought into or received in Nigeria;
- (k) dividend, interest, rent, or royalty derived by a company from a country outside Nigeria and brought into Nigeria through Government approved channels. For the purpose of this subsection, "Government approved channels", means the Central Bank of Nigeria, any bank or other corporate body appointed by the Minister as authorised dealer under the Foreign Exchange (Monitoring and Miscellaneous Provisions) Act or any enactment replacing that Act;

- (l) the interest on deposit accounts of a foreign non-resident company:

Provided that the deposits into the account are transfers wholly of foreign currencies to Nigeria on or after 1 January 1990 through Government approved channels;

- (m) the interest on foreign currency domiciliary account in Nigeria accruing on or after 1 January, 1990;

- (n) The profits of a small company in a relevant year of assessment:

Provided that such company shall, without prejudice to this exemption, comply with the tax registration and tax return filing stipulations of this Act and be subject to the provisions as regards time of filing, penalties for breach of statutory duties and all other provisions of this Act in all respects during the period which its profits are below the tax paying threshold;

- (o) Dividends received from small companies in the manufacturing sector in the first five years of their operations;

- (p) dividend received from investments in wholly export-oriented businesses;

- (q) The profits of any Nigerian company (other than companies engaged in the Upstream, Midstream or Downstream Petroleum operations) in respect of goods exported from Nigeria, if the proceeds of such exports are used for the purchase of raw materials, plant, equipment and spare parts: Provided that tax shall accrue proportionately on the portion of such proceeds which are not utilised in the manner prescribed.

- (r) the profits of a company whose supplies are exclusively inputs to the manufacturing of products for export, provided that the exporter shall give a certificate of purchase of the inputs of the exportable goods to the seller of the supplies;

- (s) the dividend and rental income received by a real estate investment company on behalf of its shareholders provided that—

(i) a minimum 75% of dividend and rental income is distributed, and

(ii) such distribution is made within 12 months of the end of the financial year in which the dividend or rental income was earned.

- (t) the compensating payments, which qualify as dividends under section 9(1)(c) of this Act, received by a lender from its approved agent or a borrower in a Regulated Securities

Lending Transaction, such payments are deemed to be franked investment income and shall not be subjected to further tax in the hands of the Lender;

- (u) the compensating payments, which qualify as dividends or interest under section 9(1)(c) of this Act, received by an approved agent from a borrower or lender on behalf of a lender or borrower in a Regulated Securities Lending Transaction;
- (v) the profit of a company established within an export processing zone or free trade zone:

Provided that 100 percent production of such company is for export otherwise tax shall accrue proportionately on the profits of the company.

- (b) Substituting for Section 1(A), a new Section 1(A) -

"(1A) Nothing in this section shall be construed to exempt from deduction at source, the tax which a company making payments is to deduct under sections 78, 79 or 80 of this Act, such that the provisions of sections 78, 79 and 80 of this Act shall apply to a dividend, interest, rent or royalty paid by a company exempted from tax under subsection (1) (a) to (e), (h) to (l), (n), (p) to (s) and (v)."

Committee's Recommendation:

That the provision in Clause 6 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 7: Board's Power to Assess and Charge on Turn-Over of Trade or Business
Section 30 of the Companies Income Tax Act is amended by—

- (a) inserting after sub paragraph 30(1)(b)(ii), a new subparagraph 30(1)(b) (iii) -

"(iii) That company transmits, emits or receives signals, sounds, messages, images or data of any kind by cable, radio, electromagnetic systems or any other electronic or wireless apparatus to Nigeria in respect of any commerce, trade or activity, including electronic commerce, application store, high frequency trading, electronic data storage, online adverts, participative network platform, online payments and so on, to the extent that the company has significant economic presence in Nigeria, assess and charge that company for that year of assessment on such fair and reasonable percentage of that part of the turnover attributable to that presence;"

- (b) Renumbering the paragraph accordingly

Committee's Recommendation:

That the provision in Clause 7 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 8: Total Profits from all Sources

