

IMMIGRATION ACT, 2015

EXPLANATORY MEMORANDUM

This Act [which repeals Immigration Act, Cap. I1, LFN, 2004, and the Passport (Miscellaneous Provisions) Act, Cap. P1, LFN, 2004]. sets out the provisions for matters relating to immigration, passports, visas, resident permits, work permits, and the prohibition of smuggling of migrants into and from Nigeria, and for the protection of and provision of remedies and assistance to, objects of smuggling of migrants offences in Nigeria.

This Act also gives effect in the Federal Republic of Nigeria to the provisions of the Protocol Against the Smuggling of Migrants by Land, Sea and Air, supplementing the United Nations Convention Against Transnational Organised Crime.

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SCHEDULE

IMMIGRATION ACT 2015

ACT NO. 8

AN ACT to repeal to repeal the Immigration Act, Cap II, LAWS OF THE FEDERATION OF NIGERIA, 2004 and enact the IMMIGRATION ACT, 2015; AND for related matters.

[COMMENCEMENT: 25th Day, of May, 2015]

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

PART I - ESTABLISHMENT, STRUCTURE, AND FUNCTIONS OF THE NIGERIAN IMMIGRATION SERVICE

Establishment of Nigeria Immigration Service

1. There is established the Nigeria the Immigration Service in this Act referred to as (the Service") which shall be a body corporate with power to sue and be sued.

General duties of the Immigration Service

2. The Service shall be responsible for-
 - (a) the control of persons entering or leaving Nigeria;
 - (b) issuance of travel documents, including Nigerian passports, to bona fide Nigerians within and outside Nigeria ;
 - (c) issuance of residence permits to foreigners in Nigeria;
 - (d) border surveillance and patrol ;
 - (e) enforcement of laws and regulations with which they are directly charged; and
 - (f) performance of such para-military duties within or outside Nigeria as may be required of them under the authority of this Act or any other enactment;

Appointment of Immigration Officers

3. (1) The Comptroller-General of Immigration shall be appointed by the President from among the serving officers of the Service on the recommendation of the Board.

- (2) The Comptroller-General shall subject to directives by the Minister on matters of policy, be charged with the responsibility for the day-to-day administration of this Act or any other enactment conferring immigration duties upon him, including the performance of those duties specified in Section 2 of this Act.
- (3) The President shall appoint, on the recommendation of the Board, such number of persons from among serving officers of the Service to be Deputy Comptrollers-General.
- (4) (a) The Board shall appoint, from among serving officers of the Service, Assistant-Comptrollers-General.
(b) The Board shall appoint, from among serving officers of the Service, Comptrollers of Immigration and such other officers as may from time to time be employed to assist the Comptroller-General of Immigration under this Act and to be subject to his directive and control.

Oaths and Declarations to be taken by officers on appointment

- 4.- (1) On the appointment or promotion of any person as a member of the Service to or above the rank of Assistant Superintendent II, the provisions of the Oaths Act shall apply and such person shall take and subscribe to the Oath of Secrecy.
- (2). Every non-commissioned Officer shall make and subscribe to the Oath of Secrecy and the Service Declaration.

Appointment of Medical Inspectors.

5. The Minister, in consultation with the Minister of Health shall appoint a duly qualified medical practitioner as a medical inspector for the purpose of this Act, who shall act in accordance with such instructions as may be given by the Minister of Health, from time to time.

Command structure of the Service.

6. The Command and structure of the Service shall comprise-
 - (a) the Comptroller-General of Immigration who shall be the head of the Service, charged with the day to day administration of the Service and with the responsibility of directing the performance of the functions specified in Section 2 of this Act;
 - (b) the Deputy Comptrollers-General, who shall assist the Comptroller-General of Immigration in the performance of his duties and head Directorates at the Service Headquarters;
 - (c) the Assistant Comptrollers-General, who shall be in charge of Divisions at the Service Headquarters and head Zonal Offices;

- (d) the Comptrollers of Immigration Service, who shall head Sections at the Service Headquarters, and be the head of State Commands and Training Schools:
- (e) the Assistant Comptrollers of Immigration who shall head Area Offices, each of which shall exercise supervisory functions over at least three Local Government Areas in each State of the Federation;
- (f) officers in charge of Borders, Land, Marine and Air-border Patrol Units; and
- (g) Immigration Local Government Area Officers who shall head Local Government Immigration Offices.

Duties of the Deputy Comptroller General of Immigration

- 7.-(1) A Deputy Comptroller-General is the second in command in the Service and shall act for Comptroller in the Comptroller-Generals absence from Service Headquarters.
- (2) When acting for the Comptroller-General, the Deputy Comptroller-General shall be guided by the following:
- (a) all matters relating to change in Service policy shall be held in abeyance pending the return of the Comptroller-General except where a matter is urgent when it shall be referred directly to the Comptroller-General for instruction;
 - (b) all matters of importance dealt with by the Deputy Comptroller-General during the absence of the Comptroller-General shall be referred to the Comptroller-General on his for his review,

Duties of Assistant Comptroller-General of Immigration

8. An Assistant Comptroller-General shall act for the Comptroller-General in the absence of both the Comptroller-General and the Deputy Comptroller-General and when so acting, the provisions of Section 7(2) (a) and (b) of this Act shall, with all necessary modifications apply to him.

PART 11--PASSPORTS AND PASSPORTS OFFENCES

Power to issue, procedure for the issuance and types of Nigeria passport.

9. - (1) The power to issue Nigerian Passports shall be vested in the Comptroller-General of Immigration.
- (2) Nigerian Passports shall be issued only to bona fide Nigerians, within and outside Nigeria.
 - (3) Application for Nigerian passports made in Nigeria shall –
 - (a) be made to the appropriate Immigration Office closest to the applicant's place of residence within Nigeria; and

- (b) in a foreign Country, to the appropriate Diplomatic Mission established abroad and shall be issued by the Immigration Attaché to that Mission;

Provided that where there is no Nigerian Diplomatic Mission in the foreign country in which the Nigerian citizen is resident, then he shall direct his application to the Nigerian Diplomatic Mission in the nearest country performing immigration duties for the country in which he is resident.

- (4) On the receipt of an application for the Nigerian passport, the officer in charge of issuance of passports shall forthwith issue the passport to the applicant who has satisfied all the requirements for the issuance of the passport:

Provided that where an applicant fails to satisfy any requirement, that officer shall notify the applicant in writing of the requirement which he needs to satisfy within such reasonable period as may be specified in that notice.

- (5) In this section, "passport" means a document of protection and authority to travel issued by the Nigeria Immigration Service to Nigerians wishing to travel outside Nigeria, and includes, as defined in section 10 (3) and (4) of this Act, the following –

- (a) a Standard Nigerian Passport;
- (b) a Nigerian Diplomatic Passport;
- (c) a Nigerian Official Passport;
- (d) a Nigerian Pilgrim's Passport; and
- (e) a Seaman's Passport or Seaman's Certificate of Identity.

10. - (1) A person who-

- (a) has, holds or is in unauthorised possession of more than one valid standard Nigerian Passport,
- (b) Unlawfully alters, tampers with or mutilates any passport or any pages thereof,
- (c) knowingly makes or causes to be made any false statement for the purpose of procuring a passport whether for himself or for another person,
- (d) submits multiple application forms to one or more passport offices with the intention of obtaining multiple passports,
- (e) knowingly conceals, hides from or fails to disclose to the proper authority the loss of a passport,
- (f) acts as a broker at or in the vicinity of any passport office or elsewhere, for the procurement of a passport,

- (g) forges or traffics in passports or holds or is in possession of any forged passport knowing the same to be forged,
 - (h) attempts, aids, abets, counsels, procures, connives or conspires with any other person to do any of the acts mentioned in this subsection,

commits an offence and is liable on conviction to imprisonment for a term of ten years or a fine of Two Million Naira or both,
- (2) A person shall not be regarded as being in possession of more than one standard Nigerian Passport if, in addition, he is in possession of any other passport of the following descriptions issued to him by the lawful authority-
- (a) a Nigerian Diplomatic Passport:
 - (b) a Nigerian Official Passport:
 - (c) a Nigerian Pilgrim's Passport; or
 - (d) a Seaman's Passport or Seaman's Certificate of Identification.
- (3) In this section, "Standard Nigerian Passport" means any passport of certain description normally issued to a Nigerian citizen, not being a passport of the description specified in subsection (2) (a)-(c) of this section.
- (4) For the avoidance of doubt-
- (a) a person seeking entry shall be treated as in Nigeria after he has complied with all formalities prescribed for inspection by immigration, health and customs authorities and whether the compliance is subject to conditions or otherwise; and
 - (b) any permit issued under any repealed Act and valid immediately before the commencement of this Act shall, on the commencement thereof, be deemed to have been issued under this Act for the unexpired balance of the term of the permit and may be dealt with accordingly.

