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Business Facilitation (Miscellaneous Provisions) Act, 2022

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Extraordinary



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**BUSINESS FACILITATION
(MISCELLANEOUS PROVISIONS) ACT, 2022**



ARRANGEMENT OF SECTIONS

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SCHEDULE

A 98

2022 No. 5

Business Facilitation (Miscellaneous Provisions)
Act, 2022

**BUSINESS FACILITATION
(MISCELLANEOUS PROVISIONS) ACT, 2022**

ACT No. 5

AN ACT TO PROVIDE FOR THE EASE OF DOING BUSINESS, ENSURE TRANSPARENCY,
EFFICIENCY AND PRODUCTIVITY IN NIGERIA ; AND FOR RELATED MATTERS.

[8th Day of February, 2023]

Commence-
ment.

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

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

Objectives.

(a) promote the ease of doing business in Nigeria and eliminate bottlenecks ; and

(b) amend relevant legislation to promote the ease of doing business in Nigeria and institutionalise all the reforms to ease implementation.

2. This Act applies throughout the Federal Republic of Nigeria.

Application.

3.—(1) Ministries, Departments and Agencies (MDAs) of the Federal Government which provides products and services shall publish a complete list of requirements to obtain the products and services.

Transparency
requirements.

(2) The products and services mentioned in subsection (1) include permits, licenses, waivers, tax related processes, filings, approvals, registration, certification, and other products and services, in accordance with the functions of the MDA.

(3) The list of requirements referred to in subsection (1) shall —

(a) include all processes, documents, fees and timelines required for the processing of applications for the products and services ; and

(b) within 21 days from the commencement of this Act, be —

(i) conspicuously published on the website of the relevant MDA, and

(ii) available at the customer help desk or other office designated for this purpose.

(4) The head of an MDA shall ensure that the list of requirements is verified and kept up-to-date at all times.

(5) Where there is a conflict between a published and an unpublished list of requirements, the published list shall prevail.

(6) An MDA shall maintain a register of applications for products and services.

Default
approvals.

4.—(1) Where the relevant MDA fails to communicate approval or rejection of an application within the time stipulated in the published list, all applications for products and services not concluded within the stipulated timeline shall be deemed approved and granted.

(2) An MDA shall maintain, at least, two modes of communication of its official decisions to applicants, and the preferred modes of communication shall be published on the website of the MDA.

(3) Where an application is rejected within the stipulated timeline, the MDA shall communicate the rejection to the applicant stating the grounds for the rejection.

(4) An applicant's physical acknowledgement or electronic copy of an application shall serve as proof of the date of submission of the application to determine when the timeline of an application commenced.

(5) An applicant whose application is deemed granted under subsection (1) may, on the expiration of the application timeline, notify the relevant MDA for the issuance of a certificate or document in evidence of the grant, and the MDA shall within 14 days, issue the certificate or document in evidence of the grant.

(6) The notification referred to in subsection (5) shall, for all purposes, be construed as a certificate or document in evidence of the grant.

(7) If the appropriate officer in an MDA fails to act on an application within the timeline stipulated, without lawful reason, the failure constitutes misconduct and is subject to the prescribed disciplinary proceedings under the civil or public service rules.

One
government
directive.

5.—(1) For the purposes of one government, where an applicant requires service from an MDA, the MDA shall conduct the necessary verification or certification from relevant MDAs, in respect of the applicant.

(2) Subject to subsection (1), a copy of any document submitted by an applicant in respect of an application shall be apparent proof of the content of such document.

(3) In this section, "one government" means collaboration between MDAs to process and deliver products and services to the public.

Service level
agreements.

6.—(1) An MDA shall have a service level agreement which shall provide for —

- (a) a list of products and services rendered;
- (b) documentation requirements ;

-
- (c) time lines for processing applications ;
 - (d) applicable fees ;
 - (e) a summary of the procedure of application ;
 - (f) redress mechanisms ; and
 - (g) such other requirement, as the MDA may consider necessary.

(2) The service level agreement of an MDA shall be binding on the MDA in the processing of applications.

(3) A service level agreement shall be published on the website of the MDA.