Section 31 of the Companies Income Tax Act is amended by—

- (a) Inserting after subsection 1, new Subsections (2), (3), (4) and (5) -
- "(2) The deduction to be allowed in accordance with the provisions of the Second Schedule, referred to in subsection (1) of this Section, shall be the amount relating to the qualifying capital expenditure incurred in generating the assessable profits.
- (3) Where the qualifying capital expenditure is in relation to an asset that is only partially utilized in generating the taxable income such qualifying capital expenditure shall be pro-rated and only the portion relating to the taxable income shall be allowable as a deduction.
- Provided that the provisions of this subsection shall apply only where the proportion of non-taxable income constitutes greater than 20% of the total income of the company.
- (4) For the purposes of this Section and the Second Schedule to this Act, the capital allowance for any assessment year in which a company is considered as a small company or a medium company shall be computed in accordance to the provisions of the Second Schedule, and the amount so computed together with any unabsorbed allowances brought forward from previous years shall be deemed to have been made and consumed by such company in each such year of assessment and the residue carried forward into subsequent years.
- (5) The provisions of subsection (2), (3) and (4) of this section shall not apply to a company that enjoys pioneer status under the Industrial Development (Income Tax Relief) Act"

(b) Renumbering appropriately

Committee's Recommendation:

That the provision in Clause 8 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 9: Payment of Minimum Tax

Section 33 of the Companies Income Tax Act (as amended by Finance Act 2020) is further amended by substituting for Subsection (2), a new Subsection (2) -

- "(2) For the purpose of subsection (1), the minimum tax to be levied and paid shall be 0.5% of gross turnover of the company less franked investment income -

Provided, that the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed with respect to financial years ending on any date between 1 January 2020 and 31 December 2021, both days inclusive.

Provided, however, that where the company had filed its relevant tax returns for any year of assessment falling on any date between 1 January 2020 and 31 December 2021, both days inclusive, the applicable minimum tax is reduced to 0.25% for tax returns prepared and filed for any two accounting periods ending on any date between 1 January 2019 and 31 December 2021, both days inclusive.

For the purpose of this subsection, the application of the reduced rate shall be available for only two accounting periods either from 1 January 2019 to 31 December 2020 or from 1 January 2020 to 31 December 2021, as may be determined by the taxpayer."

Committee's Recommendation:

That the provision in Clause 9 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 10: Gas Utilisation (Downstream Operations)

Section 39 is amended by —

(a) Substituting for paragraph (a) of subsection (1) a new paragraph (a) as follows -

"(1) (a) An initial tax-free period of three years which may, subject to the satisfactory performance of the business, be renewed for an additional period of two years;

Provided that:

(i) this incentive is claimable not more than once by the same company.

(ii) any company formed from reorganisation, restructuring, buy-back or other similar schemes out of a company which has already enjoyed this incentive shall not be entitled to it.

(iii) this incentive shall not apply to any company that has claimed an incentive for trade or business of gas utilization under any law in Nigeria, including the Petroleum Profits Tax Act or the incentives under the Industrial Development (Income Tax Relief) Act."

(b) Delete subsection (3) and renumber the sections accordingly.

Committee's Recommendation:

That the provision in Clause 10 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 11: Returns and Provisional Accounts

Section 55 of Companies Income Tax Act is amended by inserting a new Section 55(8)

- "(8) Any company which fails to comply with the provision of subsection (2) of this Section and claims the minimum tax relief under section 33(2) of this Act shall be liable to pay as penalty for late filing, an amount equivalent to the relief sought.

Committee's Recommendation:

That the provision in Clause 11 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 12: Time within which tax (including provisional tax) is to be paid

Section 77 of Companies Income Tax Act is amended by repealing and re-enacting the entire section as follows —

- "(1) Tax charged by any assessment which is not or has not been the subject of an objection or appeal by the company shall be payable (after the deduction of any amount to be set-off for the purposes of collection under any provision of this Act) at the place stated in the notice of assessment within 30 days after service of such notice upon the company:

Provided that the Service, in its discretion, may extend the time within which payment is to be made.