Liability of a recommender or guarantor signing application containing false declaration

11. A recommender or guarantor who signs any application form which contains any false declaration knowing same to be false or to hide or conceal any material information commits an offence and is liable on conviction to imprisonment for a term of six months and fine of five hundred thousand Naira.

Non-Nigerian citizen and penalties for such non-Nigerian offenders

12. (1) Any person not being a citizen of Nigeria, who has, holds or is in possession of any Nigerian Passport commits an offence.
- (2) Any person who unlawfully assists a non-Nigerian citizen to procure or be in possession of a Nigerian Passport commits an offence.
- (3) Any person who commits an offence under sub-section (1) of this section, is liable to conviction to imprisonment for a term of seven years or a fine of two million Naira.
- (4) A non-Nigerian citizen who is recommended or guaranteed or in any way assisted to procure a Nigerian Passport in contravention of subsection (1) of this section, is, on conviction, liable to imprisonment for a term of seven years and a fine of Two Million Naira, and it is immaterial that the non-Nigerian citizen concerned has not actually procured the passport.
- (5) In addition to the penalties imposed under this section, the non-Nigerian citizen concerned may be deported from Nigeria.

Cancellation or withdrawal of passports, etc.

13. (1) The Minister may, at any time, cancel or withdraw any passport issued to any person if-
 - (c) the passport is obtained by fraud; or
 - (b) a person unlawfully holds more than one passport at the same time.
- (2) The number of the passport, name and particulars of the holder of any passport withdrawn or cancelled pursuant to the provisions of sub-section (1) of this section shall be published in the Federal Gazette.

PART III - ENTRY INTO AND DEPARTURE FROM NIGERIA

Persons liable to examination

14. (1) Subject to the provisions of this section, this Act applies to persons arriving or departing Nigeria and to persons who are at any time therein after the commencement of this Act.
- (2) Nothing in this section shall be construed to-

- (a) require Nigerians to complete disembarkation cards on arriving Nigeria;
 - (b) impose any restriction or liability under this act as to entry, repatriation or deportation in respect of persons who satisfy an immigration officer that they are entitled, under any rule of law or enactment to immunity from suit or legal process not being immunity in respect only of things done or omitted to be done in the course of their duties, and to complete any other requirement of is Act before entry or departure;
 - (c) in respect of any particular requirement, affect persons exempted therefrom by the Minister under this Act;
 - (d) prohibit the entry of any person who satisfies an immigration officer as to his identity as a citizen of Nigeria or as the holder of a valid travel document or that he is a person in the employment of the Federal, State or Local Government, as the case may be;
 - (e) authorise the deportation from Nigeria of any citizen of Nigeria; and
 - (f) exempt any person from medical examination if required by the immigration officer.
- (3) Where a person enters Nigeria as exempted person under this Act and while in Nigeria thereafter ceases to be entitled to such exemption, he shall as soon as possible report the fact in writing to the Comptroller- General of Immigration and this Act shall have effect as if the person who ceased to be exempted were a person desirous of entering Nigeria for the first time and the Comptroller-General of Immigration if he thinks fit, refer the case to the Minister or may deal with the case himself.
- (4) A person affected by sub-section (3) of this section may, in the discretion of the Minister or such officer as the case may require, be issued with a permit to remain in Nigeria and if a permit is refused. the person affected shall be deemed to be a prohibited immigrant and may be dealt with in accordance with the provisions of this Act.

Examination of persons entering or leaving Nigeria.

- (15) (1) A person entering or leaving Nigeria shall –
- (a) report to an immigration officer for examination; and
 - (b) furnish such information in his possession as that officer may reasonably require for the purpose of this Act.
- (2) The immigration officer may refuse admission in any improper case.

- (3) A person liable to be examined by an immigration officer shall, if directed to do so by such officer in the course of his examination
- (a) declare whether or not he is carrying or conveying any document of any description specified by that :
 - (b) officer, being a description appearing to that officer to be relevant for the purpose of the examination; and
 - (c) produce to the officer any document of such description which he is carrying or conveying, and the power to examine any such person shall include power to search him and any baggage belonging to him or under his control with a view to ascertaining whether he is carrying or conveying any such document;

Provided that nothing in sub-section (1) of this section shall authorize the search of any woman or girl except by a female officer.

- (4) An immigration officer may examine, and may detain, for such time as he thinks proper for the purpose of examination not exceeding seven days, any document produced pursuant to or found on a search under this section.
- (5) Reference in this Act to person landing in Nigeria from or arriving at ports in Nigeria as members of the crew of ships or aircrafts, or any other means of transportation, does not include reference to persons landing from a ship or aircraft which began its journey at a place in and has not during the journey called at any place outside Nigeria.
- (6) For the avoidance of doubt –
- (a) a person seeking entry shall be treated as having been admitted into Nigeria after he has complied with all formalities prescribed for inspection by immigration, health and customs authorities and whether the compliance is subject to conditions or otherwise; and
 - (b) any permit or visa issued under any repealed Act and valid immediately before the commencement of this Act, shall on the commencement thereof be deemed to have been issued under this Act for the unexpired balance of the term of the permit.

Passenger Manifest and Medical Examination.

16. - (1) Where any ship or aircraft lands in Nigeria, the master or captain, as the case may be, shall supply to the immigration officer in charge, separate list showing disembarking and transit passengers and the immigration officer may, if he thinks fit, examine transit passengers as if they were immigrants.

- (2) An immigration or transit passengers named in any such list whose international certificate of health fails to comply with the requirement of the Comptroller-General or whose state of health the immigration officer has cause to suspect, shall submit to such medical examination or vaccination as a medical inspector may reasonably require.

Production of travel documents

- 17.- (1) Every passenger who arrives or departs Nigeria by any means at or from any recognized port, shall produce to an immigration landing or embarkation cards in such form as the Minister or Comptroller-General may specify and shall satisfy the immigration officer that he is the holder of a valid travel document:

Provided that nothing in this subsection shall be construed as requiring a Nigerian to complete a disembarkation card.

- (2) The Minister or the Comptroller-General of Immigration may by order direct the owners or agents of ships and aircrafts, and other means of transportation to supply to passengers with such landing or embarkation cards.
- (3) Every member of the crew of a ship or aircraft who lands in or leaves Nigeria shall produce such evidence or travel document as an immigration officer may require.
- (4) No person, whether in possession of a travel document or not, who is a prohibited immigrant shall enter Nigeria without the consent of the Minister.
- (5) For the purposes of this section, the expression, "travel document" in the case of any member of the crew of a ship or aircraft, includes any card or other document in a form approved by or acceptable to the Comptroller-General of Immigration.

Entry Requirement

18. (1) An immigration officer shall, unless the Minister or the Comptroller-General of Immigration otherwise directs, admit into Nigeria a person who-
 - (a) has in his possession 3 valid passport or such other travel document as is approved by the Minister or Comptroller-General of Immigration for admission into Nigeria;
 - (b) is in possession of a valid visa, residence or work permit, or any other permit, or other form of approval;
 - (c) is not a prohibited immigrant;
 - (d) is not considered to be a risk to public health, public interest or national security; and
 - (e) should not be admitted into Nigeria on any other ground that may be prescribed from time to time by the Minister or the Comptroller-General of Immigration

- (2) A resident or work permit granted to a foreign Immigrant shall be treated for purposes of entry into Nigeria as a multiple entry permit.

Power to refuse entry or to admit into Nigeria

- 19.-(1) The power of an immigration officer to refuse entry or to admit into Nigeria subject to conditions, shall, unless the Minister otherwise directs, be exercised by notice in writing, and subject to sub-section (2) of this section, any such notice shall be given by being delivered by the immigration officer to the person to whom it relates.
- (2) Where an immigrant who is to be admitted into Nigeria subject to conditions is a member of a group in the charge of a person appearing to the immigration officer to be a responsible person, the notice under this section shall be duly given if delivered to the person in charge of the group.
- (3) A notice refusing a person admission into Nigeria may at any time be cancelled by a subsequent notice in writing given to him by an immigration officer, and where a notice under this subsection canceling such a notice is given to any person at any time, the immigration officer may at the same time give to that person a permit admitting him into Nigeria, subject to conditions.
- (4) Any condition specified in a notice under this section may at any time be revoked or varied by the Minister or the Comptroller-General of Immigration either by notice in writing given to the Immigrant to whom those conditions apply or by Order applying to immigrants of any class to whom the conditions for the time being apply.
- (5) Any notice under this section and any condition specified in such a notice shall unless previously cancelled or revoked under the provision of this Act, cease to have effect if the person to whom the notice was given again enters or seeks to enter Nigeria.
- (6) An immigration officer shall have the power to refuse entry into Nigeria of any person who is not a citizen of Nigeria, if
- (a) the person concerned is a prohibited immigrant;
 - (b) where a visa is required, such person has no valid visa;
 - (c) where a resident or other permit is required as a condition of entry it has not been obtained; or
 - (d) on the advice of a medical inspector, it is undesirable for medical reasons to admit such a person.