(4) Failure of the appropriate officer to act within the timeline stipulated in the service level agreement, without lawful reason, shall amount to misconduct and be subject to appropriate disciplinary proceedings in accordance with the relevant law or regulations applicable to the civil or public service.

7.—(1) Touting is prohibited in any port in Nigeria.

Port
operations.

(2) Staff on duty shall be properly identified by uniform and official identity cards.

(3) Staff off duty shall stay away from the ports except with the express approval of the head of the MDA.

(4) The Federal Airports Authority of Nigeria (FAAN), Aviation Security (AVSEC) and Nigeria Ports Authority (NPA) security shall ensure compliance with the provisions of this section.

(5) A non-official staff shall not be allowed into the secured areas of any of the ports in Nigeria.

(6) An official of the FAAN, Nigerian Immigration Service, a security agency, Ministry responsible for foreign affairs or MDA shall not be permitted to meet a non-designated dignitary at a secured area of the airport.

(7) The official approved list of dignitaries that have been pre-approved to be received by protocol officers shall be made available to AVSEC and other relevant agencies ahead of the arrival of such dignitaries at the airport.

(8) Any official who solicits or receives bribe from a passenger or other users of the port shall be —

- (a) removed from his duty post ;
- (b) subject to disciplinary measures ; and
- (c) liable to a criminal proceeding in accordance with extant laws and regulations.

(9) All relevant MDAs at the airports shall within 30 days of the commencement of this Act, merge their respective departure and arrival interfaces into a single customer interface.

(10) All agencies present in Nigerian ports shall, within 60 days from the commencement of this Act, harmonise their operations into one single interface station domiciled in one location in the port and implemented by a single joint task force at all times, without prejudice to necessary procedures which may be utilised at the backend.

(11) The new single interface station at each Nigerian port shall capture, track and record information on all goods arriving and departing from Nigeria and transmit captured information to the head of the relevant offices and the head of the National Bureau of Statistics on a weekly basis.

(12) Each port in Nigeria shall assign an existing export terminal dedicated to the exportation of agricultural produce, within 30 days of commencement of this Act.

(13) A port shall, within 30 days of commencement of this Act, maintain a 24-hour operation, or such other periods of operation to be determined by the relevant MDA.

(14) A person who violates the provisions of subsection (1), commits an offence and is liable on conviction to a fine of at least ₦1,000,000 or imprisonment for a term of at least six months or both.

(15) A person who violates the provisions of subsections (2), (3), (5) and (6), is liable to administrative penalties as may be prescribed in a regulation issued by the relevant MDAs.

Registration
of
businesses.

8. The Registrar-General of the Corporate Affairs Commission (CAC) shall, within 14 days of the commencement of this Act, ensure that all application processes at the CAC are fully automated from the start to completion.

Consequential
amendments.

9. The Acts in the Schedule to this Act are amended as set out in the Schedule to this Act.

Interpretation.

10. In this Act —
“*touting*” includes carrying out unlawful activity for personal gain ; and
“*modes of communication*” includes letters, emails and publications on official websites.

Citation.

11. This Act may be cited as the Business Facilitation (Miscellaneous Provisions) Act, 2022.

SCHEDULE

Section 9

CONSEQUENTIAL AMENDMENTS

PART I — COMPANIES AND ALLIED MATTERS ACT

Amendment of the Companies and Allied Matters Act

1. The Companies and Allied Matters Act, No. 3, 2020 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 78

2. Section 78 of the Principal Act is amended in subsection (3) by inserting after paragraph (b), a new paragraph “(c)” —

“(c) exempted under any other Act of the National Assembly.”

Amendment of section 127

3. Section 127 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

“(1) A company having a share capital may increase its issued share capital by the allotment of new shares of such amount, as it considers expedient —

(a) in a general meeting ; or

(b) by a resolution of the Board of Directors, subject to the condition or direction that may be imposed in the Articles or by the company in general meeting.”

Amendment of section 142

4. Section 142 of the Principal Act is amended in —

(a) in subsection (1) by inserting after letter “A”, in line 1, the word “private” ; and

(b) in subsection (2) by substituting for paragraph (c), a new paragraph “(c)” —

“(c) that if the offer is not accepted within 21 days of the notice, the offer shall be deemed declined.”