- (2) Subject to the provisions of subsection (3) of section 69 of this Act, collection of tax in any case where notice of an objection or appeal has been given by the company shall remain in abeyance until such objection or appeal is determined, save that the company shall have paid the tax which is not or has not been the subject of an objection or appeal as provided in sub-section (1) of this section.
- (3) Upon the determination of an objection or appeal, the Service shall serve upon the company a notice of the tax payable as so determined, and that tax shall be payable within one month of the date of service of such notice upon the company.
- (4) Every Company shall make payment of tax due on or before the due date of filing, in one lump sum or in instalments:
Provided that the final instalments must be paid on or before the due date of filing.
- (5) Where a company pays its tax 90 days before the due date as provided under Section 55 of this Act, such company shall be entitled to a bonus of —
- (a) 2% if such company is a medium-sized company; and
- (b) 1% for any other company;
- on the amount of tax paid, which shall be available as a credit against its future taxes.
- (6) Any balance of taxes unpaid as at the due date shall attract interest and penalties as provided in this Act or any other relevant law for failure to pay on the due date.

- (7) Notwithstanding anything to the contrary in any law, income tax payable under sections 52, 53 and 55 of this Act shall be paid to the Service in the currency in which the income giving rise to the tax was derived and paid to the company making the return."

Committee's Recommendation:

That the provision in Clause 12 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 13: Deduction of Tax from Interest, etc.

Section 78 of the Companies Income Tax Act is amended by—

- (a) Substituting for subsection 4, a new subsection 4 -

"(4) The tax, when paid over to the Service, shall be the final tax due from

(a) a non-resident recipient of the payment; and

(b) a unit trust recipient of the payment"

Committee's Recommendation:

That the provision in Clause 13 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 14: Deduction of Tax at Source

Section 81 of the Companies Income Tax Act is amended by repealing and re-enacting the entire section as follows —

1. Income tax assessable on any company, whether or not an assessment has been made, shall, if the Service so directs, be recoverable from any payments made by any person to such company.

2. Any such direction may apply to any person or class of persons specified in such direction, either with respect to all companies or a company or class of companies, liable to payment of income tax

Provided that in the case of road, bridges, building and power plant construction contract, the rate shall not exceed two and a half percent.

3. Any direction under subsection (1) of this section shall be in writing addressed to the person or be published in the Federal Gazette and shall specify the nature of payments and the rate at which tax is to be deducted.

4. In determining the rate of tax to be applied to any payments made to a company, the Service may take into account—

(a) any assessable profits of that company for the year arising from any other source chargeable to income tax under this Act; and

(b) any income tax or arrears of tax payable by that company for any of the six preceding years of assessment

5. Income tax recovered under the provisions of this section by deduction from payments made to a company shall be set off for the purpose of collection against tax charged on such company by an assessment
6. Every person required under any provisions of this Act to make any deduction from payments made to any company shall account to the Service in such manner as the Service may prescribe for the deduction so made
7. Any excess payment arising from compliance with sections 78, 79, 80 and 81 of this Act over the assessment under section 65 of this Act shall be refunded by the Service within ninety days of the assessment if duly filed with the option to set off against future taxes
8. The provisions of this section shall not apply to compensating payments made under a Registered Securities Lending Transaction
9. The Minister of Finance on the advice of the Service may make regulations for the carrying out of the provisions of this section."

Committee's Recommendation:

That the provision in Clause 14 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 15: Interpretation

Section 105 of the Companies Income Tax Act is amended by substituting for the definition of Real Estate Investment Company, a new definition —

"Real Estate Investment Company" means for the purpose of this Act, a Company (including a Real Estate Unit Trust) duly approved by the Securities and Exchange Commission as a Real Estate Investment Scheme in Nigeria."

— *Customs, Excise Tariffs, Etc. (Consolidation) Act ('CETECA')*

Committee's Recommendation:

That the provision in Clause 15 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 16: Section 21 of Customs, Excise Tariffs, Etc. (Consolidation) Act

Section 21 of the Customs, Excise Tariffs, Etc. (Consolidation) Act is amended by introducing a new subsection (3) after the existing subsection (2) as follows: -

"Excise duty on non-alcoholic, carbonated and sweetened beverages shall be charged at a specific rate of ₦10 per litre"

Committee's Recommendation:

That the provision in Clause 16 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 17: Goods and Services Liabile to Tax

Section 21 of the Customs, Excise Tariffs, Etc. (Consolidation) Act is amended by introducing a new subsection (3) after the existing subsection (2) as follows —

- (3) Refined petroleum products imported and marketed in Nigeria shall be charged with duties of excise at the rates specified under the duty column in the Schedule as the President may by Order prescribe pursuant to Section 13 of this Act."
- (1) The Minister shall liaise with all applicable agencies for adjusting the pricing template for refined petroleum products to permit effective recovery of the excise duty in subsection 3 above.

