

*Extraordinary*



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A 574

2022 No. 16

*Proceeds of Crime*  
*(Recovery and Management) Act, 2022*

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**PROCEEDS OF CRIME  
(RECOVERY AND MANAGEMENT) ACT, 2022**



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2022 No. 16

*Proceeds of Crime*  
*(Recovery and Management) Act, 2022*

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**PROCEEDS OF CRIME  
(RECOVERY AND MANAGEMENT) ACT, 2022**

**ACT No. 16**

AN ACT TO MAKE COMPREHENSIVE PROVISIONS FOR SEIZURE, CONFISCATION, FORFEITURE,  
AND MANAGEMENT OF PROPERTIES REASONABLY SUSPECTED TO HAVE BEEN DERIVED  
FROM UNLAWFUL ACTIVITIES ; AND FOR RELATED MATTERS.

[12th Day of May, 2022]

Commence-  
ment.

ENACTED by the National Assembly of the Federal Republic of Nigeria—

PART I—OBJECTIVES AND APPLICATION OF THIS ACT

**1.**—(1) The objectives of this Act are to—

Objectives.

(a) provide for an effective legal and institutional framework for the recovery and management of the proceeds of crime, benefits derived therein, instrumentality of unlawful activities, and unclaimed properties reasonably suspected to be proceeds of crime ;

(b) make provisions for the restraint, seizure, confiscation and forfeiture of property derived from unlawful activities and any instrumentalities used or intended to be used in the commission of such unlawful activities ;

(c) make provisions for non-conviction based procedure for the recovery of proceeds of crime ;

(d) strengthen the criminal confiscation procedure by ensuring that the total benefit from a person's criminal activity is calculated and an equivalent amount, where recoverable, is confiscated on behalf of the Federal Government ;

(e) ensure that the relevant organisations establish the Proceeds of Crime (Management) Directorate to carry out the functions conferred on it under this Act ;

(f) strengthen collaboration among the relevant organisations in tracing and forfeiting properties reasonably suspected to be proceeds of unlawful activity through non-conviction based forfeiture proceedings ; and

(g) make provisions for the handover, management and disposal of properties forfeited to the Federal Republic of Nigeria.

**2.** The provisions of this Act apply to—

Application.

(a) detection, identification, investigation, and recovery of realisable assets and the proceeds and instrumentalities of unlawful activity by relevant organisations ;

(b) orders and directives by the Court to support the detection, recovery and preservation of the proceeds and instrumentalities of unlawful activity and realisable properties by relevant organisations ;

(c) confiscation orders to recover a sum equivalent to the amount a convicted person has acquired from the offences charged and related offences, including accrued benefits ;

(d) management of the recovered assets and property by the relevant organisation under this Act ; and

(e) training and certification of asset recovery officers, asset recovery agents, auctioneers, bankers, consultants and judicial officers.

PART II—PROCEEDS OF CRIME MANAGEMENT DIRECTORATE

Establishment and functions of the Proceeds of Crime Management Directorate in the relevant organisation.

**3.** The relevant organisation shall—

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

(b) establish Proceeds of Crime (Management) Directorate which shall—

(i) take over and assume responsibility for the proper and effective management of properties forfeited to the Federal Government of Nigeria,

(ii) set standards to be applied in the handling of properties forfeited to the Federal Government of Nigeria,

(iii) ensure accountability in the management of all properties forfeited to the Federal Government of Nigeria,

(iv) ensure the effective administration of properties forfeited to the Federal Government of Nigeria,

(v) recommend training on the management of the proceeds of crime and related matters, and

(vi) appoint private asset managers and ensure that the assets managers are properly bonded and insured ;

(c) establish and maintain—

(i) assets management and disposal systems, and

(ii) lists of approved auctioneers and valuers, and issue instructions for the realisation or security of assets whilst ensuring fair process ;

(d) establish and maintain a central database of —

(i) all seized and recovered assets by the relevant organisation, and

(ii) asset managers, auctioneers, insurers, and other necessary support services ;

(e) work with the Federal Ministry of Justice to negotiate the return and management of all assets seized from foreign countries on behalf of the Federal or State Governments, or any other victim or for the benefit of Nigerians ;

(f) maintain statistics as to amounts recovered and managed ;



(g) collaborate with other government bodies outside Nigeria that are carrying on functions, wholly or in part similar to it ;

(h) maintain an accurate inventory of all assets, with records of their location, value, condition, and description of their status in relation to any proceedings before the Court ;

(i) recommend reparations to victims of crime, where proceeds have been recovered ; and

(j) carry out such other necessary or expedient functions as may be assigned to it by the head of the relevant organisation to ensure the efficient performance of its functions under this Act.

4. The relevant organisation may subject to the provisions of this Act, execute such contracts or other arrangements, as it considers necessary and, in particular—

Powers of the relevant organisation.

(a) engage contractors, asset managers, auctioneers, accountants, consultants, brokerage companies, investment advisers, financial investigators and other experts for the effective performance of its functions under this Act ;

(b) dispose assets subject to forfeiture order of a Court that—

(i) are perishable or susceptible to deterioration, or

(ii) may be excessively burdensome or expensive to maintain or administer, leading to a reduction of the recoverable amount ;

(c) do anything it considers appropriate for facilitating, or which is incidental to the performance of its functions.

5.—(1) Subject to the provisions of this Act, the Directorate shall—

(a) be informed of any property seized in the course of investigation, within 14 days or soon thereafter for the purpose of documentation ;

(b) take possession of property subject to forfeiture order from any person or entity in possession or entitled to possession of the property, and may appoint a receiver for that purpose ; and

(c) subject to the specific orders of the Court, transfer for its effective management any forfeited property within 30 days.

Role of the Directorate in the process of management of forfeited properties.

(2) Properties forfeited shall be vested in the relevant organisation for and on behalf of the Federal Government of Nigeria.

PART III—RELATIONSHIP BETWEEN THE RELEVANT ORGANISATION  
AND OTHER ENTITIES

Co-operation  
between  
relevant  
organisation  
and other  
entities.

**6.—(1)** In the performance of their functions and exercise of their powers under this Act, the relevant organisation shall cooperate with other relevant entities.

(2) In this section, “other relevant entities” includes any other institution or authority not listed as relevant organisation.

PART IV—NON-CONVICTION BASED RECOVERY OF THE PROCEEDS OF CRIME

Application  
of this Part.

**7.** This Part applies to the recovery and forfeiture of proceeds of crime, instrumentality of unlawful activity, abandoned properties or unclaimed properties reasonably suspected to be proceeds of unlawful activity, without conviction.

Nature of  
proceedings  
under this  
Part.

**8.—(1)** Subject to the provisions of this Act—

(a) proceedings under this Part shall be civil proceedings ; and

(b) the standard of proof required in proceedings under this Part shall be on a balance of probabilities.

(2) The rules or practice relating to hearsay evidence, given in furtherance of the proceeding is admissible.

Preservation  
order.

**9.—(1)** A preservation order shall be granted by the Court to preserve property reasonably suspected to have been derived from unlawful activities and represents instrumentality of unlawful activity or unclaimed property.

(2) The relevant organisation may, by an ex parte application, apply to the Court for a preservation order restraining a person from dealing in any manner with any property, subject to such conditions and exceptions as may be specified in the order.

(3) The Court shall make an order under subsection (2), where there are reasonable grounds to believe that the property concerned—

(a) represents the proceeds of unlawful activity, whether they are—

(i) in the hands of the person who unlawfully acquired the property in the first instance, or

(ii) traced to any person to whom the property that represents the proceeds have been passed ;

(b) is involved in the facilitation of unlawful activity ; or

(c) is intended to be used to facilitate unlawful activity.

(4) Where further property has been acquired as a result or profits accruing from the proceeds of unlawful activity, that further property shall be treated as the proceeds of unlawful activity.

(5) Where property referred to in subsection (3) is comingled with other property, this section applies to the portion of the property, resulting from unlawful activity.

(6) The Court may make an ancillary order if —

(a) a person disposes of any property mentioned in subsection (3) ; and

(b) the person, who obtains the property disposed of, does so in good faith, for value and without notice that it was property mentioned in subsection (3).

(7) A Court making a preservation order may at the same time make any other ancillary orders that it considers appropriate for the proper, fair and effective execution of the preservation order.

(8) Upon the grant of a preservation order by the Court, the Directorate of the relevant organisation shall take possession of the property from any person in possession or entitled to possession of the property and may appoint a receiver in order to do so.

**10.—**(1) The Court in making a preservation order, may direct the relevant organisation to within 14 days after the making of the order notify any interested party of the preservation order by publishing same in any widely circulating national newspaper.

Notice of  
preservation  
order.