Amendment of section 149

5. Section 149 of the Principal Act is amended by —

(a) substituting for subsection (1), a new subsection “(1)” —

“(1) The powers to allot the shares of a company are not exercised by the directors of a company unless express authority to do so has been vested in the board of directors by the —

- (a) company in a general meeting ; or
- (b) company's articles." ; and
- (b) deleting subsection (3).

Amendment of section 154

6. Section 154 of the Principal Act is amended in subsection (1) by substituting for the words "one month", the expression "15 days".

Amendment of section 171

7. Section 171 of the Principal Act is amended by inserting after subsection (6), a new subsection "(7)" —

"(7) For the purpose of this section, "certificate" may be in physical or electronic form".

Amendment of section 181

8. Section 181 of the Principal Act is amended by —

- (a) substituting for the marginal note, a new "marginal note", —
"Instrument of transfer" ; and
- (b) substituting for subsection (1), a new subsection "(1)" —

"(1) When the holder of any share of a company wishes to transfer to any person only a part of the shares represented by one or more certificates, the instrument of transfer together with the relevant certificates shall be delivered to the company with a request that the instrument of transfer be recognised and registered and the instrument of transfer shall include certificates issued in electronic form."

Amendment of section 207

9. Section 207 of the Principal Act is amended by substituting for subsection (4), a new subsection "(4)" —

"(4) Notwithstanding any provision in this Act or any other law to the contrary and without prejudice to the provisions of section 204, the holder of a fixed charge shall have priority over other debts of the company including preferential debts."

Amendment of section 222

10. Section 222 of the Principal Act is amended by inserting in subsection (13), in alphabetical order, the interpretations of —

"cash" means money in any currency, credited to an account, or a similar claim for repayment of money and includes money market deposits and

sums due or payable to, or received between the parties in connection with the operation of a financial collateral arrangement or a close-out netting provision ;

“*financial collateral*” means cash or financial instruments ;

“*financial instruments*” includes —

(a) shares in companies and other securities equivalent to shares in companies,

(b) bonds and other forms of instruments giving rise to or acknowledging indebtedness if these are tradeable on the capital market ; and

(c) any other securities which are normally dealt in and which give the right to acquire any such shares, bonds, instruments or other securities by subscription, purchase or exchange or which give rise to a cash settlement (excluding instruments of payment) ; and

“*security interest*” means a —

(a) pledge ;

(b) mortgage ;

(c) fixed charge ; or

(d) charge created as a floating charge, where the financial collateral charged is delivered, transferred, held, registered or otherwise designated so as to be in the possession or under the control of the collateral-taker or a person acting on its behalf.”

Amendment of section 240

11. Section 240 (2) of the Principal Act is amended by deleting the word “private”.

Amendment of section 244

12. Section 244 of the Principal Act is amended by —

(a) substituting for subsection (1), a new subsection “(1)” —

“(1) A notice may be given by the company to any member —

(a) personally ;

(b) electronically ;

(c) by sending it by post to him or to his registered address ; or

(d) where he has no registered address within Nigeria, to the address, supplied by him to the company for the giving of notice to him.” ; and

(b) deleting subsection (3).

Amendment of section 248

13. Section 248 (1) of the Principal Act is amended by inserting after the words, “show of hands”, the words “or electronic voting”.

Amendment of section 275

14. Section 275 of the Principal Act is amended by —

(a) substituting for subsection (1), a new subsection “(1)” —

“(1) A public company shall have at least one-third of the total number of its directors as independent directors.” ; and

(b) substituting for subsection (2), a new subsection “(2)” —

“(2) In a public company, any person who nominates candidates for the board, who would comprise a majority of the members of the board shall nominate at least one third number of persons who would be independent directors.”

Amendment of section 283

15. Section 283 of the Principal Act is amended by substituting for paragraph (c), a new paragraph “(c)” —

“(c) is a person removed under section 288 of this Act, where such removal was on the grounds of fraud, dishonesty or unethical conduct;”

Amendment of section 307

16. Section 307 of the Principal Act is amended by substituting for subsection (3), a new subsection “(3)” —

“(3) A person can only be a director in five public companies and where the person is a director of more than five public companies before the commencement of this Act, such a person shall resign as a director of all but five of the companies not later than the next annual general meeting of the companies after the expiration of two years from the commencement of this Act.”