Committee's Recommendation:

Leave out the provision in Clause 17 (Senator Solomon O. Adeola — Lagos West) — Agreed to.

Federal Inland Revenue Service (Establishment) Act ('FIRSEA')**Clause 18: Administration of Tax Laws**

Section 25 of the Federal Inland Revenue Service (Establishment) Act is amended by —

- (a) Substituting for subsection (4), a new subsection
- "(4) The Service may deploy proprietary or third party technology to automate the tax administration process including tax assessment and information gathering provided it gives 30 days' notice to the taxpayer"
- (b) Inserting after subsection (4) a new subsection (5) and (6) :
- "(5) The Service may, upon written request from a taxpayer who has demonstrated good cause, withdraw or grant extension to the notice referred to in subsection (4).
- (6) Any person who fails to grant access to the Service after 30 days of receipt of the notice specified in subsection (4) or the extension granted under subsection (5), is liable to an administrative penalty of ₦25,000 for each day that it fails to grant access."
- (c) Renumbering the Sections appropriately

Committee's Recommendation:

That the provision in Clause 18 be retained (Senator Solomon O. Adeola — Lagos West) — Agreed to.

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

Clause 19: Information to be Delivered by Bankers

Section 28 of the Federal Inland Revenue Service (Establishment) Act is amended by—

- (a) Substituting for subsection (3), a new subsection (3) -

- "(3) Any bank that contravenes the provisions of this section is liable to a penalty of ₦1,000,000 for each of the returns or information not provided or incorrect returns or information provided."
- (b) Inserting after subsection (3), a new subsection (4) -
- "(4) For the purpose of subsection (3), the penalty shall be payable in respect of each quarterly return not filed by the bank."

Committee's Recommendation:

That the provision in Clause 19 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 20: Tax Investigations

Section 35(4) of the Federal Inland Revenue Service (Establishment) Act is amended by replacing the number "48" after the word "Section" with the number "47" as follows —

"Where any investigation under this section reveals the commission of any offence or an attempt to commit an offence, the service shall, pursuant to Section 47 of this Act, undertake the prosecution of the offences"

Committee's Recommendation:

That the provision in Clause 20 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 21: Official Secrecy and Confidentiality

Section 50 of the Federal Inland Revenue Service (Establishment) Act is amended by substituting for Subsection (1), a new Subsection (1) -

- "(1) Every person in an official duty or being employed for the administration of this Act or otherwise, that has access to taxpayer information shall regard and deal with such information as secret and confidential"

Committee's Recommendation:

That the provision in Clause 21 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 22: Precedence over other Laws in relation to Administration, Assessment, Collection and Accounting for Taxes and other Revenue due to the Federation

Section 68 of the Federal Inland Revenue Service (Establishment) Act is amended by replacing the section with a new section 68 as follows -

- "(1) This Act and the laws listed in the First Schedule to this Act shall take precedence over any other laws with regards to the administration, assessment, collection, accounting and enforcement of taxes and levies due to the Federal Government or Federation in Nigeria, except in cases such tax or levy is a subject to litigation in a court of competent

jurisdiction, and if the provisions of any other law, including the enactments in the First Schedule are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other law shall, to the extent of the inconsistency, be void