(2) A person, who has an interest in any property that is subject to a preservation order may give notice of his intention to—

(a) oppose the making of the preservation order ; or

(b) apply for an order excluding his interest in the property concerned from the operation of the preservation order.

(3) A notice under subsection (2) shall be filed and served on the relevant organisation within 14 days of the publication of preservation order.

(4) A notice given under subsection (2) shall contain full particulars of the address for the service of documents concerning further proceedings under this Part, and shall be accompanied by an affidavit stating the—

(a) full particulars of the identity of a person entering appearance ;

(b) nature and extent of his interest in the property concerned ; and

(c) reasons which the person intends to rely on in opposing the preservation order or applying for the exclusion of his interest from the operation of the preservation order.

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| Duration of a Preservation Order.  | <p><b>11.</b> A preservation order shall, subject to section 24 of this Act, expire 60 days after the date on which it was made, unless—</p> <p>(a) there is an application for a forfeiture order pending before the Court in respect of the property subject to the preservation order ;</p> <p>(b) there is an unsatisfied forfeiture order in force, in relation to the property subject to the preservation order ; or</p> <p>(c) the preservation order is rescinded before the expiration of that period.</p>   |
| Renewal of preservation order.   | <p><b>12.—</b>(1) The relevant organisation may apply to the Court that granted a preservation order under this Act for a renewal of the order, where—</p> <p>(a) the preservation order has not been set aside ; and</p> <p>(b) there are reasonable grounds to grant the renewal.</p> <p>(2) The cumulative period of renewals shall not exceed 180 days.</p>  |
| Disposal of property subject to preservation order.                        | <p><b>13.—</b>(1) Where there are reasonable grounds to believe that a property, which is subject to a preservation order, may have its value diminished, or be disposed of, destroyed, or damaged, removed contrary to the order or may deteriorate in terms of quality or utility, the relevant organisation shall promptly apply to the Court <i>ex-parte</i> for an order to sell the property at the prevailing market value.</p> <p>(2) The proceeds from the sale of any property under subsection (1) shall be invested in the Central Bank of Nigeria treasury bills, pending the determination of the proceedings.</p> <p>(3) Where a preservation order is set aside or the sales revoked by order of Court, the relevant organisation shall, after exercising its right of appeal, pay to the owner of the property the proceeds of sales together with accrued interest where applicable.</p> |
| Appointment of asset manager for property subject to a preservation order. | <p><b>14.—</b>(1) Where the Court has made a preservation order, it may direct the relevant organisation to—</p> <p>(a) appoint an asset manager to—</p> <p>(i) assume control of the property,</p> <p>(ii) administer the property and do any act necessary for that purpose,</p> <p>(iii) carry on the business or undertaking, where the property is an on-going business or undertaking, with due regard to any applicable law,</p> <p>(iv) sell or otherwise dispose of the property, in the case of property that is perishable, or liable to deterioration, decay or injury by being detained in custody, and</p>   |

(v) sell or otherwise dispose of the property where it is not economically viable to maintain ;

(b) order a person holding any property subject to a preservation order to surrender the property into the custody of the asset manager, immediately or within such period as the Court may determine ; and

(c) serve the preservation order on the relevant organisation for the purpose of documentation and accurate data management.

(2) Where any property subject to a preservation order is not surrendered within the period that has been determined under subsection (1) (b), an authorised officer of the relevant organisation may enter by force, if necessary, any premises, where he reasonably believes the property is situate, in order to search for and seize the property.

(3) Appointed asset managers may be accompanied by authorised officers of the relevant organisation or law enforcement officers as are reasonably required in order to effect entry into premises.

**15.—**(1) The Court making a preservation order may direct the appropriate land registration authority to place a restriction on the land register, in respect of the immovable property.

(2) An order of restriction made under subsection (1) may specify that the immovable property shall not, without the consent of the Court —

(a) be mortgaged or otherwise encumbered ;

(b) be attached or sold in execution ;

(c) vest in the official receiver concerned, when the estate of the owner of that immovable property is sequestrated ; and

(d) form part of the assets of any company or body corporate, where the owner of the immovable property is a company or other body corporate, which is being wound up.

(3) Subject to subsection (1), the registration authority shall—

(a) enter the restriction in its register and endorse the office copy of the title deed to that effect ; and

(b) endorse on the original of the title deed, when it is produced.

(4) The restriction referred to in subsection (3) (a) shall—

(a) be effective against any person, in whose favour a mortgage or other charge was registered, prior to the endorsement of the restriction on the title deed of the immovable property ; and

(b) lapse on the lawful transfer of ownership of the immovable property concerned.

Orders in respect of immovable property subject to a preservation order.

(5) A person affected by an order specified in subsection (1) may, at any time, upon showing good cause, apply for the rescission of the order.

Variation  
and  
rescission  
of order.

**16.** The Court that makes a preservation order—

(a) may, on application by the person affected by the order, vary the preservation order, authorise the seizure of the property concerned, or any other ancillary order, as it may deem appropriate ; or

(b) may rescind the preservation order when the proceedings against the defendant concerned are concluded in the person's favour.

Application  
for forfeiture  
order.

**17.—**(1) Where a preservation order is in force and before the expiration of the stipulated time, the relevant organisation may apply to the Court by way of motion of notice for a forfeiture order against all or any part of the property that is subject to the preservation order.

(2) The relevant organisation shall give 14 days notice of an application under subsection (1) to every person who pursuant to the notice given under section 10 (1) of this Act had shown interest in the property sought to be forfeited.

(3) A person who pursuant to the notice given under section 10 (1) of this Act may, subject to compliance with section 10(2) and (3), appear at the hearing of the application under subsection (1) to —

(a) oppose the making of the order ; or

(b) apply for an order—

(i) excluding his interest in the property from the operation of the order, or

(ii) varying the operation of the order in respect of the property, and may adduce evidence at the hearing of the application.

(4) Where the Court grants the forfeiture order, the property referred to in subsection (1) shall be forfeited to the Federal Government of Nigeria.

Service of  
notice out  
of time.

**18.—**(1) Where a person for any reason, failed to serve notice under section 10 (2) of this Act, he may apply to the Court for leave to serve the notice out of time.

(2) An application under subsection (1) may be made before the application for a final forfeiture is heard by the Court.

(3) The Court may grant leave to an applicant referred to in subsection (1), to serve notice under section 10 (2) of this Act within the period which the Court deems appropriate, where the Court is satisfied on good cause shown that the applicant has—

- (a) sufficient reason for failing to serve notice under section 10 (2) ; and
- (b) an interest in the property that is subject to the preservation order.

(4) A notice served after leave has been obtained under this section shall—

(a) contain full particulars of the address of the person who served the notice for the delivery of documents concerning further proceedings under this Part ; and

(b) be accompanied by the affidavit referred to in section 10 (3) of this Act.

(5) Where the Court has granted leave for notice under section 10 (2) of this Act to be served out of time under this section, it may direct the applicant to pay any or all of the costs that have arisen or may arise as a result of the notice being served out of time.

**19.—**(1) Subject to section 22 of this Act, the Court shall make a forfeiture order under this Act where it finds on a balance of probabilities that the property concerned is reasonably suspected to—

Making of  
a forfeiture  
order.

- (a) be proceeds of unlawful activity ;
- (b) represent whether directly or indirectly the proceeds of unlawful activity ;
- (c) be involved in the facilitation of unlawful activity ; or
- (d) be intentionally used for unlawful activity.

(2) The Court may—

- (a) where it makes a forfeiture order, or
- (b) at any time after making the order, make any ancillary order that it considers appropriate, including orders for and with respect to facilitating the transfer of property forfeited to the relevant organisation, on behalf of the Federal Government of Nigeria.

(3) The absence of a person whose interest in property may be affected by a forfeiture order shall not prevent the Court from making the order.

(4) The validity of an order under subsection (1) shall not be affected by the outcome of criminal proceedings or of an investigation with a view to instituting those proceedings, in respect of an offence with which the property concerned may be associated.

Effect of appeals on preservation or other ancillary orders.

**20.** A preservation order and any order authorising the seizure of the property concerned or other ancillary order that is in force at the time of any decision regarding the making of a forfeiture order under this Act shall remain in force pending the outcome of any appeal against the decision concerned.

Effect of forfeiture order.

**21.—(1)** With effect from the date when the Court makes a forfeiture order, the property subject to the order is forfeited to Federal Government of Nigeria.

(2) On a forfeiture order taking effect, the relevant organisation shall promptly handover to the Directorate, the forfeited property.