Visa requirements and conditions and power to issue via

20.- (1) The power to issue visa shall be vested in the Comptroller-General.

(2) Application for visa shall be made to the Comptroller-General of Immigration 01 to the appropriate Nigerian Diplomatic Mission established abroad .

(3) Visa shall be issued in such Diplomatic Missions by the Immigration Attache:

Provided that where no Immigration Attache is available in any Mission, that duty shall be performed by any other officer designated for the purpose by the Head of Mission.

(4) On the receipt of an application for visa, the officer in charge of issuance of visa shall, in the case of –

(a) a person visiting Nigeria, if satisfied that it is proper, issue a visa;

(b) crew seeking permission to land in Nigeria, issue appropriate visa;

(c) persons falling within the categories listed below seeking entry into Nigeria, issue appropriate visa to-

(i) diplomatic or government officials of countries other than Nigeria.

(ii) personnel of the United Nations Organization and its agencies,

(iii) personnel of the African Union and its agencies,

(iv) personnel of the Economic Community of West African States and its agencies.

(v) personnel of international and non-governmental organizations,

(vi) persons seeking entry under any technical aid scheme,

(vii) special organised economic and trade delegations,

(viii) other specialised delegation, and

(ix) persons specially invited by the Federal, State and Local Government of Nigeria;

(d) a person seeking entry into Nigeria for the purpose of taking up employment under a contract of service with the Federal, State or Local Government of Nigeria (other than by Way of technical aid), his spouse and dependants, on the production

by that person of the contract of service or such other evidence as may be satisfactory to the Comptroller-General of Immigration, issue the appropriate visa;

- (e) a person seeking entry into Nigeria for the purpose of taking up employment in Nigeria, refer the application to the Comptroller-General of Immigration.
- (5) Where no diplomatic Nigerian Mission is established in the country concerned, an application shall be made to the nearest Nigerian Mission if –
 - (a) there is an agreement between Nigeria and the government of that country for the performance by that government of consular functions on behalf of Nigeria, be made to that government; and
 - (b) there is no such agreement, be made to such Diplomatic Mission as may be designated by the Minister of Foreign Affairs.
- (6) Nothing in this section shall apply to –
 - (a) persons who after a tour of duty with the Federal, State or Local Government, Corporation or Company owned or controlled by any such government, are abroad on leave with the intention of resuming duty in Nigeria thereafter;
 - (b) spouse and children of person within paragraph (a) of this subsection;
 - (c) persons otherwise employed in Nigeria and their spouses and dependants who before departure on leave apply for and obtain a re-entry visa f1·0111 the Comptroller-General of Immigration; and
 - (d) transit passengers, who remain in or in the vicinity of the port of entry for a period of time not exceeding 48 hours.
- (7) The Comptroller-General of Immigration shall authorize the issuance of Short Visit Visas at the port of entry to frequent travel business persons of international repute, executive directors of multinational companies, members of government delegations, holders of United Nations Laissez-passer, Africa Union Laissez-passer, Economic Community of West African States Laissez-passer, and holders of any other official travel documents of other recognized international organisations, who are on short visits to Nigeria.

Control of Visitors and Transit

21. (1) An immigration officer may by notice given at any time to any person who -

- (a) has arrived at a recognized port in Nigeria as a visitor or as a transit Passenger on board a ship or other water vessel, aircraft, motor vehicle or other means of transportation, and
 - (b) is for the time being on board a ship or other water vessel, aircraft, motor vehicle, or other means of transportation;

prohibit him from landing from the ship or other water vessel, aircraft, motor vehicle, or other means of transportation, as the case may be, while he remains at such port or entry point, unless authorized to do so by a superior immigration officer.
- (2) An immigration officer may, by notice given at any time to any person who –
- (a) lands from a ship or other water vessel, aircraft, motor vehicle, or other means of transportation in contravention of a prohibition imposed on him under sub-section (1) of this Section;
 - (b) being a visitor refused admission, or a transit passenger remains in Nigeria after the ship or other water vessel, aircraft, motor vehicle or other means of transportation has left the port of entry; or
 - (c) having been admitted as a visitor into Nigeria subject to a condition restricting the period for which he may remain, remains in Nigeria in contravention of that condition,

such person shall, subject to sub-section (3) of this Section, where necessary, be treated for the purposes of this Act as if he had been refused admission into Nigeria.
- (3) An immigration officer may, by notice in writing given at any time to any person who has landed or remained in Nigeria as mentioned in sub-section (2) of this Section, authorise him to remain in Nigeria either without conditions or subject to conditions the Minister may impose, including in particular, conditions requiring him to leave Nigeria -
- (a) in specified ship or other water vessel, aircraft, motor vehicle, or other means of transportation; or
 - (b) within a specified period in accordance with the conditions of his permit or as the case may be, with arrangements made and where such a notice is given to any person, he shall not be treated as a person to whom admission to Nigeria has been refused unless, in the case where he is subject to conditions requiring him to leave Nigeria, he fails to comply or is reasonably suspected of intending to fail to comply with those conditions.
- (4) A permit under this section shall be in such form as the Minister may from time to time, prescribe and any permit issued or condition endorsed may at any time be varied or revoked by the Comptroller-General of Immigration or such officer may replace the permit in any proper case.

Power to exempt from certain entry requirements

- 22.- (1) The Minister may by order in the national interest, exempt from the requirement of entry under this Act any person or class of persons and with the concurrence of the Minister of Health, may restrict the classes of cases in which medical examination of persons landing in Nigeria is required.
- (2) The Minister may by order and in the national interest, exempt any person or class of persons from the requirement of this Act as to departure from Nigeria.

Power of Immigration Officers to board ships

23. An immigration officer or medical inspector may board any ship, aircraft or a vehicle of any description at any frontier in Nigeria for the purposes of inspection.

Recognition of Ports of Entry

24. For the purpose of this Act, the Minister may by order prescribe any aerodrome, airport, seaport or control post as recognised port of entry, and may likewise permit any aircraft or ship to land in Nigeria for the purpose of immigration clearance.

Arrival elsewhere other than at a recognized port

25. Where any ship, water vessel, aircraft, motor vehicle, or any other means of transportation lands by sea or air, or arrives overland in Nigeria elsewhere than at a recognized port, the master of the ship or water vessel, the captain of the aircraft, the driver of the motor vehicle or the operator of the other means of transportation shall report to the nearest Immigration office and no person on board or in the vehicle shall leave the ship or water vessel, aircraft, motor vehicle, or other means of transportation which lands by sea or air arrives overland without the authority of an Immigration officer.

PART IV – CONTROL OF CREWS AND STOWAYS

Control of Immigrants entering Nigerian by Inland Waters

26. A person who enters Nigeria by inland waters or overland, shall proceed to the nearest recognised port and appear before an Immigration Officer, and that Immigration officer after such examination as he may consider necessary, shall if the person appears to him to be a prohibited immigrant, detain that person, and the provisions of this Act as to deportation shall have effect accordingly.

Removal of Immigrants where entry is refused

27. (1) Where a person arriving by ship or water vessel, aircraft, motor vehicle, or other means of transportation which lands by sea or air, or arrives overland is for any reason refused entry into Nigeria, an immigration officer may give the following directives –
- (a) the master of the ship or captain of the aircraft, the driver of the motor vehicle or the operator of the other means of transportation in which the immigrants arrived in Nigeria, to remove the immigrant from Nigeria in that ship, aircraft, motor vehicle or the operator of the other means of transportation;
 - (b) the owners or agents of the said ship or water vessel, aircraft, motor vehicle, or other means of transportation, to remove the immigrant from Nigeria in any ship or water vessel, aircraft, motor vehicle, or other means of transportation specified in the directives, being a ship or water vessel, aircraft, motor vehicle or other means of transportation of which they are the owners or agents;
 - (c) the said owners or agents to make arrangement for the removal of the immigrant from Nigeria in any ship or water vessel, aircraft, motor vehicle, or other means of transportation bound for a country or territory specified in the directives, being
 - a –
 - (i) country of which the person refused entry is a citizen;
 - (ii) country or territory from he has obtained a passport or other document of identity;
 - (iii) country or territory from which he has embarked for Nigeria; or
 - (ii) country or territory to which there is reason to believe that the immigrant will be admitted and for securing him passage to that country or territory.
- (2) If it appears to the Minister, that in the circumstances it is impracticable for directives to be given under Sub-section (1) of this Section in respect of an immigrant or that directives so given would be ineffective, the Minister or the Comptroller-General of Immigration may give to the owners or agents of any ship or water vessel, aircraft, motor vehicle, or other means of transportation such directives as may be given under sub-section (1) (c) of this section to the owners or agents of the ship or water vessel, aircraft, motor vehicle or other means of transportation in which the immigrant arrived

in Nigeria and, in any such case, the cost of complying with the directives shall be borne by the owners of agents as the case may be, of the ship or water vessel, aircraft, motor vehicle or other means of transportation.