Amendment of section 378

17. Section 378 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

“(1) Financial statements of a company prepared under section 377 of this Act, shall comply with the requirements of the accounting standards prescribed in the statements of accounting standards issued by the Financial Reporting Council of Nigeria.”

Amendment of section 394

18. Section 394 of the Principal Act is amended by substituting for subsection (2), a new subsection “(2)” —

“(2) A company qualifies as a small company in relation to a subsequent financial year if the conditions qualifying it as a small company are met in that year and the preceding financial year.”

Amendment of section 572

19. Section 572 of the Principal Act is amended in paragraph (a), by substituting for the expression “a sum exceeding ₦200,000”, the words “a sum to be determined by a regulation issued by the Commission”.

Amendment of section 658

20. Section 658 of the Principal Act is amended in subsection (6), by substituting for the words “period of years”, the words “period of two years”.

Amendment of section 868

21. Section 868 of the Principal Act is amended by deleting the definition of “insolvency practitioner”.

PART II — NIGERIAN EXPORT PROMOTION COUNCIL ACT

Amendment of the Nigerian Export Promotion Council Act

22. The Nigerian Export Promotion Council Act, Cap. N108, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Substitution for section 2

23. Substitute for section 2 of the Principal Act, a new section “2” —

“2. (1) There shall be a governing board of the Council (in this Act referred to as “the Board”) —

(2) The Board shall consist of —

(a) a Chairman, who shall be appointed by the President on the recommendation of the Minister ;

(b) a representative each of the Federal Ministries responsible for —

(i) Foreign Affairs,

(ii) Industry, Trade and Investment,

(iii) Mines and Steel,

(iv) Agriculture,

(v) Culture and Tourism, and

(vi) Finance ;

- (c) a representative of the following agencies —
- (i) the Nigerian Customs Service,
 - (ii) Bank of Industry, and
 - (iii) Central Bank of Nigeria ;
- (d) a representative of the following associations —
- (i) Manufacturers Association of Nigeria (Export Group), and
 - (ii) the Nigerian Association of Chambers of Commerce, Industries, Mines and Agriculture (NACCIMA) ;
- (e) one person to be appointed by the Minister from the private sector, who shall be a person with cognate experience in industry, commerce, finance, international trade, or export promotion ; and
- (f) the Executive Director of the Council.
- (3) The Chairman shall be a person with cognate experience in industry, commerce, finance, international trade, or export promotion.
- (4) The provisions set out in the Schedule to this Act shall have effect with respect to the tenure of office of members, proceedings of the Board, and other matters mentioned in it.”

PART III — CUSTOMS AND EXCISE MANAGEMENT ACT

Amendment of Customs and Excise Management Act

24. The Customs and Excise Management Act, Cap. C45, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 2

25. Section 2 of the Principal Act is amended by inserting in alphabetical order the definition of —

“single window” means a platform or facility that allows parties involved in trade and transport to lodge trade-import, export or transit-data required by government departments, authorities or agencies through a single-entry point interface to fulfil all import, export, transit related and other regulatory requirements.”

Insertion of sections 18A and 18B

26. Insert after section 18 of the Principal Act, new sections “18A” and “18B” —

“Single window

18A.—(1) The Board shall establish and maintain a single window to enable traders submit documentation or data requirements for importation, exportation or transit to a single-entry point and utilise information and communications technology to support the single window.

(2) The documentation or data requirements maintained in the single window mentioned in subsection (1) shall be made available to the relevant authorities or agencies for examination.

(3) The result of the examination mentioned in subsection (2) shall be made available to the applicant, through the single window within a period, as may be prescribed in a regulation.

(4) Where documentation or data requirement has been submitted through the single window, such documentation or data requirement shall not be requested by any other authority or agency except in urgent circumstances and other limited exceptions which are made public.

(5) All references to delivery of or entry of any documentation, data requirement or information in this Act shall be construed as lodgement of such documentation, data requirement or information on or through the single window.