Fulfillment of forfeiture order

**22.—(1)** The Directorate of the relevant organisation shall, in accordance with the directions of the Court—

(a) deposit any money forfeited under this Act into the Confiscated and Forfeited Properties Account established under section 68 of this Act ; or

(b) dispose of the property forfeited by sale or any other means and deposit the proceeds of the sale or disposition into the said account.

(2) Subject to the provisions of this Act, any right or interest in forfeited property not exercisable by or transferable to the relevant organisation, shall expire and shall not revert to the person, who had possession, or was entitled to possession of the property immediately before the forfeiture order took effect.

(3) A person referred to in subsection (2) or any other person, who acts with or on behalf of the person—

(a) commits an offence, if he purchases or attempts to purchase the forfeited property ; and

(b) is liable on conviction to a fine of at least twice the value of the property sold.

(4) The expenses incurred in connection with the forfeiture and the sale, including expenses of seizure, maintenance and custody of the property pending its disposition, advertisement, and the Court costs shall be defrayed out of the designated account.

Unlawful activities or conduct forming the basis of multiple orders.

**23.** The fact that a preservation order or a forfeiture order has been made on the basis of unlawful activity or conduct in which a specific person has been involved shall not prevent the making of another or other preservation orders or forfeiture orders on the basis of the same unlawful activity or conduct.



**24.—**(1) A notice authorised or required to be given to a person under this Part shall, in the case of a deceased person, be sufficiently given to the administrator or executor of the deceased person’s estate, or to a person acting in that capacity.

Application of this Part to deceased estates.

(2) A reference in this section to the property of a person shall, in the case of a deceased person, be a reference to property that the deceased person held immediately before his death.

(3) An order may be applied for and made under this section—

(a) in respect of property, which forms part of a deceased person’s estate ; and

(b) on evidence adduced concerning the activities of a deceased person.

**25.—**(1) Where a person has an interest in property, as a joint owner, his death after a preservation order is made in respect of the interest does not, while the order is in force, operate to vest the interest in the surviving joint owner or owners, and the preservation order shall continue to apply to the interest, as if the person had not died.

Effect of death of joint owner of property under a preservation order.

(2) A forfeiture order made in respect of the interest referred to in subsection (1) shall apply, as if the order took effect in relation to the interest immediately before the person died.

(3) Subsection (1) does not apply to the interest in property where a preservation order ceases to apply to that interest without a forfeiture order being made in respect of that interest.

PART V—RECOVERY OF CASH

**26.—**(1) A designated officer may seize and detain any cash in the process of being moved within or outside Nigeria, where he has reasonable grounds to suspect that it—

Seizure and detention of cash.

(a) directly or indirectly represents proceeds of unlawful activity or is intended to be an instrumentality of an offence ; or

(b) is above the prescribed amount under the law and has not be declared to the appropriate authorities.

(2) In this Part—

(a) “cash” includes—

(i) notes and coins in any currency,

(ii) cheques of any kind, including travelers’ cheques,

(iii) bankers’ draft,

(iv) bearer bonds and bearer shares, and

(v) jewelries and gold, and

(b) “designated officer” means an officer of Nigeria Customs Service, National Drug Law Enforcement Agency, Economic and Financial Crimes Commission, Nigeria Police Force, Nigeria Immigration Service and officers of other relevant organisations.

Act No.  
11,2011.  
Cap. C45,  
LFN, 2004.  
Cap. F34,  
LFN, 2004.

(3) The “prescribed amount” in this Part, means the equivalent amount in United States Dollar specified in the Money Laundering (Prohibition) Act, the Customs and Excise Management Act, Foreign Exchange (Monitoring and Miscellaneous) Provisions Act or in an order or regulations issued by the Attorney-General, in consultation with the Central Bank of Nigeria.

(4) For the purpose of subsection (3), any amount of cash moved within or outside Nigeria in a currency other than United States Dollars shall be taken to be its United States Dollar equivalent, calculated in accordance with the prevailing exchange rate.

(5) The Court shall adopt summary proceedings under this Part.

Detention of  
seized cash.

**27.—**(1) Where the designated officer continues to have reasonable grounds for his suspicion, cash seized under section 26 of this Act may be detained initially for a period of seven days to enable the designated officer apply to the Court for an order to detain the cash.

(2) The period referred to in subsection (1) shall not include Saturdays and Sundays or any day which is a public holiday in Nigeria.

(3) The period for which the cash, or any part of it, may be detained may be extended by an order of the Court, but the order shall not authorise the detention of the cash, or any part of it, beyond three months, commencing from the date of the order.

(4) Subsequent orders for the continued detention of the cash may be made by the Court but no order shall authorise the further detention of the cash beyond a cumulative period of 12 months commencing from the date of the first order.

(5) An application for an order under subsections (3) and (4) may be made by a designated officer, and the Court may make the order, where satisfied, in relation to any cash to be further detained, that there are reasonable grounds to believe that the cash is—

(a) the proceeds of unlawful activity ; or

(b) intended to be an instrumentality of an offence and that—

(i) its continued detention is justified while its derivation is further investigated or consideration is given to bringing, in Nigeria or elsewhere, proceedings against any person for an offence with which the cash is connected, or

(ii) proceedings against a person for an offence with which the cash is connected have started and have not been concluded.

(6) Where cash is detained by virtue of subsection (5), the Court may direct its release if satisfied, on an application made by the person from whom it was seized that—

- (a) there are no justifiable grounds for the detention of the cash ; or
- (b) the grounds for the continued detention of the cash, as specified in subsection (5), cease to exist.

**28.**—(1) Where cash under section 27 of this Act—

(a) is detained, by officers of other relevant organisation, the Directorate shall be immediately notified within seven days, for purpose of documentation and the cash paid into the designated account of the relevant organisation ; or

(b) was seized under section 26 (1) of this Act, the relevant organisation shall, subject to subsection (2), release on an application made by the person from whom the cash was seized, the part of the cash to which the suspicion does not relate.

(2) Where—

(a) part of the cash, referred to in subsection (1) to which suspicion does not relate, may still be subject to a confiscation order, under Part VI of this Act, and

(b) an application for a restraint order, under Part VI of this Act in respect of a person, who has an interest in the cash has been made and refused, the relevant organisation may retain the cash in the designated account, until such time as a confiscation order is made in respect of the cash, or until an application made under this Act is granted by the Court.

**29.**—(1) This section applies where cash is detained under section 27 of this Act.

(2) The Court may direct the release of the whole or any part of detained cash, where satisfied on application by the person from whom the cash is seized, that the conditions in section 33 of this Act no longer exist in relation to the cash to be released.

(3) The relevant organisation may on the receipt of the order of the Court, under whose order the cash is detained, release the whole or part of the cash, where satisfied that its detention is no longer justified.

(4) Where the relevant organisation is dissatisfied with the order of release, it shall timeously lodge an appeal against the order.

Interest to be paid on seized cash.

Release of detained cash.

Application for forfeiture of seized or detained cash.

**30.**—(1) Where cash is detained under section 27 of this Act, an application for forfeiture of the whole or part of the cash may be made to the Court by the relevant organisation.

(2) The Court may order forfeiture of cash or any part of the cash, where it is satisfied that the cash is proceeds of unlawful activity, is intended to be an instrumentality of an unlawful activity.

(3) Where an application for forfeiture of cash has been refused, the cash shall not be released until all proceedings, including proceedings on appeal are concluded.

Appeals.

**31.** Where the Court refuses an application under section 27 of this Act for forfeiture of cash detained under section 25 of this Act, the relevant organisation may appeal to the Court of Appeal.

Other owners or claimants.

**32.**—(1) A third party, who has interest in the cash detained under section 30 of this Act or any part of it, may apply to the Court for the release of the cash or any part of it.

(2) Where it appears to the Court that—

(a) the applicant was deprived of the cash to which an application relates ; and

(b) the cash belongs to the applicant, the Court may order the cash to which the application relates to be released to the applicant and may make any other orders as it deems fit.

#### PART VI—CONFISCATION OF PROCEEDS OF CRIME

Objectives of this Part.

**33.** The objectives of this Part are to—

(a) demonstrate that a convicted person should not be allowed to benefit from the proceeds of his criminal activity ;

(b) provide an effective process by which the total benefit from a person's criminal activity is calculated and an equivalent amount, where recoverable, is confiscated on behalf of the Federal Government of Nigeria ;

(c) enable the relevant organisation implement confiscation proceedings against a convicted person ;

(d) ensure the preservation of all realisable properties, as defined under section 53 of this Act, and ensure that the realisable properties are preserved and available to satisfy a confiscation order ; and

(e) ensure that the realisable properties are preserved and available to satisfy a confiscation order.