- (3) An immigrant in respect of whom directives are given under this section, may be placed under the authority of an Immigration Officer on board any ship or aircraft in which he is to be removed in accordance with the directives.

Determination of nationality in special cases

28. (1) The Minister may give such directives as he thinks fit for the determination of the nationality of any person, or if a deportation order is in force, for the disregarding of any change of nationality and where at any time before or after entry into Nigeria the nationality of any person is or may be questioned, or after entry into Nigeria for any reason changes his nationality, the burden of proof shall in any be upon the person asserting the nationality as the case may be.
- (2) Save in the case of any person in or resident in Nigeria and claiming to be a citizen of Nigeria, no directive given under this section shall be questioned in any court.
- (3) Where a person is detained under this Act, any Immigration officer authorised by the Comptroller-General of Immigration or Minister, may do all things reasonably necessary for photographing, measuring or otherwise identifying him and to obtain his biometric data.

Power to abolish or suspend visa requirement

29. (1) Where the Minister is satisfied that the government of any other country or a minister thereof permits the entry of citizens of Nigeria into that country without requiring a visa by nationals of that other country without prejudice to other of this Act.
- (2) Notice of the making of any other order under this section shall be given to such person outside Nigeria as the Comptroller-General of Immigration may think fit as soon as practicable.

Power to prescribe entry conditions and fees

30. (1) The Minister may, from time to time, prescribe the conditions for entry into Nigeria and the fees payable in respect of any travel document, visa or permit and the relevant mission shall give effect in any proper case by issuance of a visa or other entry permit.
- (2) For the purpose of this section, "embassy" includes any Nigerian High Commission or Consulate.

Power to prohibit departure

31. (1) The Minister, if he thinks it fit to be in the public interest, may by order prohibit the departure of any person from Nigeria.
- (2) The Comptroller-General of Immigration may prohibit departure of any person under the following conditions –
 - (a) if there is to his knowledge an unsatisfied order of a court of competent jurisdiction; or
 - (b) if there is a warrant of arrest relating to that person, an Immigration officer may refuse to allow such person to leave Nigeria, or in his discretion, he may refer the case to the Comptroller-General of Immigration for further consideration.
- (3) Nothing in this section shall apply to any person entitled under any rule of law or enactment to immunity in respect of things done or omitted to be done in the course of his duty.

General Provisions as to detained persons

32. (1) A person required or authorised to be detained under this Act may be detained in such places as the Minister may direct.
- (2) Where a person is detained under this Act, an Immigration officer authorised by the Comptroller-General of Immigration or Minister may do all things reasonably necessary for photographing, measuring or otherwise identifying him and to obtain his biometric data.

Application of the Act to young persons

33. (1) Subject to the provisions of this Act, any person of or above the apparent age of eighteen years who is in Nigeria but is not a citizen thereof shall apply to the Comptroller-General of Immigration-
 - (a) at such time and place as may be required under this section for a permit under this Act; and
 - (b) for such permit, not later than three months after he attains that age, and notice of the requirements of this section may be published in such a manner as the Comptroller-General of Immigration thinks fit.

- (2) The Minister may exempt any person or class of persons from the requirement of this section; and the Comptroller-General of Immigration may from time to time, give notice of the requirements of this section in the Federal Gazette and in some newspapers printed and circulating in Nigeria.
- (3) A permit under this section shall be subject to such conditions as the Minister may, from time to time prescribe, and the failure to comply, when required by this section shall be an offence, and any person affected shall be deemed to be a person seeking to enter Nigeria for the first time, and may be dealt with accordingly.
- (4) A person under the apparent age of eighteen years may be permitted to enter Nigeria only when he has a valid passport and Visa, and may be permitted to remain in Nigeria as long as such person is with his parents and any person so admitted shall not live elsewhere without the approval of the Comptroller-General of Immigration.
- (5) Such a person, if he attains the age of eighteen shall apply to the Comptroller-General of Immigration for the issuance of a residence permit under this Act to remain in Nigeria.
- (6) The Comptroller-General of Immigration may issue a permit upon such conditions as he thinks fit, or he may refuse a permit; and if a permit is refused the person affected shall be dealt with in such manner as the Minister may direct.
- (7) The failure to comply with the requirement of this section shall be an offence.

Admission of mentally ill or mentally abnormal persons

34. (1) A person who, without the approval of the Minister given on such terms as he thinks fit, brings into Nigeria any mentally ill or mentally subnormal person, not being a citizen of Nigeria, shall be liable to pay the Minister all expense which may be incurred by the Minister in connection with the maintenance and transport of such mentally ill or mentally subnormal person and his deportation from Nigeria .
 - (2) The amount of any expense incurred shall be recoverable by action brought in the name of the Attorney-General of the Federation.
- 35.-(1) Subject to the provisions of this Act, any person who-
- (a) a national of more than one country including Nigeria elects within the time prescribed by the Constitution of the Federal Republic of Nigeria or any other enactment to national of any other country other than Nigeria; or

- (b) having acquired Nigerian nationality, for any reason, loses that nationality such person who desires to obtain a residence permit after the election or loss of nationality, as the case may be, apply to the Comptroller-General of Immigration for a permit to enter or remain in Nigeria: and the Comptroller-General of Immigration may grant or refuse the permit.
- (2) The Minister may upon application approve that a Permanent Residence Permit be issued to a Nigerian citizen by birth who had earlier renounced his nationality.
- (3) Where the issuance of the permit is refused, an appeal shall lie to the Minister for the grant of the permit under this sub-section.

PART V- RESIDENCE AND EMPLOYMENT OF FOREIGN NATIONALS IN NIGERIA

36.-(1) No person other than a citizen of Nigeria shall—

- (a) accept employment (not being employment with the Federal, State or Local Governments) without the consent in writing of the Comptroller General of Immigration; or
 - (b) on his own account or in partnership with any other person, practice a profession or establish or take over any trade or business whatsoever or register or take over any company with limited liability for any such purpose, without the consent in writing of the Minister given on such by or on behalf of such persons, as the Minister may prescribe.
- (2) Any person desirous of entering Nigeria for any of the purposes in sub-section (1) of this Section, shall produce the consent of the Comptroller-General of Immigration to an Immigration officer: and the failure to so shall be an offence, and any person who commits such an offence shall be liable on conviction to a fine of one million Naira or deportation or both as a prohibited Immigrant.
- (3) Where any person exempt from any provision of the Act restricting his employment ceases to be so exempt, he shall be deemed to be a person seeking entry into Nigeria for the first time: and the provisions of this section shall have effect accordingly.

37.-(1) A foreign national may, subject to the provision of section 20 of this Act, enter Nigeria for the purpose of residence on the production of a residence visa with his other travel documents, signed by or on behalf of the Comptroller-General of Immigration and issued subject to such conditions as may be endorsed thereon and if the entry is for any tour of

service, such foreign national shall on production of any evidence which an Immigration officer may reasonably require, be deemed to be in possession of a residence permit.

- (2) The Comptroller-General of Immigration may grant residence permit for a period not exceeding two years, subject to renewal.
- (3) A person, not a citizen of Nigeria, desirous of entering Nigeria for the purpose of residence shall, unless exempted under this Act, show evidence of immigration responsibility or any other security on his behalf, and shall supply such information as the Comptroller-General of Immigration may reasonably require, and if the Comptroller-General of Immigration is satisfied he may issue a residence permit accordingly.
- (4) The residence permit issued under sub-section (2) of this Section shall be in such form as may be prescribed and may be issued by endorsement on any travel document or otherwise as the Comptroller-General of Immigration direct.
- (5) The Comptroller-General of Immigration may endorse on a residence permit such conditions not inconsistent with this Act as he thinks fit, and may replace any valid permit issued or deemed to have been issued.
- (6) A person who has been lawfully allowed entry into Nigeria, upon application to the Comptroller-General of Immigration in the prescribe manner, be issued with a resident permit.
- (7) The failure by any person to comply with the requirements of this section or of any condition imposed shall be an offence, and such person may, if the Minister thinks fit, be required to leave Nigeria; and any bond may be entreated at suit of the Comptroller-General of Immigration.
- (8) The Comptroller-General of Immigration Service may authorise the issuance of temporary work permit outside quota provision which may be issued by endorsement on any travel document or otherwise as the Comptroller-General of Immigration may direct.
- (9) The Comptroller-General of Immigration may authorise the issuance of Short Visit Visas to foreign nationals desirous of coming to Nigeria on visit not exceeding a period of three month:

Provided that the visa shall not be renewed and provided further that the recipient shall not engage in any form of paid employment.
- (10.) The Comptroller-General of Immigration may authorise the issuance of Permanent Residence Visas to foreign nationals who are married to Nigerians, or who are investors who have imported an annual minimum threshold of capital over a period of time as may be specified from time to time in the National Visa Policy or any other such policy:

Provided that the Residence Permit can be withdrawn whenever the investor withdraws his investment or fails to comply with any other condition that may have been prescribed for the issuance of the Residence permit.