- (2) Subject to subsection (1) and notwithstanding any other law imposing taxes or levies in Nigeria, the Service shall be the primary agency of the Federal Government of Nigeria responsible for the administration, assessment, collection, accounting and enforcement of taxes and levies due to the Federation and the Federal Government or any of its agencies, except as may be authorised by the Minister responsible for Finance by regulation as approved by the National Assembly.
- (3) Subject to subsection (1), it shall be an offence for any person to carry out or authorise another to carry out the function of administering, assessment, collection, accounting or enforcement of taxes and levies due to the Federation and the Federal Government of Nigeria, except as may be provided under this Act or any of the laws listed in the First Schedule to this Act or as authorised by the Minister responsible for Finance by regulation as approved by the National Assembly.
- (4) For the purposes of enforcing compliance with the provisions of the relevant tax laws and preventing tax revenue loss, the Service may collaborate with relevant Ministries, Departments, Agencies or institutions of the Federal Government.
- (5) Any person or agency of the Federal Government that becomes aware of any incidence requiring tax investigation, enforcement or compliance, in the course of the performance of its functions, shall refer same to the Service for necessary action and the Service may in accordance with the provisions of this Act collaborate with such person or agency in carrying out required investigation, enforcement or compliance measures
- (6) Any person who commits an offence under this section or contravenes any of the provisions of the section is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of [ten million naira] [₦10,000,000] or to both such imprisonment and fine"

Committee's Recommendation:

That the provision in Clause 22 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Personal Income Tax Act ('PITA')

Clause 23: Personal Relief and Relief for Children, Dependants

Section 33 of the Personal Income Tax Act is amended by substituting for subsection (3), a new subsection (3) as follows —

- "(3) Subject to Section 17 of this Act, there shall be allowed a deduction of the annual amount of any premium paid by the individual during the year preceding the year of assessment to an insurance company in respect of insurance on his life or the life of his spouse."

Committee's Recommendation:

That the provision in Clause 23 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 24: Power to Call for Returns, Books, Documents and Information

Section 47 of the Personal Income Tax (PIT) Act is amended by —

(a) substituting for subsection (2), a new subsection (2)

"(2) For the purpose of paragraphs (a) to (d) of subsection (1) of this section, the time limited by a notice shall not be less than seven days from the date of service of the notice, so however that an officer of the relevant tax authority not below the rank of a Senior Manager or Grade Level 14 equivalent may act in any of the cases stipulated in subsection (1) (c) or (d) of this section, without giving any of the required notices set out in this section."

(b) substituting for subsection (3), a new subsection (3) -

"(3) Any bank that contravenes the provisions of this section is liable to a penalty of ₦1,000,000 for each of the returns or information not provided or incorrect returns or information provided"

(c) Inserting after subsection (3), a new subsection (4)

"(4) For the purpose of subsection (3), the penalty shall be payable in respect of each quarterly return not filed by the bank."

(d) Renumbering the Section appropriately

Committee's Recommendation:

That the provision in Clause 24 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 25: Information to be Delivered by Bankers

Section 49 of the Personal Income Tax Act is amended as follows —

(a) Substituting the words "a return at the end of each month" in subsection (2), with the words "quarterly returns"

(b) Substituting for subsection (4), a new subsection (4)

"(4) Any bank that contravenes the provisions of this section is liable to a penalty of ₦1,000,000 for each of the returns not provided or incorrect returns provided."

(c) Inserting after subsection (4), a new subsection (5)

"(5) For the purpose of subsection (4), the penalty shall be payable in respect of each quarterly return not filed by the bank."

(d) Renumbering the section appropriately

Committee's Recommendation:

That the provision in Clause 25 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 26: Offences and Penalties

Section 94 of the Personal Income Tax Act is amended by substituting for subsection (1), a new subsection (1) as follows -

- "(1) A person guilty of an offence under this Act, or a person who contravenes or fails to comply with any of the provisions of this Act or any rule or regulation made thereunder for which no other penalty is specifically provided, shall be liable on conviction to a fine of ₦1. A person guilty of an offence under this Act, or a person who contravenes or fails to comply with any of the provisions of this Act or any rule or regulation made thereunder for which no other penalty is specific default of payment, to imprisonment for six months, and the liability to such further sum shall commence from the day following the conviction, or from such other day thereafter as the Court may order"

Committee's Recommendation:

That the provision in Clause 26 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Stamp Duties Act**Clause 27: Electronic Money Transfer Levy**

Section 89A of the Stamp Duties Act is amended by substituting for subsection (3), a new subsection 3 -

- "(3) The Minister of Finance shall, subject to the approval of the National Assembly, make regulations for the imposition, administration, collection and remittance of the Levy, including regulations relating to the auditing, accounting, allocation and distribution of arrears of the relevant stamp duties and Electronic Money Transfer Levies collected between 2015 and 2019 fiscal years, within 30 days of the date when this Act became effective.