- 
- 34.** The provisions of this Part apply to—
- (a) restraint orders designed to prevent a defendant from dealing with realisable assets held under his custody or control ;
- (b) confiscation orders that aim to secure payment of a sum of money up to the amount that a convicted person has acquired from the offences for which he was convicted ; and
- (c) management of realisable property by the Directorate of the relevant organisation once a restraint order is granted by the Court.
- 35.** The Court may, on the application of the relevant organisation, make an order that realisable property shall not, except in the manner as may be specified in the order, be disposed of or otherwise dealt with by any person, where—
- (a) a defendant—
- (i) has been convicted of an offence or has been charged with an offence and a confiscation order has been made against the defendant, or it appears to the Court that there are reasonable grounds for believing that a confiscation order may be made against the defendant, or
- (ii) is to be charged with an offence and the Court is satisfied that the defendant is to be charged, and it appears to the Court that there are reasonable grounds for believing that a confiscation order may be made against the defendant ; and
- (b) an affidavit under this Act has been filed in support of the application.
- 36.—**(1) The relevant organisation may apply to the Court for a restraint order for the purposes specified under this Part.
- (2) A restraint order may specify that it applies to—
- (a) all realisable property held by the specified person, whether the property is described in the order ; or
- (b) realisable property transferred to the specified person after the order is made.
- (3) An application for a restraint order may—
- (a) be made *ex-parte* ; and
- (b) provide for the period of the notice referred to in section 40 of this Act to be given to persons affected by the order.
- (4) The Court making a restraint order may also make further orders in respect of the discovery or disclosure of any facts, including facts relating to any property over which the defendant may have effective control and the
- Application of this Part.
- Application for restraint order.
- Purposes of restraint order.

location of the property, as the Court may consider necessary or expedient with a view to achieving the objectives of the restraint order.

(5) The Court making a restraint order shall, at the same time, make an order—

(a) authorising the relevant organisation or an authorised person acting on its behalf, to take custody or control of any property specified in the order ;

(b) for entering premises, where necessary ; and

(c) any other ancillary orders that the Court considers appropriate for the proper, fair and effective execution of the order.

Property  
subject to a  
restraint  
order.

**37.** A restraint order may be made in respect of —

(a) such realisable property as may be specified in the restraint order and held by the person against whom the order is made ;

(b) all realisable property held by the person against whom the restraint order is made, whether specified in the order or not ;

(c) specified property of another person that is subject to the effective control of the relevant person, whether that other person's identity is known ;

(d) specified property of the relevant person that is in the custody of another person which are proceeds of the offence or an instrumentality of the offence, whether that other person's identity is known ;

(e) all property which, when it is transferred to a person referred to in paragraph (d) after the making of the restraint order, would be a realisable property ; and

(f) affected gifts made by the relevant person.

Affidavit in  
support of  
a restraint  
order.

**38.—**(1) The application for a restraint order shall be supported by an affidavit made by the relevant organisation stating the belief that the property is of a type mentioned in section 37 of this Act.

(2) The Court shall not make a restraint order unless it is satisfied that the facts disclosed in the affidavit support the reasonable belief expressed by the relevant organisation.

(3) The Court may request the relevant organisation to provide additional information in support of the affidavit.

Notice of  
restraint  
order.

**39.—**(1) Where the Court makes a restraint order, the relevant organisation where practicable shall give notice to—

(a) all persons affected by the restraint order ; and

(b) any other person who may be affected by an order to seize any property in furtherance of the restraint order.

(2) The notice referred to in subsection (1), where practicable shall—  
(a) be served before or at the time of any seizure and in any other case after the order is obtained ; and

(b) contain—

(i) a copy of the restraint order,

(ii) the details of the issuing Court, and

(iii) the name and address of the applicant or other person to whom inquiries regarding the restraint order may be made.

**40.**—(1) A registration authority that keeps a register of properties of a particular kind shall, on application by the relevant organisation, register the particulars of a restraint order, as it affects the property in that register.

Registration of Restraint Orders.

(2) A person, who subsequently deals with the registered property shall be deemed—

(a) not to be acting in good faith for the purposes of section 39 of this act ; and

(b) to have notice of the restraint order for the purposes of section 37 of this act.

**41.**—(1) The relevant organisation may apply to the Court to set aside a disposition or dealing with a property that contravenes a restraint order, where that disposition or dealing was not—

Setting aside a disposition contravening a restraint order.

(a) for sufficient consideration ; or

(b) in favour of a person, who acted in good faith.

(2) The relevant organisation shall give to each party to the disposition or dealing, written notice of both the application and the grounds on which it seeks the setting aside of the disposition or dealing.

(3) The Court may set aside the disposition or dealing and declare the rights of any person, who acquired interest in the property void.

**42.** A person, who knowingly disposes of or otherwise deals with a property subject of a restraint order, commits an offence and is liable on conviction to a fine of at least N5,000,000 or imprisonment for a term of two years or both.

Contravening restraint orders.

**43.** The relevant organisation may, in order to prevent any realisable property from being disposed of or removed contrary to a restraint order, enter into any premises and seize the property if it has reasonable grounds to believe that the property will be disposed of or removed.

Seizure of property covered by a restraint order.

Cessation  
of restraint  
orders.

**44.**—(1) A restraint order, in relation to one or more offences, ceases to be in force, if —

(a) within 28 days after the —

(i) charge or all the charges that relate to the restraint order are withdrawn, or

(ii) defendant is acquitted of the offence or all the offences with which he was charged ;

(b) the defendant’s conviction for the offence, or all the offences, of which he was convicted are quashed ;

(c) a restraint order covers property that is not realisable property including gifts within the meaning of section 50 (3) of this Act ;

(d) the Court is satisfied that the order was obtained by material suppression or misrepresentation of fact or by fraud ; and

(e) a confiscation order relates to that offence, those offences or related criminal activity and—

(i) the confiscation order is satisfied, or

(ii) the confiscation order is discharged.

(2) The period referred to in subsection (1) (b) shall not exceed 10 days, starting on the day on which the restraint order is made.

(3) Restraint orders remain in force until rescinded by the Court.

Making of  
confiscation  
orders.

**45.**—(1) The Court may make a confiscation order requiring a person to pay to the relevant organisation for deposit into the designated account (in this Act referred to as “the Confiscated and Forfeited Properties Account”) as provided under this Act, an amount equal to the total proceeds of a person’s criminal activities, where available if—

(a) the person has been convicted of an offence ;

(b) the relevant organisation applies for the confiscation order ; and

(c) the Court is satisfied that the person has benefited from—

(i) that offence,

(ii) any other offence of which the person has been convicted at the same trial, and

(iii) any criminal activity which the Court finds to be sufficiently related to those offences.

(2) Where a person has been convicted of an offence and the relevant organisation fails to apply for a confiscation order under subsection (1) (b), the Court may, if it —



- (a) considers that it is in the public interest to do so ; and
- (b) direct the relevant organisation to apply for the confiscation order.

(3) An order made under this section against the person is—

(a) an order to make a payment to the relevant organisation of any amount that the Court considers appropriate ; and

(b) in addition to any punishment that the Court may impose in respect of the offence or offences that the person has been found guilty of.

(4) The Court may make any further orders as it may deem fit to ensure the effectiveness and fairness of the confiscation order.

(5) The amount that the Court may order a convicted person to pay to the relevant organisation under subsection (1) shall not exceed—

(a) the value of the convicted person’s proceeds from the offences or criminal activity, as determined by the Court, in accordance with the provisions of this Act ; or

(b) an amount, which in the Court’s opinion may be realised, if the Court is satisfied that the amount which might be realised as contemplated under this Act is less than the value referred to in paragraph (a) of this subsection.

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

**46.—(1)** Subject to the provisions of subsection (2), the value of a defendant’s proceeds of criminal activity is the sum of the values of the property, services, advantages, benefits and rewards received, retained or derived by him at any time, whether before or after the commencement of this Act, in connection with the criminal activity carried on by him or any other person connected with the criminal activity.

Value of  
proceeds of  
criminal  
activities.

(2) In determining the value of a convicted person’s proceeds of criminal activities, the Court shall—

(a) leave out of account, any property, where the Court has previously made a forfeiture order, which is proved to the satisfaction of the Court to have been the property, which the convicted person received in connection with the criminal activity carried on by him or any other person connected with the criminal activity ;

(b) where a confiscation order has previously been made against the convicted person, leave out of account those proceeds of criminal activities which are proved to the satisfaction of the Court to have been taken into

account in determining the amount to be recovered under that confiscation order ; and

(c) ensure that the following are deducted—

(i) expenses or outgoings that the person incurred in relation to the criminal activity, or

(ii) the value of any benefit that the convicted person derives as agent for, or otherwise on behalf of, another person, whether the other person receives any of the benefits.

Amounts  
that may be  
realised.