- (12) The Minister may, upon application by a Nigerian citizen by birth who had earlier renounced his nationality, approve that Permanent Residence Permit be issued to him.
- (13) The provisions of this section relating to foreign nationals requiring visas, work permits and residence permits shall not apply to nationals of Member States of the Economic of West African States who are exempted from requiring entry visas, and are allowed to reside, work and undertake commercial and industrial activities within Nigeria:

Provided that such citizens shall register with the Service as nationals of the Economic Community of West African States.'

38. (1) Where a person in Nigeria is desirous of employing a person who is a national of any other country he shall unless exempted under this section make application to the Comptroller-General Immigration in such manner as may be prescribed and shall give such information as to the provision to be made for repatriation of that national and his dependants as the Comptroller-General of Immigration reasonably require and no such person shall be employed without the permission of the Comptroller-General of Immigration given on such terms as he thinks fit.
- (2) The provisions of this section shall extend and apply to persons in employment in Nigeria immediately before, as well as to those employed or to be employed at any time.
- (3) The Comptroller-General of Immigration shall record the information in such form as he thinks necessary and where he is so satisfied, he require provision to be made for repatriation either generally as to all person so employed by a person in Nigeria and their dependants or with reference to particular person, by payment into the Consolidated Revenue Fund by way of deposit of such amount as the Minister may prescribe for the repatriation, or by a bond in such form as the Comptroller-General of Immigration may prescribe for such purpose.
- (4) The Minister may by notice, exempt any person from the requirements of this section on such condition as he thinks fit and subject thereto any person to whom this section applies, who is employed in Nigeria, shall on ceasing for any reason to be so employed be deemed to be to be a prohibited immigrant as from the date of the expiration of his permit and the person who employed him shall be liable to pay all costs and incidental expenses for the repatriation of the prohibited immigrant and of his dependants.
- (5) Failure to comply with the provision of this section shall be an offence and the offender shall be liable on conviction to imprisonment for a term of five years or a fine of One Million Naira or both.
- (6) For the purpose of this section any person being a company or association shall be deemed to be in Nigeria if carrying out any work therein.

Revocation of variation of permit

39. (1) The Comptroller-General of Immigration may at any time if he deems it to be in the public interest, revoke a resident permit or other permit under this Act or may issue a new permit on such conditions as he thinks fit and where any permit is revoked without replacement, the person affected shall be deemed to be a person seeking to enter Nigeria for the first time, and the Minister in his discretion, may issue a deportation order.
- (2) The Comptroller-General of Immigration may direct the holder of a permit to surrender it for replacement or he may re-issue it, with such additional or varied conditions as the circumstance may require: the failure to comply with any directives of the Comptroller-General of Immigration under this subsection shall be an offence and the offender shall be liable on conviction to imprisonment for a term of five years or a fine of One million Naira or both.

PART VI – CONTROL OF CREW AND STOWAWAYS

Examination of Crew

40. (1) An Immigration Officer may examine any person who arrived at a port in Nigeria as a member of the crew of a ship or water vessel, aircraft, motor vehicle, or means of transportation whether or not he lands or seeks to land in Nigeria or comes overland into Nigeria; and the provisions of this Act shall apply to any such person accordingly.
- (2) The Minister may, by order, make provision for requiring masters of ships and captains of aircrafts or operators of other means of transportation arriving at ports in Nigeria to the immigration officer particulars of the members of the crew of those ships or water vessels, aircraft, motor vehicles, or other means of transportation and for enabling the immigration officer to dispense with the furnishing of such particulars.

Control of crew members in ships, aircrafts, etc.

41. – (1) A superior immigration officer may, by notice given at any time to any person who –
- (a) has arrived at a port in Nigeria as a member of the crew of a ship or water vessels, aircraft, motor vehicle, or other means of transportation; and
- (b) is for the time being on board the ship or water vessels, aircraft, motor vehicle, or other means of transportation in which he arrived at the port, prohibit him from landing from that ship or water vessels, aircraft, motor vehicle, or other means of transportation as the case may be, while it remains at the port, unless authorized to do so by an immigration officer.
- (2) If a person affected by sub-section (1) of this Section-

- (a) lands for a ship or water vessels, aircraft, motor vehicle, or other means of transportation in contravention of a prohibition imposed on him under sub-section (1) of this Section;
 - (b) remains in Nigeria after his ship or water vessels, aircraft, motor vehicle, or other means of transportation has left the port; or
 - (c) having been admitted into Nigeria subject to a condition restricting the period for which he may remain there, remains in Nigeria in contravention of that condition, he shall, subject to the provision of sub-section (3) of this Section, be treated for the purpose of this Act as if he had been refused admission into Nigeria.
- (3) A superior immigration officer may, by notice in writing given at any time to any person who has landed or remained in Nigeria as mentioned in subsection (2) of this Section, authorise him to remain in Nigeria either without condition or subject to any condition the Minister may impose, including in particular conditions requiring him to leave Nigeria –
- (a) to leave Nigeria in a specified ship or water vessel, aircraft, motor vehicle, or other means of transportation; or
 - (b) within a specified period in accordance with arrangements for his repatriation, and where such a notice is given to any person, he shall not be treated as a person to whom admission to Nigeria has been refused unless, in the case where he is subject to conditions requiring him to leave Nigeria as aforesaid, he fails to comply or is reasonably suspected of intending to fail to comply with those conditions.

Stowaways

42. (1) If a person arrives at a port in Nigeria as a stowaway in a ship or aircraft, he shall, subject to the provisions of sub-section (2) of this Section be treated for the purpose of this Act as if he were a prohibited immigrant and be refused admission into Nigeria accordingly.
- (2) Section 19 (1) of this Act shall apply in relation to any such person refused admission as it applies in relation to any person who has landed or remained in Nigeria as mentioned in Section 19 (2).
- 43.- (1) Notwithstanding the provisions of any other Act or enactment, no member of the crew of any ship or water vessel, aircraft, motor vehicle, or other means of transportation who is not a citizen of Nigeria shall be discharged in Nigeria without the approval of the Comptroller-General of Immigration given on such terms as he may think fit.
- (2) The provisions of this section shall extend and apply to the crew of any ship or water vessel, aircraft, motor vehicle or other means of transportation which operates solely or mainly within the territorial waters of Nigeria.

PART VII – DEPORTATION

- 44.-(1) A person within any of the following categories SHALL BE deemed to be a prohibited immigrant and liable to be refused admission or to be deported from Nigeria as the case may be-
- (b) a person who is without visible means of support or is likely to become a public charge;
 - (b) mentally ill or mentally severely subnormal person;
 - (c) a person trafficking in persons or smuggling migrants;
 - (d) a person convicted of any crime wherever committed, which is an extradition crime within the provisions of the Extradition Act;
 - (e) a person whose admission would in the opinion of the Minister be contrary to national interest or security;
 - (f) a person against whom an order of deportation from Nigeria is in force;
 - (g) a person who –
 - (i) has not in his possession a valid passport; or
 - (ii) being a person under the age of eighteen years, has not in his possession a valid passport or visa, and is unaccompanied by an adult whose valid passport, his particulars are appearing;
 - (h) a person who -
 - (i) is a prostitute,
 - (ii) is a person who has been convicted of the offence of rape, defilement or any other sexual offence ;
 - (iii) is a brothel keeper or a person permitting the defilement, or seduction of a child or young person on his premises or on any other premises under his control;
 - (iv) encourages the seduction of a child or a young person; or
 - (v) is trading in prostitution, or is a procurer;
- is deemed to have committed an offence and is liable on conviction to imprisonment for ten years.