Provided that Electronic Money Transfer Levies subsequently collected shall be distributed within 30 days following the month of collection."

Committee's Recommendation:

That the provision in Clause 27 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Tertiary Education Trust Fund (Establishment, Etc.) Act (TETFEA)

Clause 28: Imposition of tertiary education tax

Section 1(2) of the Tertiary Education Trust Fund (Establishment, Etc.) Act is amended by inserting a new subsection (2).

- (2) the tax, at the rate of 2.5 percent, shall be charged on the assessable profit of a company registered in Nigeria, other than a small company as defined under the Companies Income Act"

Committee's Recommendation:

That the provision in Clause 28 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 29: Assessment and Collection of Tax

Section 2(2) of the Tertiary Education Trust Fund (Establishment, Etc.) Act is amended by replacing the words "60 days" with "30 days"

Committee's Recommendation:

That the provision in Clause 29 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Value Added Tax Act ('VATA')**Clause 30: Registration by Non-Resident Companies.**

Section 10 of the Value Added Tax Act is amended by substituting for section 10, a new section 10 -

- "(1) For the purposes of this Act, a non-resident person that makes a taxable supply to Nigeria, shall register for tax with the Service and obtain a Tax Identification Number.
- (2) A non-resident person shall include the tax on its invoice for all taxable supplies.
- (3) The taxable person to whom a taxable supply is made in Nigeria, or such other person as may be appointed by the Service shall withhold or collect the tax, as the case may be, and remit same to the Service.
- (4) Where a person appointed pursuant to subsection (3) of this section has made a taxable supply to a taxable person in Nigeria, the taxable person shall not have the obligation to withhold the tax, except where the person so appointed has failed to collect the tax.
- (5) A non-resident person that makes a taxable supply to Nigeria may appoint a representative for the purpose of compliance with its tax obligations.
- (6) The Service may issue a guideline for the purpose of giving effect to the provisions of this section, including the form, time and procedure for filing returns and payment by non-resident suppliers appointed by the Service pursuant to subsection (3) of this Section."

Committee's Recommendation:

That the provision in Clause 30 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 31: Collection of Tax by Taxable Person

Section 14 of the Value Added Tax Act is amended by substituting for subsection (3), a new subsection (3) as follows —

- "(3) The Service may appoint any person to withhold or collect the tax, and the person so appointed shall, on or before the 21st day of the following month, remit the tax so withheld or collected to the Service in the currency of the transaction."

Committee's Recommendation:

That the provision in Clause 31 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 32: Taxable Person to Render Returns

Section 15 of the Value Added Tax Act is amended by —

- (a) Replacing the word "13" with "13A" in the proviso to section 15(2)
- (b) Inserting after subsection (2), a new subsection (3) -
- "(3) The exemption provided for in subsection (2) of this section, shall not apply to companies engaged in upstream petroleum operations as described in the Petroleum Industry Act and Petroleum Profits Tax Act"

Committee's Recommendation:

That the provision in Clause 32 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

PART II — INSURANCE ACT**Clause 33: Requirements as to Minimum Paid-Up Share Capital**

Section 9 of the Insurance Act is hereby amended by substituting the term "paid-up share capital" with the term "Capital requirement" wherever it appears.

Committee's Recommendation:

That the provision in Clause 33 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 34: Share Capital to be Deposited with the Central Bank

Section 10 (3) of the Insurance Act is hereby amended by substituting the term "paid-up share capital" with the term "Capital Requirement," wherever it appears.

Committee's Recommendation:

That the provision in Clause 34 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Clause 35: Interpretation

Section 102 of the Insurance Act is amended by inserting after the definition of "Board" a definition for Capital Requirement -

"Capital Requirement" as specified in this Act shall —

- (a) in case of existing company consist of -
 - (i) the excess of admissible assets over liabilities, less the amount of own shares held by the company; and
 - (ii) subordinated liabilities subject to approval by the Commission; and
 - (iii) any other financial instrument as prescribed by the Commission from time to time.