Examination

18B. The inspection or examination of goods under this Act or any other law shall be scheduled to ensure that the inspections or examination by any officer and other relevant authorities are co-ordinated and, if possible carried out at the same time.”

Amendment of section 31

27. Section 31 of the Principal Act is amended —

(a) in subsection (1), by substituting for the word “fifteenth”, the word “fifth”, and

(b) in subsection (4), by substituting for the word “fourteen”, the word “four”.

Amendment of the First Schedule

28. Paragraph 13 of the First Schedule to the Principal Act is amended —

(a) in subparagraph (1), by substituting for the expression “7 days”, the expression “3 days” ;

(b) in subparagraph (2), by substituting for the expression “21 days”, the expression “7 days” ;

(c) in subparagraph (3), by substituting for the expression “14 days”, the expression “5 days”;

(d) in subparagraph (4), by substituting for the expression “10 days”, the expression “4 days”; and

(e) in subparagraph (5) by substituting for the expression “14 days”, the expression “5 days”.

PART IV — EXPORT (PROHIBITION) ACT

Amendment of the Export (Prohibition) Act

29. The Export (Prohibition) Act, Cap. E22, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Substitution for section 1

30. Substitute for section 1 of the Principal Act, a new section “1” —

“1. (1) Notwithstanding the provisions of the Customs Excise Tariff, Etc. (Consolidation) Act, Cap. C49, Laws of the Federation of Nigeria, 2004 or any other enactment, the goods specified in the Schedule to this Act are prohibited from being exported outside Nigeria.

(2) The Minister may by order vary the goods set out in the Schedule to this Act.

(3) In this section, “Minister” means the Minister responsible for finance.”

PART V — FINANCIAL REPORTING COUNCIL ACT

Amendment of the Financial Reporting Council Act

31. The Financial Reporting Council of Nigeria Act, No. 6, 2011 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 59

32. Section 59 of the Principal Act is amended by inserting after subsection (2), a new subsection “(3)” —

“(3) Notwithstanding the provisions of any laws relating to form and content of financial statements in Nigeria, general purpose financial statements prepared by companies, government organisations and corporations shall be prepared in accordance with standards, regulations, rules and pronouncements issued and adopted by the Financial Reporting Council of Nigeria.”

PART VI — FOREIGN EXCHANGE (MONITORING AND MISCELLANEOUS
PROVISIONS) ACT

*Amendment of the Foreign Exchange (Monitoring
and Miscellaneous Provision) Act*

33. The Foreign Exchange (Monitoring and Miscellaneous Provision) Act, Cap. F34, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 6

34. Section 6 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

“(1) The Central Bank may revoke the appointment of an authorised dealer or authorised buyer, where the authorised dealer or authorised buyer —

- (a) fails to utilise the licence within 30 days ;
- (b) fails to commence its exchange business within six months from the date of the license ;
- (c) fails to disclose in their application, any material information known to the licensee or reasonably expected to have been known by the licensee ;
- (d) provides material information, which is false ;
- (e) has not complied with a directive under the Act ;
- (f) following the issue of the license ceased to qualify for the license ;
- (g) is found to be in malpractice or irregularity in the management of the business of dealing in foreign exchange ;
- (h) is placed under liquidation, receivership or is adjudged bankrupt ;
- (i) conducts or intends to administer its business in a manner that threatens the interest of customers or potential customers ;
- (j) or any of its shareholders apply for the liquidation of the company ;
- (k) has a judicial receiver or manager or any similar officer appointed to manage or take over his undertaking ; or
- (l) has a bankruptcy order or judgment against him.”

PART VII — IMMIGRATION ACT

Amendment of the Immigration Act

35. The Immigration Act, No. 8, 2015 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 20

36. Section 20 of the Principal Act is amended by inserting after subsection (7), new subsections “(8)” and “(9)” —

“(8) Entry visas to Nigeria shall be issued or rejected with reason within 48 hours of receipt of valid applications.

(9) A comprehensive and up to date list of requirements, conditions and procedures for obtaining visa on arrival as well as all other entry visas, including the estimated timeframe, shall be published on all immigration-related websites, Embassies and High Commissions, and all Nigerian ports of entry.”