- (2) Any person convicted sub-section (1) of this Section shall be deported after serving his term of imprisonment unless the provisions of the Transfer of Convicted Offenders (Enactment and Enforcement) Act apply.
- (3) The Minister may at any time by notice add to or amend any category of prohibited immigrants in sub-section (a) of this Section and if he deems it to be in the public interest, may prohibit the entry into or stay in Nigeria of any other person or category of persons.
- (4) In this section-
- (a) "brothel keeper" includes any person who appears, acts or behaves himself as the owner of, or the person having the care, management, or control of any premises, room or set of rooms in any premises kept for the purpose of prostitution;
- (b) "householder permitting the defilement of a child or young person on his premises" means any person who being the owner or occupier of any premises or having or acting or assisting in the management and control thereof, induces or knowingly suffers any person under the age of eighteen to resort to or being upon such a premises for the purpose of being unlawfully and carnally known by any person or for any lewd purpose;
- (c) "person allowing a person under eighteen years of age to be in a brothel" means any person having the custody, charge or care of a child or young person who has attained the age of six years but is below the age of eighteen years, who allows that child or young person to reside in or frequent a brothel;
- (d) "person causing or encouraging the seduction or prostitution of a person under eighteen years of age" means any person having the custody, charge or care of a girl under the age of eighteen years who causes or encourages the seduction, unlawful carnal knowledge, or prostitution of or the commission of an indecent assault upon such person;
- (e) "person trading in prostitution" means –
- (i) a person who, knowingly lives wholly or in part on the earnings of prostitution or who in any public place persistently solicits or importunes for immoral purpose,
 - (ii) a person who for the purpose of gain exercises control, direction or influence over the movement of a prostitute in such manner as to show that such a person is aiding, abetting or counseling the prostitution with any person;
- (f) "procurer" means any person who –
- (i) procures or assists to procure any person under the eighteen years of age, not being a prostitute or of known immoral character, to have unlawful carnal connection either within or without Nigeria with any other person;
 - (ii) procures or attempts to procure any person to become a prostitute either within or without Nigeria;

- (iii) procures or attempts to procure any person to leave his usual place of abode, such place not being a brothel, with intent that he may for the purpose of prostitution, become an inmate of a brothel, wither within or without Nigeria;
 - (iv) by threat or intimidation procures or attempts to procure any person t have unlawful carnal connection either within or without Nigeria;
 - (v) by false pretences or false representations procures any person, not being a prostitute or of known immoral character, to have unlawful carnal connection, either within or without Nigeria;
 - (vi) applies or administers to or causes to be taken by a person any drug, matter, or thing with intent to stupefy or overpower him or her so as to enable any person to have unlawful carnal connection with him or her; and
- (g) "Prostitution" with its grammatical variations and cognate expressions, includes the offering by a person of his or her body commonly for acts of lewdness for payment although there is no act or offer of an act of ordinary sexual connection.
- (5) For the purposes of this section, a person shall be deemed to possess a valid passport if –
- (a) being a citizen of any other country he produces with his passport for inspection under this Act a residence permit issued by or on behalf of the Comptroller-General of Immigration under section 37 and any visa issued under section 19 of this Act; or
 - (b) being a citizen of any other country not otherwise exempted under this Act, he produces for inspection with his passport, a valid visa for entry into Nigeria for any purpose designated in the visa, and a residence permit.

Deportation order in special cases

- 45.- (1) Subject to sub-sections (2) and (3) of this Section, any person who being a prohibited immigrant enters Nigeria except in accordance with this Act commits an offence, and if convicted the court may make a recommendation for the deportation of the offender.
- (2) The Minister may, if satisfied that it is in the public interest, and whether or not any person has been prosecuted for an offence under this section, make a deportation order against the person as a prohibited immigrant, and it shall be no defense that such person was not notified that his entry into Nigeria was prohibited, or that the entry was permitted by oversight or otherwise: this subsection shall have effect notwithstanding any other provision of this Act.
- (3) If the Minister is of the opinion that any person in Nigeria ought, at any time after his entry to be classed as a prohibited immigrant he may make an order accordingly and the provisions of any such order shall have effect as if the person named in the order were a prohibited immigrant landing in Nigeria for the first time, any person affected by an order made under this subsection may be deported.

- (4) The provision of this section shall if the Minister think fit, extend and apply to any person who having entered Nigeria at any time pursuant of a Visitor's Permit Transit Permit remains in Nigeria beyond the time allowed by such a permit or breaks any other condition subject to which such permit was issued whether or not he has been prosecuted for an offence under this Act.

Power of the court to recommend deportation on conviction

46. (1) Where the court convicts an offender under this Act or any other enactment for an offence punishable by imprisonment for a term of one year and above, the court may in addition to or in lieu of a sentence, recommend the deportation of the offender, and the Minister may order his deportation accordingly.
- (2) For the purpose of any enactment relating to appeals in criminal cases, a recommendation for deportation by the trial court shall be treated, for a recommendation for deportation by the trial court shall be treated, for purposes of an appeal, as if it were a sentence.

Deportation Order on recommendation by the Court

- 47.- (1) Where a court orders a deportation, the Minister shall comply with such orders requiring the offender to leave Nigeria and prohibiting him from returning to Nigeria as long as the order is in force.
- (2) Subject to the provisions of this Act, an order under this section shall not be made in pursuance of a recommendation for deportation, unless –
- (a) the time for bringing an appeal against the recommendation or against conviction upon which it was made, has expired without such an appeal having been brought;
 - (b) such an appeal has been brought and abandoned, or finally determined otherwise than by the quashing of the recommendations or the conviction; or
 - (c) the recommendations was upheld on appeal and no further appeal lies.
- (3) The Minister may, if he thinks fit revoke a deportation order at any time, whether before or after the person to whom it relates has left or been removed from Nigeria, but the revocation of a deportation order shall not affect the validity of anything previously done

- 48.- (1) Where a person is charged with an offence upon conviction of which the offender may be recommended under this Act or any other Act for deportation, the case shall be dealt with in priority to any case, civil or criminal, other than a case part heard: and notwithstanding the provisions of any other Act or enactment, the offender at the hearing may be remanded in custody for a period not exceeding 21 days at the first instance, and thereafter as occasion may require, the offender may be again so remanded from time to time: but in no case shall the total period of remand exceed 90 days.
- (2) If no deportation order is made by the Minister within such period or extended period as aforesaid, the offender may be dealt with as the court thinks fit; and where a sentence of imprisonment is imposed, account shall be taken of the period during which the offender was held in custody on remand.

Removal of persons subject to Deportation

- 49.- (1) The Minister, Comptroller-General of Immigration or an officer acting under his authority and notwithstanding any other provision of this Act [may] give directives to the master of any ship or captain of any aircraft or operator of any other means of transportation which is about to leave Nigeria, requiring him to provide passage to any person against whom a deportation order is in force, and to any dependants of his specified in the directives, a passage to any port so specified being a port in a country of which that person is a citizen or a country or territory to which the Minister has reason to believe that he will be admitted and at which the ship, aircraft, or the other means of transportation is to call or land in the course of its journey and proper accommodation and maintenance during the passage.
- (2) A person in respect of whom directives are given under sub-section (1) of this Section, may be placed, under the authority of the Minister, on board any ship, or water vessel, aircraft, motor vehicle or other means of transportation in which he is to be which he is to be removed in accordance with the directives.
- (3) The employer of any person against whom a deportation order is in force shall pay the expenses incidental to the journey from Nigeria of the person to be deported and his dependants, if any, and the maintenance until departure of such person and his dependants and in default of such payment the minister may sue for and recover the same, or in his discretion may apply in and towards any such expenses aforesaid, funds belonging to the persons to be deported or cause the expenses to be defrayed by the Government of the Federation.
- 50.- (1) Where a recommendation for deportation is in force in respect of a11 offender and the offender is neither detained in pursuance of the sentence or order of any Court nor for the time being released on bail by any court having power so to release him, he shall unless the Court by which the recommendation is made otherwise directs, be detained until the Minister-
- (a) make a deportation order in respect of him;

- (b) notifies him that no such order is to be made; or
 - (c) directs that he be released pending further consideration of his case.
- (2) Where, deportation order is in force in respect of an offender, he may be detained under the authority of the Minister until he is removed from Nigeria pursuant to this Act: and if he is released from detention pending further consideration of his case or while liable to be detained is not so detained, the Minister may by order impose on him such restrictions as to place of residence and requirements as to reporting to the Immigration Office as the Minister may think fit.

51.-(1) If a person in respect of whom a deportation order is in force –

- (a) having left Nigeria after notice of the making of the order has been given to him on behalf of the Minister, subsequently returns to Nigeria, or
- (b) having been placed on board a ship or aircraft under this Act, lands from that ship or water vessel, aircraft, motor vehicle or other means of transportation before it has left Nigeria, commits an offence and is liable on conviction to the penalty provided for in sub-section (8) of this Section:

Provided that any offence under this section shall be deemed to continue throughout any period during which the offender is in Nigeria after its commission.

- (2) If a person, upon whom any restriction or requirement is imposed under this Act, fails to comply with that restriction or requirement, he commits an offence and is liable on conviction to the penalty provided for in sub-section (8) of this Section.
- (3) Where a person in respect of whom a deportation order is in force is convicted of any offence under sub-section (1) of this Section, the operation of the deportation order shall not be suspended but shall cease to have effect.
- (4) If any person knowingly harbours any person whom he knows has reasonable grounds for believing to have committed an offence under sub-section (1) of this Section, commits an offence and is liable on conviction to penalty provided for in sub-section (8) of this section.
- (5) Any person who knowingly harbours any person who he knows is to be deported or has reasonable grounds to believe has acted in contravention of this Act, commits an offence and is liable on conviction to the penalty provided for in subsection (8) of this section.
- (6) Any person who knowingly permits or assists the escape from any ship or water vessel, aircraft, motor vehicle or any other means of transportation in Nigeria of any person to be deported, commits an offence and is liable on conviction to the penalty provided for in sub-section (8) of this Section.