47.—(1) The amount realisable at the time of the making of a confiscation order against a convicted person shall be the amount equal to the sum of the values, at that time, of all —

(a) realisable property held by the convicted person ; and

(b) less the sum of all priority obligations, where any, and which the Court may recognise for this purpose.

(2) The value of an affected gift at the time of the making of the relevant confiscation order shall be—

(a) the value of the affected gift, at the time when the recipient received it, taking into account subsequent fluctuations in the value of money ; or

(b) where subsection (3) applies, the value mentioned in that subsection, whichever is the greater value.

(3) Where at the time of the making of the relevant confiscation order, the recipient holds the property—

(a) other than cash, which he received, the value concerned shall be the value of the property at that time ; and

(b) which directly or indirectly represents the property which he received, the value concerned is the value of the property in his custody, in so far as it represents the property, which he received at the time.

(4) For the purpose of subsection (1), an obligation has priority, at the time of the making of the relevant confiscation order, if —

(a) it is an obligation of the convicted person, where he has been convicted by a Court of any offence to pay—

(i) a fine imposed before that time by the Court, or

(ii) any other amount under any resultant order made before that time by the Court ; and

(b) it is an obligation, where —

(i) the insolvent estate of the convicted person had at that time been made subject to any Court order ;

(ii) the convicted person is a company or other juristic person, where the company or juristic person is at that time being wound up ; or

(iii) it would be payable in pursuance of any secured or preferred claim against the insolvent estate or against such company or juristic person.

(5) The Court shall not determine the amounts realisable as contemplated in subsection (1), unless it has afforded all persons holding any interest in the property concerned an opportunity to make representations to it, in connection with the realisation of that property.

(6) Where there is no amount that may be realised, the Court may make an order for a nominal amount.

**48.**—(1) Subject to the provisions of subsection (2), property is realisable under this Part, if the property is—

Realisable property.

(a) held by the defendant concerned ;

(b) held by a person to whom that defendant has directly or indirectly made any affected gift ; and

(c) subject to the effective control of the defendant as provided in section 63 of this Act.

(2) Property shall not be realisable property where a forfeiture order is in force in respect of the property.

**49.**—(1) For the purpose of this Part, the value of property, other than money, in relation to a person holding the property of a convicted person is, where—

Value of property.

(a) any other person holds an interest in the property, the market value of the property less the amount required to discharge any encumbrance on the property ; and

(b) no other person holds an interest in the property, the market value of the property.

(2) Notwithstanding the provisions of subsection (1), a reference in this Part to the value at the time of payment or reward, is construed as a reference to—

(a) the value of the payment or reward at the time when the recipient received it, as adjusted to take into account subsequent fluctuations in the value of money ; or

(b) where subsection (3) applies, the value mentioned in that subsection, whichever is greater in value.

(3) Where, at the time referred to in subsection (2), the recipient holds—

(a) property, other than cash, which he received, the value concerned is the value of the property at that time ; or

(b) property which directly or indirectly represents the property which he received, the value concerned is the value of the property in his custody, if it represents the property which he received, at the relevant time.

Gifts made  
by a  
convicted  
person.

**50.**—(1) For the purposes of this Act, a convicted person shall be deemed to have made a gift, where he has transferred any property to any other person directly or indirectly for a consideration, the value of which is significantly less than the value of the consideration supplied by the convicted person.

(2) For the purposes of this Act, the gift which a convicted person is deemed to have made shall consist of that share in the property transferred by the convicted person that is equal to the difference between the value of that property as a whole and the consideration received by the convicted person in return.

(3) For the purpose of this Part, “affected gift” means any gift made by the convicted person concerned, where it was a gift of property—

(a) received by that convicted person in connection with an offence committed, or

(b) any part which directly or indirectly represented in that convicted person’s hands property received by him in connection with an offence committed by him or any other person, whether the gift was made before or after the commencement of this Act.

Procedure  
where a  
person  
absconds  
or dies.

**51.**—(1) The Court may, on the application by the relevant organisation, inquire into any benefit that a person may have derived from an offence, where it is satisfied that—

(a) the person—

(i) had been charged with an offence,

(ii) had been convicted of any offence,

(iii) has had a restraint order made against him, or

(iv) can be tried for an offence on the grounds that sufficient evidence exists against him ;

(b) a warrant for arrest of the person had been issued and that the attendance of that person in Court cannot be secured after all reasonable steps were taken to execute that warrant ;

(c) the proceedings against the person cannot be resumed within a period of six months due to his continued absence ; and

(d) there are reasonable grounds to believe that a confiscation order may have been made against him but for his continued absence.

(2) Where a defendant, who has been convicted of an offence, dies before a confiscation order is made, the Court may, on the application by the relevant organisation, inquire into any benefit the person may have derived from that offence if the Court is satisfied that there are reasonable grounds for believing that a confiscation order would have been made against him, but for his death.

(3) The executor of the estate of the deceased is entitled to appear before the Court and make representations for purposes of the inquiry referred to in subsection (2).

(4) The Court in conducting an inquiry under this section may, where —

(a) the Court finds that the defendant or deceased referred to in subsections (1) or (2) has so benefited, make a confiscation order, and the provisions of this Part shall, with necessary modifications, apply to the making of the order ;

(b) an asset manager has not been appointed, in respect of any of the property concerned, direct the relevant organisation to appoint an asset manager in respect of realisable property ; and

(c) authorise the realisation of the property concerned.

(5) The Court shall not exercise its powers under subsection (4) (a) and (c), except it has afforded a person having any interest in the property concerned an opportunity to make representations to it in connection with the making of any order.

(6) Where a person, excluding a person specified in subsection (1) (a) (ii), against whom a confiscation order had been made under subsection(4) is subsequently tried and —

(a) convicted of one or more of the offences in respect of which the order had been made, the Court convicting him may make an appropriate order ; or

(b) acquitted of an offence in respect of which the order had been made, the Court acquitting him may make an appropriate order.

(7) The Court may make a determination against a person who absconded prior to an inquiry under this Act, and who is subject to a confiscation order where that person is subsequently brought before the Court.

(8) The Court making a determination contemplated in subsection (7) shall take into account any order made under subsection (4).

Enforcement  
of  
confiscation  
orders.

**52.**—(1) An amount payable by a person to the relevant organisation under a confiscation order is a civil debt due by the person to the Federal Government of Nigeria.

(2) A confiscation order against a person may be enforced, as if it were an order made in civil proceedings instituted by the relevant organisation against a person to recover a debt due by that person to the Federal Government of Nigeria.

(3) A debt arising from the order is deemed to be a judgement debt.

(4) Where a confiscation order is made against a person after his death, this section shall have effect, as if the person had died on the day after the order was made.

(5) Where a person fails to satisfy any or part of a confiscation order made by the Court, the Court may order that the person against whom the order was made be committed to prison in addition to any other sentence prescribed under this Act.

Schedule.

(6) The period of imprisonment referred to under subsection (5) shall be as prescribed in the Schedule to this Act.

(7) An order to pay an amount under a confiscation order is due to be paid on the day that the confiscation order is made.

(8) Any sentence of imprisonment imposed under subsection (5) shall be served consecutively with any other sentence of imprisonment imposed, whether as a result of the proceedings in connection with which the confiscation order was made or any other proceedings.

#### PART VII—INVESTIGATION, SEARCH AND SEIZURE

Objectives  
of this Part.

**53.** The objectives of this Part are to—

(a) safeguard the constitutional and individual's right to privacy in the conduct of investigation, search, and seizure ; and

(b) provide relevant organisation with investigative tools, including tools relating to—

(i) establishing the whereabouts and extent of a person's realisable assets,

(ii) identifying and recovery of property; or instrumentalities that may be subject to civil forfeiture and confiscation, and

(iii) a detained cash investigation.

**54.**—(1) This Part applies to all relevant organisations in the conduct of investigations, searches, and seizures in connection with the recovery of proceeds of unlawful activities under this Act and the relevant laws. Application of this Part.

(2) Notwithstanding the provisions of any other relevant law, a relevant organisation, shall comply with the provisions of this Part in the conduct of the matters referred to in subsection (1).

(3) For the purpose of this Part—

(a) “civil forfeiture investigation” is an investigation into whether property constitutes or is derived from the proceeds of unlawful activity or is the instrumentality of an offence ;

(b) “confiscation investigation” is an investigation into whether a person has benefited from a criminal activity ;

(c) “detained cash investigation” is an investigation contemplated in Part V of this Act ; and

(d) “civil recovery investigation” is an investigation under the Part IV of this Act.

**55.**—(1) This section applies if a person knows or suspects that a relevant organisation or its authorised officer is acting or proposing to act, in connection with— Actions detrimental to an investigation.