Amendment of section 36

37. Section 36 of the Principal Act is amended —

(a) in subsection (1) (b) by substituting for the word “Minister”, the words “Comptroller-General of Immigration”; and

(b) by inserting after subsection (3), new subsections “(4)”, “(5)”, “(6)” and “(7)” —

“(4) Notice of any change to the particulars relating to the business permit shall be given to the Comptroller General of Immigration.

(5) The Service may establish and use any system, using any means of electronic communication to facilitate the automated filing of any document, information or return contemplated by this Act.

(6) The Service may accredit an established system that is capable of facilitating any activity contemplated under subsection (5) and satisfies any requirements prescribed or adopted by the Service.

(7) The Service may —

(a) make regulations relating to the standards of operation, accessibility, technical requirements, service quality and fees for the use of any system contemplated by subsections (5) and (6) ; and

(b) declare any system established or accredited by the Service to be an acceptable mechanism for filling any document, information or return instead of any other requirement stipulated in any legislation relating to the filling of that document, information or return.”

PART VIII — INDUSTRIAL INSPECTORATE ACT

Amendment of the Industrial Inspectorate Act

38. The Industrial Inspectorate Act, Cap. I8, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 3

39. Section 3 of the Principal Act is amended —

(a) in subsection (1) (a) by substituting for the words “expenditure of not less than twenty thousand Naira”, the words “expenditure of five million naira or as the Minister may by regulation prescribe”;

(b) in subsection (1) (b) by substituting for the words “expenditure of not less than twenty thousand naira”, the words “expenditure of five million naira or as the Minister may by regulation prescribe”.

PART IX — INDUSTRIAL TRAINING FUND ACT

Amendment of the Industrial Training Fund Act

40. The Industrial Training Fund Act, Cap. I9, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Substitution for section 6

41. Substitute for section 6 of the Principal Act, a new section “6” —

“6. (1) Any employer having 25 or more employees in his establishment and not operating within a free trade zone shall, in respect of each calendar year or prescribed date, contribute to the Fund one per centum of his annual payroll.

(2) Any supplier, contractor or consultant having more than 25 employees in his establishment bidding or soliciting contracts, businesses, goods and services from any Federal Government ministry, department, agency, commercial, industrial and private entity shall fulfil statutory obligations of his employees with respect to payment of training contribution to the Fund.

(3) The Minister may, with the approval of the Federal Executive Council by order published in the Federal Government Gazette, vary the rate of contribution prescribed in subsection (1).”

PART X — INVESTMENT AND SECURITIES ACT

Amendment of the Investment and Securities Act

42. The Investment and Securities Act, No. 29, 2007 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 67

43. Section 67 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

“(1) No allotment shall be made of any securities of a company offered to the public for subscription unless in the case of a —

(a) public company, the amount stated in the prospectus, as the minimum amount, which, in the opinion of the directors, is required to be raised by the issue of share capital in order to provide for the matters specified in paragraph 2 of the Third Schedule to this Act, has been subscribed and the sum payable on application for the amount so stated has been paid to and received by the company ; or

(b) private company, through any lawful means, as the Commission may by regulation prescribe.

PART XI — NATIONAL HOUSING FUND ACT

Amendment of the National Housing Fund Act

44. The National Housing Fund Act, Cap. N45, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Substitution for section 4

45. Substitute for section 4 of the Principal Act, a new section “4” —

“4. (1) Any employee earning the national minimum wage and above in the —

(a) public sector in Nigeria shall contribute 2.5% of his monthly income to the Fund ; or

(b) private sector in Nigeria may contribute 2.5% of his monthly income to the Fund.

(2) Any self-employed person earning the equivalent of the national minimum wage and above shall contribute 2.5% of his monthly income to the Fund.

(3) An interest rate of 2% per annum, or as may be determined by the Bank, shall be payable on the contributions made under subsection (1) and (2).

(4) The Federal Government may make any grant of money to the Fund.”

Amendment of section 9

46. Section 9 of the Principal Act is amended in subsection (1), by substituting for the expression “a basic salary of ₦ 3,000”, the words “the minimum wage”.