For the purpose of this section, Admissible Assets are defined as Share Capital, Share Premium, Retained Earnings, Contingency Reserves, and any other admissible assets will be subject to the approval of the Commission.

- (b) in the case of a new company consist of —
 - (i) Government Bonds and Treasury Bills;
 - (ii) Cash and Bank balances; and
 - (iii) Cash and cash equivalent.

Committee's Recommendation:

That the provision in Clause 35 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Nigerian Police Trust Fund (Establishment) Act ('NPTFEA')**Clause 36: Sources of the Trust Fund**

Section 4 of the Nigerian Police Trust Fund (Establishment) Act is amended by Inserting after subsection (2), a new subsection 3 as follows:

- "(3) The Federal Inland Revenue Service shall assess, collect, account and enforce the payment of the levy imposed by subsection (1)(b) and the provisions of the Companies Income Tax Act Cap. C21 LFN 2004 (as amended) and the Federal Inland Revenue Service (Establishment) Act 2007 shall apply to the administration, assessment, collection, accounting, returns and enforcement of the levy".

Committee's Recommendation:

That the provision in Clause 36 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

National Agency for Science and Engineering Infrastructure Act ('NASENI Act')

Clause 37: Fund of the Agency

Section 20(2) of the National Agency for Science and Engineering Infrastructure Act is amended as follows:

- (1) substituting for subsection 2(a) &(b), a new subsection 2(a)&(b) —
 - (a) 1 per cent of the Federation Account in the first instance."
 - (b) levy on profit before tax of commercial companies and firms with turn-over of ₦100 million and above in the first instance covering the Banking, Mobile Telecommunication, ICT, Aviation, Maritime, Oil and Gas Sectors etc.

Which shall be —

- i. At the rate of ¼ percent in the first instance;
- ii. Collected by the Federal Inland Revenue Service (FIRS).
- iii. Credited to the account of the Agency;

Committee's Recommendation:

That the provision in Clause 37 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Finance (Control and Management) Act

Clause 38: Legislative Control and Management of the Public Finance

Section 3 of the Finance (Control and Management) Act is amended -

- (a) by numbering the existing paragraph as subsection (1)
- (b) by including a new subsection (2) and (3) as follows-

"(2) In the discharge of their powers to collect taxes, levies, fees and all other revenue accruable to the Federation, all Ministries, Departments, Agencies and other institutions of the Federal Government shall comply with Sections 59, 80 and 81 of the Constitution of the Federal Republic of Nigeria to the effect that all revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under the Constitution of the Federal Republic of Nigeria as a Statutory Transfer or other such payment that is not required by any law to be payable into any fund before being first paid into the into the Consolidated Revenue Fund, and then subsequently transferred into that other fund or account) shall be paid into and form one Consolidated Revenue Fund of the Federation.

- (3) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation or any other public fund except to meet expenditure that is charged upon the Consolidated Revenue Fund or other public

fund by the Constitution of the Federal Republic of Nigeria or where the issue of those moneys has been authorized by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 81 of the Constitution of the Federal Republic of Nigeria or authorised by any other Act of the National Assembly"

Committee's Recommendation:

That the provision in Clause 38 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Clause 39: Minister's instructions to be complied with and powers to inspect etc.

Section 4 of the Finance (Control and Management) Act is amended by—

(a) substituting for the existing subsection (1), a new subsection (1)

"(1) Every Ministry, Department, Agency, official or other persons concerned in or responsible for the collection, receipt, custody, issue or payment of public moneys, stores, stamps, investments, securities, or negotiable instruments, whether the property of Government or on deposit with or entrusted to Government or any public officer in his official capacity either alone or jointly with any public officer or any other person, shall comply with all rules, regulations, guidelines and other instructions that may, from time to time, be issued by or under the direction of the Minister responsible for Finance in respect to the custody and handling of the same and accounting therefore"