(a) a confiscation investigation ;

(b) a forfeiture investigation ;

(c) a civil recovery investigation ; or

(d) a detained cash investigation.

(2) The person commits an offence if —

(a) he makes a disclosure which is likely to prejudice the investigation, or

(b) he falsifies, conceals, destroys or otherwise disposes of, or causes or permits the falsification, concealment, destruction or disposal of documents which are relevant to the investigation.

(3) A person does not commit an offence under subsection (2) (a) if the Court is satisfied that—

(a) he does not know or suspect that the disclosure is likely to prejudice the investigation, and

(b) the disclosure is made compliance with a requirement imposed under or by virtue of —

(i) this Act,

(ii) the Money Laundering (Prohibition) Act,

(iii) the Terrorism (Prevention) Act, or

(iv) any other Law in force in Nigeria.

Act No. 11,  
2011.

Act No. 10,  
2011.

(4) A person who commits an offence under this section is liable on conviction to a fine of at least ₦2,000,000 or imprisonment for a term not more than two year or both.

Retention of seized property.

**56.** Where any property is seized under this Act, the seizure is effected by removing the property from the custody or control of the person from whom it is seized and placing it under the custody of the relevant organisation.

Obstructing the execution of a search and seizure warrant.

**57.** A person, who—

(a) refuses an authorised officer access to any premises, or fails to submit to a search by a person authorised to search him under this Act,

(b) assaults or obstructs any authorised officer or any accompanying person mentioned in section 79 of this Act in the execution of search and seizure warrant,

(c) conceals or attempts to conceal from, an authorised officer or any accompanying person, any book, document, or article, in relation to which the officer has reasonable grounds for suspecting or believing that an offence under an applicable Act has been or is being committed, or which is liable to seizure under this Act,

(d) rescues, endeavours to rescue, or causes to be rescued any person, who has been duly arrested or anything which has been duly seized under this Act, or

(e) destroys anything to prevent its seizure or securing of the thing under this Act,

commits an offence and is liable on conviction to a fine of N5,000,000 or imprisonment for a term of at least two years or both.

#### PART VIII—ADMINISTRATION

Powers and duties of the relevant organisation in respect of property seized.

**58.** This Part sets out the powers and duties of relevant organisation, in respect of property, (in this Part referred to as “controlled property”), seized and placed under the control and custody of the relevant organisation by order of the Court.

Preserving controlled property.

**59.—(1)** The relevant organisation shall do everything that is reasonably necessary for the purpose of preserving the controlled property, including—

(a) becoming a party to any civil proceedings affecting the controlled property ;

(b) becoming a party to any proceedings arising out of criminal proceedings, including the confiscation proceedings, affecting the controlled property ;



(c) realising or otherwise dealing with controlled property that is securities or investments ; and

(d) where a controlled property is a business—

(i) employing, or terminating the employment of persons in the business, and

(ii) doing anything necessary or convenient to carry on the business on a sound commercial basis.

(2) The relevant organisation shall for the purposes of performing its functions under subsection (1), engage persons competent and qualified in the relevant area of business.

**60.** The relevant organisation may exercise the rights attaching to any of the controlled property that are shares, securities, stocks, bonds or debentures as if the relevant organisation were the registered holder of the shares, securities, stocks, bonds or debentures, to the exclusion of the registered holder.

Rights attaching to shares.

**61.** The relevant organisation may—

(a) destroy the controlled property or any part of it on the grounds of public interest, health or safety ; or

(b) dispose of the controlled property or any part of it, by sale or other means to avoid deterioration or loss of value.

Destroying or disposing of property.

**62.—(1)** The relevant organisation shall give written notice of the proposed destruction or disposal of the controlled property to—

(a) the owner of the controlled property ; and

(b) any other person whom the relevant organisation has reason to believe may have an interest in the controlled property.

Notice of proposed destruction or disposal of controlled property.

(2) The notice referred to under subsection (1) shall state the date, venue, and time of the proposed destruction or disposal.

(3) A person who has been served with a notice under subsection (1) may object, in writing, to the relevant organisation within 14 days of receiving the notice.

**63.** Any amount realised from the disposal of the controlled property under this Act shall be deemed to be—

(a) covered by the restraint order related to the controlled property being disposed of ; and

(b) proceeds of that unlawful activity or its instrumentality, where the restraint order covered the controlled property disposed of on the basis that the controlled property was proceeds of unlawful activity or its instrumentality.

Proceeds from sale of property.

Discharge of  
confiscation  
orders by  
payment  
into the  
designated  
account.

**64.** Where the relevant organisation pay monies into the designated account, as required by the provisions of this Act in satisfaction of a person's liability under a confiscation order, the person's liability under the order is, to the extent of the payment, discharged.

Return of  
income  
generated  
from  
controlled  
property.

**65.** Where the restraint order relating to the controlled property ceases to be in force, the property shall be returned to its owner, the relevant organisation shall pay to the owner the income generated from the property less all reasonable expenses incurred by the relevant organisation on the controlled property.

Immunity  
against  
liability for  
loss.

**66.—(1)** The relevant organisation in respect of property in its custody shall not be liable for—

(a) any loss or damage, sustained by a person claiming an interest in all or part of the controlled property, arising from the relevant organisation taking custody and control of the property ; and

(b) the cost of proceedings taken to establish an interest in the property.

(2) In the management of controlled property, the relevant organisation shall not pay any rates, land tax, municipal or statutory charges imposed under any law pertaining to the controlled property, except out of the rents or profits that had accrued from the controlled property.

International  
forfeiture  
provisions.

**67.—(1)** Where the Court under this Act orders forfeiture of any property, which was established to be the proceeds of unlawful activity or instrumentality of an unlawful activity within Nigeria and the other constituents of the instrumentality of the unlawful activity is situate in a foreign country, the relevant organisation under the direction of the Attorney-General of the Federation shall initiate proceedings, including by way of mutual legal assistance in that foreign country for the recovery of the forfeited property.

(2) Where it is established that a convicted person has any asset or property in a foreign country, acquired as a result of an unlawful activity, the relevant organisation under the direction of the Attorney—General of the Federation shall apply for the asset or property, subject to any treaty or arrangement with that foreign country, to be forfeited to the Federal Government of Nigeria.

(3) The forfeited property referred to in subsections (1) and (2) shall be transferred to the relevant organisation for management and its proprietary interest vested in the Federal Government of Nigeria, as provided under the provisions of this Act.

(4) Where a foreign country has forfeited or confiscated property under the laws of that country—

(a) that relates to unlawful activity conducted in that country and Nigeria ; and

(b) repatriates the whole or part of that assets or a sum of money that represents unlawful activity in Nigeria, the property shall be realised and the proceeds or the sum of money paid into the Confiscated and Forfeited Properties Account established under Part IX of this Act.

(5) Any money paid into the designated account under subsection (4) shall be utilised to finance any of the purposes specified under this Act and as approved by the Federal Executive Council.

PART IX—CONFISCATED AND FORFEITED PROPERTIES ACCOUNT

68.—(1) There is established, under this Act, designated account to be known as the Confiscated and Forfeited Properties Account to be maintained at the Central Bank of Nigeria.

Establishment of the Confiscated and Forfeited Properties Account.

(2) The Confiscated and Forfeited Properties Account shall be managed by the head of the relevant organisation who shall be responsible for providing reports to the Minister of Finance.

69. There shall be paid into the Confiscated and Forfeited Properties Account—

Payments into the Confiscated and Forfeited Properties Account. Cap. C15, LFN, 2004.

(a) money realised from the proceeds of sale, management or other form of disposal of forfeited assets under this Act and other relevant laws ;

(b) proceeds of any property forfeited under section 23 (2) (c) of the Code of Conduct Bureau and Tribunal Act, which relates to forfeiture to the Federal Government of any property acquired in abuse or corruption of office ;

(c) money paid to Nigeria by a foreign country—

(i) under any treaty or arrangement providing for mutual assistance in criminal matters,

(ii) as mentioned in section 67 (4) of this Act, or

(iii) through repatriation of proceeds of unlawful activity ; and

(d) money paid to the relevant organisation on behalf of the Federal Government in settlement of proceedings connected with this Act and other relevant laws.

Payments out of the Confiscated and Forfeited Properties Account.