PART XII — NATIONAL OFFICE FOR TECHNOLOGY ACQUISITION
AND PROMOTION ACT

*Amendment of the National Office for Technology
Acquisition and Promotion Act*

47. The National Office for Technology Acquisition and Promotion Act, Cap. N62, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 5

48. Section 5 of the Principal Act is amended in subsection (2), by inserting after the word “thereof”, the words, “provided that companies in their first two years of business operation shall not be liable to late registration penalties where such contracts are registered before the end of the second year of their business operation”.

PART XIII — NATIONAL PLANNING COMMISSION ACT

Amendment of the National Planning Commission Act

49. The National Planning Commission Act, Cap. N66, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 3

50. Section 3 (2) of the Principal Act is amended by inserting after paragraph (f), a new paragraph “(fa)” —

“(fa) Director-General of the Infrastructure Concession Regulatory Commission”.

PART XIV — NIGERIAN CUSTOMS SERVICE BOARD ACT

Amendment of the Nigerian Customs Service Board Act

51. The Nigerian Customs Service Board Act, Cap. N100, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 3

52. Section 3 of the Principal Act is amended in paragraph (b), by inserting after subparagraph (ii), a new subparagraph “(iii)” —

“(iii) adopt modern means of operationalisation and develop regulations for the carrying out of the activities of the Service.”

PART XV — NIGERIAN INVESTMENT PROMOTION COMMISSION ACT

Amendment of the Nigerian Investment Promotion Commission Act

53. The Nigerian Investment Promotion Commission Act, Cap. N117, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 20

54. Section 20 of the Principal Act is amended by inserting after (2), a new subsection “(3)” —

“(3) Notwithstanding the provisions of subsections (1) and (2), an enterprise registered in Nigeria, which subsequently acquires foreign participation after the commencement of business, shall, within three months of such acquisition, register with the Commission.”

Substitution for section 22

55. Substitute for section 22 of the Principal Act, a new section “22” —

“22.—(1) For the purpose of promoting identified strategic or major investments, the Commission shall —

(a) specify priority area of investment and their applicable benefits and incentives ; and

(b) negotiate specific incentives packages for strategic investments in addition to the incentives available to any enterprise under other laws.

(2) The Commission shall publish, in the Federal Government Gazette and on its website the —

(a) criteria for determining strategic investment and designate an investment that satisfies the criteria, as strategic investment ; and

(b) details of special incentives awarded through negotiation under this section.”

PART XVI — NIGERIAN OIL AND GAS INDUSTRY CONTENT
DEVELOPMENT ACT

*Amendment of the Nigerian Oil and Gas Industry
Content Development Act*

56. The Nigerian Oil and Gas Industry Content Development Act, No. 2, 2010 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 106

57. Section 106 of the Principal Act is amended by inserting in alphabetical order, the definition of “Nigerian Independent Operators” —

“Nigerian Independent Operators” means a Nigerian Company;”

PART XVII — NIGERIAN PORTS AUTHORITY ACT

Amendment of the Nigerian Ports Authority Act

58. The Nigerian Ports Authority Act, Cap. N126, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 7

59. Section 7 of the Principal Act is amended —

(a) in paragraph (e), by inserting after subparagraph (iv), a new subparagraph “(v)” —

“(v) the use of information and communications technology for operations within the ports.”;

(b) by inserting after paragraph (i), new paragraphs “(ia)”, “(ib)”, and “(ic)” —

“(ia) remove all unauthorised personnel from the ports ;

(ib) provide facilities for the establishment and maintenance of a single window through, which all the operations required by law of all government authorities and agencies in any part of Nigeria can be undertaken ; and

(ic) ensure that the operations required by law of all government agencies in any port in Nigeria are harmonised through the single window domiciled within the ports.”

Amendment of section 40

60. Section 40 (1) (d) of the Principal Act is amended by inserting after the words “Authority of”, the words “unauthorised personnel”.

PART XVIII — PATENTS AND DESIGNS ACT

Amendment of the Patents and Designs Act

61. The Patents and Designs Act, Cap. P2, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of First Schedule

62. The First Schedule to the Principal Act is amended by inserting, after paragraph 13, a new paragraph “13A” —

“13A. The Minister shall by regulation prescribe the procedure for the application, grant, use and withdrawal of compulsory licenses under this paragraph.”