(b) inserting new subsections (2) and (3) as follows -

"(2) All taxes, levies, revenues or other moneys raised or received by the Federation, the Federal Government of Nigeria or any agency of the Federal Government of Nigeria shall be paid in gross into the Federation Account, the Consolidated Revenue Fund or relevant Special Purpose Account as provided by the Constitution of the Federal Republic of Nigeria or the enabling Act of the National Assembly as the case may be;

(3) Any person, who being an officer of any Federal Ministry, Department or Agency or institution of Government to which this Section refers to, who fails to pay or authorise the payment of any part of any taxes, levies and other revenues collected on behalf of the Federation, Federal Government of Nigeria or any Ministry, Department, Agency or institution of the Federal Government of Nigeria to any person before the balance is paid into the Federation Account or the Consolidated Revenue Fund, as the case may be, except as authorised by the National Assembly or Minister responsible for Finance, commits an offence and is liable on conviction to imprisonment for a term not exceeding 5 years or to a fine of [five million naira] [N5,000,000] or to both such imprisonment and fine"

(c) renumbering the sections accordingly

Committee's Recommendation:

That the provision in Clause 39 be retained (*Senator Solomon O. Adeola — Lagos West*) — Agreed to.

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

Fiscal Responsibility Act

Clause 40: Framework for Debt Management.

Section 41 of the Fiscal Responsibility Act is amended by substituting for subsection 1, a new subsection 1—

"(1) The framework for debt management during the financial year shall be based on the following rules —

- (a) Government at all tiers shall only borrow for capital expenditure, human development and to undertake critical reforms of significant national impact, provided that, such borrowing shall be on concessional terms or at relatively low interest rates and with a reasonably long amortization period subject to the approval of the appropriate legislative body where necessary; and
- (b) Government shall ensure that the level of public debt as a proportion of national income is held at a sustainable level as prescribed by the National Assembly from time to time on the advice of the Minister"

Committee's Recommendation:

That the provision in Clause 40 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

PART III — GENERAL

Clause 41: Citation and Commencement Date

- (1) This Bill may be cited as the Finance Bill, 2021
- (2) The provisions of this Finance Bill, 2021 shall take effect from [Day] [Month] [Year] or such other date that shall be indicated by the National Assembly by law [or by the President of the Federal Republic of Nigeria by assent or order].

That the provision in Clause 41 be retained (*Senator Solomon O. Adeola — Lagos West*) —
Agreed to.

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

Chairman to report Bill.

(SENATE IN PLENARY)

The President of the Senate reported that the Senate in the Committee of the Whole considered the Report of the Joint Committee on Finance; Customs, Excise and Tariff; and Trade and Investment on a Bill for an Act to Amend Relevant Tax, Excise and Duty Statutes in Line with Macroeconomic Policy Reforms of the Federal Government; to Amend and Make Further Provisions in Specific Laws in Connection with the Public Financial Management of the Federation and for Other Matters Connected Therewith, 2021 and approved as follows:

Question that the Senate do approve the Report of the Committee of 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.

Extension of Time:

Motion made: That the Senate do sit this day beyond the time appointed for the termination of the Sitting of the Senate (Order 13) (*Senate Leader*).

Question put and agreed to.

10. Privileges:

Rising on Orders 14 and 15, Senator George T. Sekibo (*River East*) drew the attention of the Senate to the letter of Mr. President, Commander in Chief of the Armed Forces of the Federation withholding his Assent to Electoral Act (Repeal and Re-Enactment) Bill, 2021. He sought and obtained the leave of the Senate to resolve into a Closed Session to discuss the matter.

Closed Session:

Closed Session — 1:57 p.m.

Open Session — 2:45 p.m.

The President of the Senate reported that the Senate in a Closed Session deliberated on issues bordering on the workings of the Senate in particular and the National Assembly in general.

11. Committee on Appropriations:

Report on the 2022 Appropriation Bill, 2021(SB. 829):

Presentation and consideration of the Report deferred to another Legislative Day.

12. Adjournment:

And it being 2:50 p.m. the President of the Senate adjourned the Senate till Wednesday, 22nd December, 2021 at 10:00 a.m.

Senate adjourned accordingly at 2:50 p.m.

Ahmad Ibrahim Lawan, Ph.D, CON
President,
Senate of the Federal Republic of Nigeria.