**70.** The President may, subject to the approval by Federal Executive Council authorise the expenditure for money in the Confiscated and Forfeited Properties Account to be used to—

(a) permit the relevant organisation to invest in various government portfolios to ensure that the funds can accrue interest that would be applied for the implementation of development projects as approved by the Federal Executive Council (FEC) or the National Assembly ;

(b) compensate any State which has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation or forfeiture order ;

(c) compensate any person who has suffered grave pecuniary loss on account of the offence or conduct that gave rise to the confiscation or forfeiture order ;

(d) pay any foreign country or an agency under the provisions of any treaty agreement or scheme for mutual legal assistance ;

(e) make payments under any programme approved by the President ;

(f) make any payment necessary to satisfy Nigeria's obligations in respect of a registered foreign forfeiture order ;

(g) make such other payments, on behalf of the Federal Government, directed to be made under any relevant law ; and

(h) pay, with the approval of the National Assembly, two percent allocation to the relevant organisation for the recoveries made by the relevant organisation in any given year.

Audit of the Confiscated and Forfeited Properties Account.

**71.** The Confiscated and Forfeited Properties Account shall be audited in accordance with the guidelines supplied by the Auditor-General for the Federation.

Authorisation of expenditures for approved programmes of relevant organisation.

**72.—(1)** Subject to approval by the National Assembly, the President may authorise money in the Confiscated and Forfeited Properties Account to meet approved programmes of the relevant organisations.

(2) The President may approve expenditure out of the Confiscated and Forfeited Properties Account for any one or more of the following purposes—

(a) judicial, criminal justice reform and crime prevention measures ;

(b) law enforcement measures ;

(c) measures relating to treatment of drug addiction ;

(d) measures outlined for the rehabilitation of victims of human trafficking ;

- 
- (e) education, health, youth development, mass housing, rural electrification, agricultural reform, water and sanitation ;
  - (f) measures relating to the compensation and rehabilitation of victims of terrorist activities ;
  - (g) Humanitarian and social investment programmes ;
  - (h) tracing and recovery of assets and management of the assets and properties to ensure its preservation ;
  - (i) legal fees and expenses anticipated under this Act ;
  - (j) major infrastructure reforms ; and
  - (k) such other development programmes, as may be approved by the Federal Executive Council or the National Assembly.

PART X—JURISDICTION

**73.**—(1) The Federal High Court, High Court of the Federal Capital Territory, and State High Courts (in this Act referred to as “the Court”) shall have jurisdiction to try offences, hear, and determine proceedings arising under this Act. Jurisdiction.

(2) The Heads of Courts shall designate special Courts to hear and determine all cases under this Act or other relevant enactments.

(3) The penalty imposed on a person who is suspected to have committed an offence or convicted of an offence under this Act may be reduced in such manner as the Court deems fit or following an application by the relevant organisation where the person has—

- (a) before the commencement of any proceedings, made possible or facilitated the identification of other defendants and their sponsors ;
- (b) after the commencement of the proceedings, made possible or facilitated the arrest of other defendants or recovery of other person’s proceeds of unlawful activity ; and
- (c) cooperated with the relevant organisation.

(4) The Court shall, notwithstanding anything to the contrary in any other enactment, rules, or regulations, have power to adopt all legitimate measures it deems necessary to avoid unnecessary delays and abuse in the conduct of proceedings.

PART XI—GENERAL PROVISIONS RELATING TO LEGAL PROCEEDINGS

Burden of proof.

**74.** Subject to the provisions of the Act, the defendant in any proceedings under this Act bears the burden of proving that he is the legitimate owner of the assets suspected to be proceeds of crime or derived from unlawful activity or that the assets are of legitimate origin and not proceeds of unlawful activity.

Stay of proceedings.

**75.—(1)** An application for stay of proceedings, in respect of any matter brought under this Act, shall not be entertained.

(2) The fact that criminal proceedings have been instituted or have commenced, whether under this Act, shall not constitute a ground for stay of proceedings under this Act.

(3) The relevant organisation has the same right of appeal, as any other person under this section, in respect of the grant or refusal of an order under this Act.

Cap. C23, LFN, 2004.

(4) This section does not affect any other right of appeal conferred on a person under the Constitution of the Federal Republic of Nigeria, 1999 or any other law.

Publication of notice.

**76.** Where in this Act, a notice or other document is required by any provision of this Act to be published, it is sufficient if the notice or other document is published in any widely circulating national newspapers.

Relationship with relevant laws.  
Cap. C23, LFN, 2004

**77.** Subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999 where a provision of this Act is inconsistent with the provisions of any relevant law on the management of finally forfeited assets, the provisions of this Act shall prevail.

Pre-action notice.

**78.—(1)** A civil action shall not be commenced against the relevant organisation before the expiration of a period of 30 days after written notice of intention to commence the suit shall have been served on the relevant organisation by the intending plaintiff or his agent, and the notice shall clearly and explicitly state the—

- (a) cause of action ;
- (b) particulars of the claim ;
- (c) name and place of abode of the intending plaintiff ; and
- (d) relief sought.

(2) The notice referred to in subsection (1) and any summons or other documents, required or authorised to be served on the relevant organisation as the case may be under this Act or other enactment or law, may be served by—

- (a) delivering it to the office of the relevant organisation; or

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

**79.** In any action or suit against the relevant organisation pursuant to this Act, execution shall not be levied, or attachment process issues against the relevant organisation, unless at least 30 days' notice of the intention to execute has been given.

Restriction on execution against property of the relevant organisation.

**80.** The Chairman, member of the Board, officers or staff of the relevant organisation, or a seconded officer from any organisation or from any public office of the Federation, shall be indemnified out of the assets of the relevant organisation against any proceedings brought against him in his official capacity, where the act complained of is not beyond his powers.

Indemnity of officers of the relevant organisation.

#### PART XII—MISCELLANEOUS PROVISIONS

**81.—(1)** The Attorney-General of the Federation may, in consultation with the relevant organisations make regulations with regard to a standardised automated asset forfeiture management system expedient for the efficient implementation of the provisions of this Act.

Regulations and guidelines.

(2) The relevant organisation shall issue guidelines, as may be necessary for the exercise of any of the duties, functions, or powers of the Directorate under this Act.

**82.** In this Act—

Interpretation.

“*assets*” includes “funds” or “property” and funds or property refers to assets of every kind whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, travelers' cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit ;

“*asset manager*” means a person authorised by the relevant organisation to fulfil the functions mentioned in section 14 (1)(a) of this Act ;

“*authorised officer*” means a qualified person, who is—

(a) a member of staff of the relevant organisation or persons so designated by the head of the relevant organisation ; and

(b) any other person included in a class of persons declared by the regulations to be within this definition ;

“*Attorney-General*” means the Attorney-General of the Federation and Minister of Justice ;

“*benefit*” includes service or advantage ;

“*books*” include any books of account, deed, paper, writing, or document, and any record of information, however, compiled, recorded or stored, whether in writing, on microfilm, by electronic process or otherwise ;

“*child*” means a person under the age of eighteen years ;

“*civil proceedings*” refers to proceedings that are civil proceedings and are not criminal proceedings ;

“*close dependant relative*” means—

(a) the person’s spouse ; or

(b) child.

“*confiscation*” which includes forfeiture where applicable means the permanent deprivation of funds or other assets by order of a competent authority or a Court ;

“*confiscation order*” means, an order made under section 45 of this Act ;

“*controlled property*” has the meaning given to it by section 58 of this Act ;

“*conveyance*” means, a mode of transportation, and includes an aircraft, a vehicle, and a vessel ;

“*convicted person*” for the purpose of recovery of proceeds of criminal activities means, the person—

(a) is convicted for the offence ;

(b) is sentenced for the offence, notwithstanding that the Court in passing sentence took into account an offence of which he has not been found guilty ; or

(c) absconds in connection with the offence ;

“*Court*” means the Federal High Court, Federal Capital Territory or State High Court ;

“*data*” includes—

(a) information in any form ; and

(b) any programme or part of a programme ;

“*data held in a computer*” includes data held in—

(a) any removable data storage in electronic devices for the time being held in a computer ;

(b) data storage in electronic devices on a computer network of which the computer forms a part ; and

(c) data held in any remote storage in electronic devices to which data has been sent from the computer.