PART XIX — PENSION REFORM ACT

Amendment of Pension Reform Act

63. The Pension Reform Act No. 4, 2014 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 89

64. Section 89 of the Principal Act is amended by substituting for subsection (2), a new subsection “(2)” —

“(2) Notwithstanding the provisions of subsection (1) (c) —

(a) pension assets are eligible for securities lending as the Commission may approve ; and

(b) Pension Fund Administrator may, subject to guidelines issued by the Commission, apply a percentage of the pension assets in the retirement savings account —

(i) towards payment of equity contribution for payment of residential mortgage by a holder of Retirement Savings Account, and

(ii) for the purpose of securities lending.”

PART XX — STANDARDS ORGANISATION OF NIGERIA ACT

Amendment of the Standards Organisation of Nigeria Act

65. The Standards Organisation of Nigeria Act No. 14, 2015 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 5

66. Section 5 of the Principal Act is amended in subsection (1), by substituting for paragraphs (b), (e) and (l), new paragraphs “(b)”, “(e)” and “(l)” —

“(b) undertake investigations as necessary into the quality of facilities, materials and products imported into Nigeria, and establish a quality assurance system including certification of factories, products and laboratories ;

(e) compile and publish an inventory of products requiring standardisation ;

(l) undertake the registration of all regulated products specified under paragraph (e).”

Amendment of section 29

67. Section 29 of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)” —

“(1) The Director-General may, upon being satisfied that the quality, purity or potency of any product is detrimental or hazardous to life, property and the national economy, make an ex parte application to the court for an order to —

(a) seize and detain such products for such a time as may be reasonable, but not exceeding 30 days, for the satisfaction of, and compliance with this Act, provided that before the expiration of the initial 30 days, the Organisation may make further ex parte application to the court for an order to detain such products for a further period not exceeding 30 days ;

(b) prohibit any person from selling or offering for sale the suspicious product ;

(c) forfeit such product ;

(d) seal up the premises where such product is manufactured or stored ; or

(e) direct the person to rectify the deficiency in the case of a sub-standard, mis-described or hazardous product, subject to such prohibitions as may be imposed”.

PART XXI — TRADE MARKS ACT

Amendment of the Trade Marks Act

68. The Trade Marks Act, Cap. T13, Laws of the Federation of Nigeria, 2004 (in this Part referred to as “the Principal Act”) is amended as set out in this Part.

Amendment of section 67

69. Section 67 of the Principal Act is amended by —

(a) inserting in alphabetical order, the definition of “goods” —

“goods” includes services” ; and

(b) substituting for the definition of the words trade mark, a new definition of “trade mark” —

“trade mark” means —

(a) a mark used or proposed to be used in relation to goods or services for the purpose of indicating a connection between the goods or services and a person having the right, either as a proprietor or as a registered user, to use the mark, whether with or without any indication of the identity of that person, and may include shape of goods, their packaging and combination of colours ; and

(b) in relation to a certification trade mark, a mark registered or deemed to have been registered under section 43 of this Act.”

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
10th Day of January, 2023.

EXPLANATORY MEMORANDUM

This Act provides for the ease of doing business, ensures transparency, efficiency and productivity in Nigeria.

SCHEDULE TO THE BUSINESS FACILITATION (MISCELLANEOUS PROVISIONS) BILL, 2022

(1) <i>Short Title of the Bill</i>	(2) <i>Long Title of the Bill</i>	(3) <i>Summary of the Contents of the Bill</i>	(4) <i>Date Passed by the Senate</i>	(5) <i>Date Passed by the House of Representatives</i>
Business Facilitation (Miscellaneous Provisions) Bill, 2022.	An Act to provide for the ease of doing business, ensure transparency, efficiency and productivity in Nigeria; and for related matters.	This Bill provides for the ease of doing business, ensures transparency, efficiency and productivity in Nigeria.	20th December, 2022.	12th October, 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
10th Day of January, 2023.

MUHAMMADU BUHARI, GCFR
President of the Federal Republic of Nigeria
8th Day of February, 2023.