- (7) Any person who willfully and without lawful excuse hinders or obstructs any deportation being effected under this Act, commits an offence and is liable on conviction to the penalty provided for in sub-section (8) of this Section.
- (8) Any person convicted of an offence under this section shall be liable to imprisonment for ten years or to a fine of Two Million Naira or both.

Power to notify cases especially liable to deportation

- 52.- (1) The Minister may from time to time by notice direct that persons within any category specified in the notice, entering Nigeria otherwise than by land, sea or air, shall be liable to deportation as prohibited immigrants without the intervention of any court: and any person in any such category may be arrested and detained by an immigration officer within a reasonable time and may, subject to sub-section (2) of this Section, be deported forthwith. If any person is to be deported under this section, the immigration officer shall report the case in writing as soon as possible to the Comptroller-General of Immigration.
- (2) The power to arrest or to deport under this section may be exercised by a superior immigration officer.

Power to detain lieu of deportation

53. Notwithstanding any other provision of this Act or any other Act, where a deportation order has been made, the Minister shall direct the detention of the person affected for such period which, if in his opinion, the deportation is impracticable or prejudicial to the efficient prosecution of any war in which Nigeria may be engaged and the detention of the person affected by the deportation order necessary or expedient for securing public safety, the defence of Nigeria or the maintenance of public order.

Power to detain in lieu of deportation

- 54.- (1) Where a prohibited immigrant disembarks from any ship or water vessel, aircraft, motor vehicle or other means of transportation in Nigeria, the master, owner, operator and the agent of such ship or water vessel, aircraft, motor vehicle or other means of transportation shall be jointly and severally liable to pay to the service all expenses incurred by the service in connection with the transport and maintenance of the prohibited immigrant and of his deportation from Nigeria.
- (2) The amount of any expenses incurred shall be recoverable by action brought in the name of the Attorney-General of the Federation.

- (3) When an action, be it civil or criminal, has been brought against master of a ship or captain of an aircraft, driver of a vehicle or any operator of any other means of transportation under the provisions of this Act, the clearance outwards of the ship or water vessel, aircraft, motor vehicle, or other means of transportation may be refused until the case has been determined upon and such master, captain, driver, or other operator has complied with whatever order the court may issue in respect of the case.
- (4) When an action, be it civil or criminal, has been brought against a master of a ship or captain or driver of a vehicle or operator of other means of transportation under the provisions of this Act, the clearance outwards of the vessel or aircraft or vehicle or other means of transportation may be refused until the case has been determined, and until such master, captain or driver or operator has complied with whatever order the Court may issue in respect of the case.

Power to appoint receiver, etc. where owner is deported

55. - (1) Where it appears to the Minister and it is expedient that any business previously conducted or managed by any person who has been deported, or has been detained under Section 53 of this Act, should be wound up, he may cause application to be made to the Court for the appointment of a receiver or receiver and manager in respect of such business, and the Court shall have power to appoint a receiver or receiver and manager for such time and subject to such conditions and with such modifications, restrictions or extensions of the ordinary powers and duties of receiver or receiver and manager as the court may think fit.
- (2) The Court shall also have power to direct and by work the costs of any proceeding under this section, and the remuneration, charges and expenses of the receiver or receiver and manager shall be borne, and may order that the costs and expenses be charged against the property of the person whose business is being wound up such order of priority in relation to any existing charges thereto as it thinks fit.
- 56.- (1) A person who –
- (a) aids or assists any person to enter Nigeria in contravention of this Act;
 - (b) while refusal of admission is in force in relation to him enters or remains within Nigeria otherwise than in accordance with the directives or under the authority of an immigration officer;
 - (c) contravenes or fails to comply with any condition imposed on him under this Act;
 - (d) restricts or obstructs any immigration officer in the lawful execution of his duty, commits an offence and any offence under this subsection being an offence committed by entering or remaining in Nigeria shall be deemed to continue throughout any period during which the offender is in Nigeria thereafter.

- (2) If a person knowingly harbours any person whom he knows or has reasonable ground for believing to have committed an offence under sub-section (1) of this Section, being an offence committed by entering or remaining within Nigeria he commits an offence.
- (3) If a person –
 - (a) makes or causes to be made any immigration officer any return, statement, or representation which he knows to be false or does not believe to be true.
 - (b) refuses or fails to produce or furnish to any such officer any document or information which he is required to produce or furnish to that officer under this Act or otherwise obstructs any such officer in the exercise of his function thereunder, or
 - (c) without lawful authority, alters any document issued or made under or for the purpose of this Act or has in his possession any forged or altered passport or other travel document, or produces or reproduces any travel document without lawful authority, commits an offence.
- (4) Any person who commits any of the offences prescribed under subsection (1) and (2) of this Section is liable to imprisonment for a term of ten years or a fine of Two Million Naira or both.
- (5) Any person who commits any of the offences prescribed under section (3) of this Section is liable to imprisonment for a term of five years or a fine of One Million Naira, or both.
- (6) Where a person is charged with any of the offences under this Act and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit that offence and shall be liable on conviction to half of the penalty provided for that offence in this Act.
- (7) Where a person is charged with attempt to commit any of the offences under this Act and the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal but shall be convicted of the offence as prescribed by this Act.

Offences by individuals and penalties

- 57.- (1) The Nigerian passport of any person convicted of an offence under this Act and any other enactment shall be forfeited to the Federal Government and shall not be returned to that person unless the Minister so directs.
- (2) A Nigerian deported for –
 - (a) Immigration related offences shall not be issued another passport until after two years of his deportation;

- (b) any other criminal offence, shall not be issued another passport until after five years of his deportation.
- (3) A person found guilty of fraudulently acquiring or possessing multiple Nigerian passports shall not be issued any other passport until after five years of his being convicted for such offence.
- (4) If a person presents to immigration officer forged travel documents in the cases hereunder listed, he commits an offence-
 - (a) traveling out of Nigeria for the purpose of prostitution, or
 - (b) human trafficking for the purpose of prostitution and child labour and abuse, and is liable to imprisonment for a term, of ten years or a fine of Two Million Naira or both;
- (5) Any expatriate person who fails, neglects or refuses to apply for the –
 - (a) regularization of his stay in Nigeria within the stipulated period of three months;
 - (b) renewal of his Business, Transit, Visitors Pass, or Temporary Work Permit (TWP) after expiration; or
 - (c) renewal of his residence permit 30 days after its expiration commits an offence and is liable to imprisonment for a term of three years or a fine of five hundred thousand Naira or both.

Offences by immigrant employers and workers

- 58 It is an offence under this Act for any employer of persons liable to repatriation to discharge any such persons without giving notice to the Comptroller-General of Immigration, or for any such employed person to be re-designated, or change his employment, without the approval of the Comptroller-General of Immigration, and upon conviction, the employer if not a citizen of Nigeria and the employed person, as the case may be and his dependants shall, if the Minister thinks fit, be deported and the business of the employer be wound as described by this Act.

Offence of alteration of travel documents

59. A person who alters or assists another in altering his travel document, or who produces or reproduces, or assists in the production or reproduction of any such travel document without lawful authority, commits an offence and is liable on conviction to imprisonment for a term of five years or to a term of one million Naira or both.

General penalties proceedings

- 60.-(1) A person [who] commits an offence under this Act, where no specific penalty is provided, shall be liable on conviction to imprisonment for a term of one year or a fine of one hundred thousand Naira or both and the court may if it thinks fit, recommend the deportation of the offender.
- (2) An agent, who is not a body corporate and who commits an offence under this Act, shall where no specific penalty is provided be liable on conviction to imprisonment for a term of ten years or a fine of two million Naira or both.
- (3) For the purpose of the trial of a person for any offence under this Act, the offence shall be deemed to have been committed either at the place at which it was committed, or at any place at which the offender may be.
- (4) An immigration officer may arrest without warrant any person who he has reasonable grounds to believe has committed an offence under this Act.
- (5) A power exercisable under this Act in the case of any person may be exercised notwithstanding that proceedings for an offence under this Act have been taken against him.

PART IX – ESTABLISHMENT OF THE DIRECTORATE OF MIGRATION AND THE DIVISIONS OF REGULAR AND IRREGULAR MIGRATION, AND THE POWERS AND FUNCTIONS OF THE DIVISIONS OF IRREGULAR MIGRATION

Establishment of the Directorate of Migration and the Divisions for Regular and Irregular Migration

61. – (1) There is established within the Nigeria Immigration Service, the Directorate of Migration, in addition to the existing Directorates.
- (2) There is established in the Directorate of Migration, the Division for Regular Migration, in addition to the existing Division for Irregular Migration.
- (3) The Division for Irregular Migration shall have responsibility for handling matters relating to smuggling of migrants and allied matters provided for under this Act and any other relevant law.