“*data storage device*” means a thing containing, or designed to contain data ;



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“*date of conviction*” in relation to a person’s conviction of an offence, means, in the case of a person—

(a) charged with, and found guilty of an offence, the day on which the person was found guilty of the offence ; or

(b) who absconds, the day on which the person is taken to have absconded in connection with the offence ;

“*deal*” when used in relation to a person’s property, includes—

(a) where a debt is owed to that person, making a payment to any person in reduction of the amount of the debt ;

(b) removing property from Nigeria ;

(c) receiving or making a gift of property ; and

(d) where property is covered by a restraint order, engaging in a transaction that has the direct or indirect effect of reducing the value of the person’s interest in the property, and “*dealing*” shall be construed, accordingly ;

“*derived*”, in relation to a person having derived proceeds, a benefit or wealth, includes any other person who at the request or direction of the person, having derived the proceeds, benefit, or wealth directly or indirectly ;

“*detained cash*” means cash or items that have been seized and detained under this Act ;

“*Directorate*” means the Directorate of Proceeds of Crimes Management in the relevant organisation ;

“*encumbrance*” in relation to property, includes any interest, mortgage, charge, right, claim, and demand in respect of the property ;

“*evidential material*” means evidence relating to—

(a) property in respect of which action has been or could be taken under this Act ; or

(b) benefits derived from the commission of a relevant offence ;

“*forfeited property*” means property finally forfeited to the Federal Government ;

“*fund*” includes assets of every kind whether tangible or intangible, movable or immovable, however acquired, and legal documents or instruments in any form, including electronic or digital, evidencing title to or interest in such assets, including but not limited to bank credits, travelers cheques, bank cheques, money orders, shares, securities, bonds, drafts or letters of credit ;

“*interest*” in relation to property or a thing, means—

(a) a legal or equitable estate, or interest in the property or thing ; or

(b) a right, power or privilege in connection with the property or thing, whether present or future, and whether vested or contingent ;

“*instrumentality of an offence*” means property used or intended to be used in or in connection with the commission of an offence, whether the property is situated within or outside Nigeria ;

“*lawfully acquired*”, in relation to property or wealth, means that the property or wealth, and the consideration for it, was lawfully acquired ;

“*legal practitioner*” has the meaning given to it by the Legal Practitioners Act ;

“*non- conviction based confiscation*” means confiscation through judicial procedure related to a criminal offence for which a criminal conviction is not required ;

“*officer*”, in relation to a financial institution or a corporation, means a director, secretary, executive officer, or employee of a financial institution ;

“*premises*” means property and structures that are on the property, including buildings, vessels, boats and vehicles, whether temporary or not and whether designed for habitation or not ;

“*person’s property*” includes property in respect of which a person has a beneficial interest ;

“*proceedings are concluded*” where—

(a) the defendant is acquitted on all counts in proceedings for an offence, on the date he is acquitted ;

(b) the defendant is convicted in proceedings for an offence and the conviction is quashed or the defendant is pardoned before a confiscation order is made, on the date the conviction is quashed, or the defendant is pardoned before a confiscation order is made ;

(c) a confiscation order is made against the defendant in proceedings for an offence, whether the order is made by the Court or the Court of Appeal, on the date the order is—

(i) satisfied or discharged, or

(ii) quashed and there is no further possibility of an appeal against the decision to quash the order ;

“*proceeds*” means property, whether—

(a) wholly or partly derived or realised, directly or indirectly, from an unlawful activity, and

(b) the property is situated within or outside Nigeria ;

“*property*” includes funds and means assets of every kind, corporeal or incorporeal, moveable or immovable, tangible or intangible and legal

documents or instruments evidencing title or interest to such assets whether situated within Nigeria or outside Nigeria ;

“*quashing a conviction for an offence*” means the—

(a) quashing of a conviction of a person, who had been convicted ;

(b) quashing or setting aside of the finding of guilt, where a person had been charged with and found guilty of an offence but discharged without conviction ; or

(c) quashing or setting aside of the conviction of a person, who absconded but was later brought before a Court and discharged ;

“*realisable property*” has the meaning assigned to it in section 48 of this Act ;

“*registration authority*”, in relation to property of a kind means, an authority responsible for registration of title to, or charges over property of that kind ;

“*related offence*” means, an offence the physical elements of which are like another offence ;

“*relevant laws*” means laws of relevant organisations, and any other law relating to civil forfeiture, confiscation, and management of proceeds of crime ;

“*relevant organisation*” means the—

(a) Economic and Financial Crimes Commission,

(b) Independent Corrupt Practices and other Related Offences Commission,

(c) National Drug Law Enforcement Agency,

(d) National Agency for Prohibition of Trafficking in Persons,

(e) National Agency for Food and Drug Administration and Control,

(f) Nigeria Customs Service,

(g) Nigerian Financial Intelligence Unit,

(h) Code of Conduct Bureau,

(i) Nigeria Police Force,

(j) Department of State Services

(k) Armed Forces,

(l) Standard Organisation of Nigeria,

(m) Nigeria Maritime and Safety Agency,

(n) Nigeria Immigration Service,

(o) Nigeria Ports Authority,

(p) National Inland Waterways Authority,

(q) Nigerian Security and Civil Defence Corps,

(r) Federal Inland Revenue Service, and

(s) such other organisations as the Attorney-General may designate ;

“*relevant person*” means, a person who has been convicted of, or has been charged with an offence, or it is proposed that the person be charged with an offence ;

“*restraint order*” means an order under Part VI of this Act that is in force ;

“*seize*” means to prohibit the transfer, conversion, disposition, or movement of property based on an action initiated by a relevant organisation, or based on a Court order ;

“*sufficient consideration*” in relation to an acquisition or disposal of property, means a consideration that is sufficient and that reflects the value of the property, having regard solely to commercial considerations ;

“*unlawful activity*” means an act, omission, or conduct, committed directly or indirectly which constitutes an offence or which contravenes a law in force in Nigeria, whether the act, omission or conduct occurred before or after the commencement of this Act or where the offence is committed in a country outside Nigeria, would also constitute an offence if it had been committed in Nigeria ; and

“*terrorism financing*” has the same meaning as defined under the Terrorism (Prevention) Act, No. 10, 2011.

Citation.

**83.** This Act may be cited as Proceeds of Crime (Recovery and Management) Act, 2022.

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| SCHEDULE  | <i>Section 52 (6)</i> |
|---|-----------------------|
| <i>Amount</i>   | <i>Period</i>         |
| An amount not exceeding ₦50,000.00                                    | 7 days                |
| An amount exceeding ₦50,000.00 but not exceeding ₦150,000.00          | 14 days               |
| An amount exceeding ₦150,000.00 but not exceeding ₦250,000.00         | 28 days               |
| An amount exceeding ₦250,000.00 but not exceeding ₦700,000.00         | 45 days               |
| An amount exceeding ₦700,000.00 but not exceeding ₦1,400,000.00       | 3 months              |
| An amount exceeding ₦1,400,000.00 but not exceeding ₦2,800,000.00     | 6 months              |
| An amount exceeding ₦2,800,000.00 but not exceeding ₦5,600,000.00     | 12 months             |
| An amount exceeding ₦5,600,000.00 but not exceeding ₦14,000,000.00    | 18 months             |
| An amount exceeding ₦14,000,000.00 but not exceeding ₦28,000,000.00   | 2 years               |
| An amount exceeding ₦28,000,000.00 but not exceeding ₦70,000,000.00   | 3 years               |
| An amount exceeding ₦70,000,000.00 but not exceeding ₦140,000,000.00  | 5 years               |
| An amount exceeding ₦140,000,000.00 but not exceeding ₦280,000,000.00 | 7 years               |
| An amount exceeding ₦280,000,000.00                                   | 10 years              |

A 618

2022 No. 16

*Proceeds of Crime  
(Recovery and Management) Act, 2022*

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I, certify, in accordance with Section 2 (1) of the Acts Authentication Act, Cap. A2, Laws of the Federation of Nigeria 2004, that this is a true copy of the Bill passed by both Houses of the National Assembly.

OJO, O. A., fnia, fcia  
*Clerk to the National Assembly*  
8th Day of May, 2022.

EXPLANATORY MEMORANDUM

This Act makes comprehensive provisions for seizure, confiscation, forfeiture, and management of properties derived from unlawful activities.

**SCHEDULE TO THE PROCEEDS OF CRIME (RECOVERY AND MANAGEMENT) BILL, 2022**

| (1)<br><i>Short Title of the Bill</i>                   | (2)<br><i>Long Title of the Bill</i>  | (3)<br><i>Summary of the Contents of the Bill</i>  | (4)<br><i>Date Passed by the Senate</i> | (5)<br><i>Date Passed by the House of Representatives</i> |
|---|---|--|---|---|
| Proceeds of Crime (Recovery and Management) Bill, 2022. | An Act to make comprehensive provisions for seizure, confiscation, forfeiture, and management of properties reasonably suspected to have been derived from unlawful activities ; and for related matters. | This Bill makes comprehensive provisions for seizure, confiscation, forfeiture, and management of properties reasonably suspected to have been derived from unlawful activities. | 23rd March, 2022.                       | 4th May, 2022.  |

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.



I ASSENT

OJO, O. A., fnia, fcia  
*Clerk to the National Assembly*  
8th Day of March, 2022.

MUHAMMADU BUHARI, GCFR  
*President of the Federal Republic of Nigeria*  
12th Day of May, 2022.