Powers and Functions of the Division for Irregular Migration

62. The Division for Irregular Migration shall be responsible for –

- (a) the enforcement and the due administration of the provisions of this Act and any other relevant law, in so far as they relate to smuggling of migrants;
- (b) the co-ordination and enforcement of any other law relating to any aspect of smuggling of migrants and related offences;
- (c) the adoption of effective measures for the prevention, eradication or elimination of smuggling of migrants and related offences, including co-ordinated preventive and regulatory actions, introduction and maintenance of investigative and control techniques on the prevention of smuggling of migrants;
- (d) the investigation of all cases of smuggling of migrants;
- (e) the facilitation and encouragement of the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings relating to smuggling of migrants and related offences;
- (f) the enhancement of the effectiveness of law enforcement agents and other partners in the suppression of smuggling of migrants;
- (g) in collaboration with the Public Relations Unit of the Service, the undertaking and enhancement of public enlightenment and awareness creation through seminars, workshops, publications, radio and television programmes and other means aimed at educating the public on the dangers of smuggling of migrants;
- (h) establishing, maintaining and securing communications to facilitate the rapid exchange of information concerning offences under this Act or any other relevant law;
- (i) improving international co-operation in the suppression of smuggling of immigrants;
- (j) conducting joint operations with relevant law enforcement agencies, international bodies or authorities involved in similar responsibilities geared towards the eradication of smuggling of immigrants;
- (k) reinforcing and supplementing measures in bilateral and multilateral treaties and conventions on smuggling of migrants adopted by Nigeria;
- (l) strengthening and enhancing effective legal means for international cooperation in criminal matters for suppressing smuggling of migrants;
- (m) strengthening co-operation with other law enforcement and security agencies, relevant government agencies and other partners in the eradication of smuggling of migrants;

- (n) taking charge, supervising, controlling and coordinating the protection and rehabilitation of, as well as assistance to smuggled migrants;
- (o) taking charge of supervising, controlling, co-ordinating all the responsibilities, functions and activities relating to the prevention, investigation and prosecution of all offences connected with or relating to smuggling of migrants;
- (p) adopting measures to identify, trace, freeze, confiscate or seize proceeds derived from smuggling of migrants and related offences, or properties and assets of offenders or suspected offenders whose value corresponds to such proceeds;
- (q) researching into the internal and external factors responsible for smuggling of migrants and taking measures initiating programmes and developing strategies for addressing the problems, to enhance the prevention and elimination of the root causes of smuggling of migrants in collaboration with relevant agencies or bodies, research institutions, non-governmental organizations, consultants and international partners;
- (r) facilitating rapid exchange of scientific and technical information concerning or relating to smuggling of migrants;
- (s) collaborating with government bodies both within and outside Nigeria carrying on functions wholly or partly similar to those of the Division concerning the –
 - (i) movement of proceeds or properties derived from smuggling of migrants and other related offences;
 - (ii) identities, whereabouts and activities of persons suspected of being involved offences created under this Act; and
 - (iii) exchange of personnel and other experts :
- (t) establishment and maintenance of a system for monitoring trans-border dealings in smuggling of migrants in order to identify suspicious movement and persons involved;
- (u) dealing with matters connected with the extradition, deportation and mutual legal or other assistance between Nigeria and any other country involving trafficking in persons, subject to the powers of the Minister, and the Attorney-General of the Federation, in appropriate cases;
- (v) initiating, developing and enhancing capacity building, including specific training programmes for the personnel of the Division, and personnel of other Divisions of the Service, as well as the personnel of other relevant law enforcement agencies charged with the responsibility for the prevention, detection and investigation of offences created under this Act and any other relevant law, judicial officers handling the trial of the cases, and other stakeholders, including the personnel of the civil society who may be involved in the various stages of the processes of prevention, investigation, and trial of the offenders, and the rehabilitation and resettlement of the smuggled persons; and

- (w) carrying out such other activities as are necessary or expedient for the full discharge of any or all of the functions conferred on it under this Act or any other relevant law.

Special powers of the Division

63. The Division shall have the power to-

- (a) investigate whether any person, body or entity has committed an offence under this Act or any ancillary offence under any other relevant law;
- (b) enter into any premises, property or conveyance without warrant for the purpose of conducting searches in furtherance of its functions under this Act or under any other relevant law;
- (c) arrest, detain and prosecute offenders under this Act or any other law on smuggling of migrants and ancillary offences in Nigeria ;
- (d) trace, seize, detain or retain the custody, for the purpose of investigation and prosecution, of any property which the Division reasonably believes to have been involved in or used in the commission of offences, or derived from the commission of the offences under this Act or any other relevant law;
- (e) seal up premises upon reasonable suspicion of such premises being involved with or used in connection with the commission of offences under this Act or any other relevant law; and
- (f) seeking and receiving information from any person, authority, corporation or company without let or hindrance in respect of the enforcement of any of the provisions of this Act or any other relevant law.

PART X – PROHIBITION OF SMUGGLING OF MIGRANTS

64. No person shall, for purposes of financial or any other material benefit, by means of a fraudulent travel or identity document, procure the illegal entry of a person into or the illegal stay of a person in a country of which that person is not a national or permanent resident.

PART XI – SMUGGLING OF MIGRANTS OFFENCES

Offence relating to smuggling of migrants

65. - (1) ANY person who intentionally or knowingly in order to obtain directly or indirectly, a financial or other material benefit procures the illegal entry of a person into a county of which the person is not a national or permanent resident commits an offence and is liable on conviction to imprisonment for a term of ten years or a fine of not less than One million Naira or both and is in addition, liable to refund to the migrant all monies obtained from him in the course of the commission of the offence.
- (2) Where the offence in sub-section (1) of this Section is committed in circumstances which endanger the life or safety of the smuggled immigrant concerned or entails the subjection of the smuggled person to torture, cruel, inhuman or degrading treatment, or exploitation, or is committed by a member of criminal group, the offender is liable on conviction to imprisonment for a term of fourteen years or a fine of not less than two million Naira or both, and is also liable to refund to the smuggled migrant all monies obtained from him in the course of the commission of the offence, is in addition liable to pay compensation to the smuggled migrant as may be determined by the Court.
- (3) Where any person who is the object of the smuggling in subsection (1) of this Section is a citizen of a member State of the Economic Community of West African States and the receiving country is also a member State of the Economic Community of West African States, the offender is liable to a penalty of imprisonment for a term of three years or a fine of three hundred thousand Naira or both;

Provided however that where the offence is committed in any of the circumstances specified in sub-section (2) of this Section, the offender is liable to the penalty or penalties provided for in subsection (2) of this section.

- (4) For the purpose of subsection (1) of this section, "illegal entry" means crossing borders without complying with the necessary requirements for legal entry into the receiving State and includes any crossing of a border at an irregular border point.
- (5) For the purpose of sub-section (1) of the Section, "an irregular border point" means any point on any border of a country which is not an officially designated entry or exit point into or out of that country.
- (6) For the purpose of sub-section (2) of this Section, "receiving country" means the country into which the migrant is smuggled.
- (7) Any person who intentionally, in order to obtain a financial or material benefit from another person, engages in fraudulent acts or conducts purportedly for the purpose of procuring, facilitating or promoting the actual or intended entry or transit by another person into or across a country of which that other person is not a national or a permanent resident, commits an offence, and is liable on conviction to imprisonment for a term of ten years or a fine of not less than One Million Naira or both, and is in addition liable to refund to the smuggled person all monies fraudulently obtained from him:

Provided however that where the offence is committed in any of the circumstances specified in subsection (2) of this Section, the penalty or penalties shall be as specified in sub-section (2) of this section:

Provided further that where the offence was committed against a citizen of the Economic Community of West African State, in circumstances specified in sub-section (3) of this Section, the offender is liable on conviction to imprisonment for a term of five years or a fine of not less than five hundred thousand Naira or both, and is also liable to, refund to the smuggled migrant all monies obtained from him in the course of the commission of the offence, and is in addition liable to pay compensation to the smuggled migrant as may be determined by the Court.

Abuse of the vulnerability of a smuggled person

- 66.-(1) Any person who intentionally or knowingly, in order to obtain directly or indirectly a financial or material benefit, abuses, endangers or exploits the vulnerability of a smuggled person, commits an offence, and is liable on conviction to imprisonment for a term of fourteen years and a fine of not less than two million Naira or both, and is in addition, liable to refund to the smuggled migrant all monies obtained from him in the course of the commission of the offence, and is also liable to pay adequate compensation to him for any economic, physical, psychological, emotional, or other injury, loss or damage which he may have suffered as a result of the offence as may be determined by the Court.
- (2) Where any offence under this Act or any other relevant law is committed in circumstances which endanger the life or safety of the smuggled concerned, or entails the subjection to torture, cruel, inhuman or degrading treatment or exploitation of such migrant, or is committed by a member of a criminal group, the offender is liable on conviction to imprisonment for a term of fifteen years or a fine of not less than Two Million naira or both, and is in addition, liable to refund to the smuggled person all monies obtained from him in the course of the commission of the offence, and is also liable to pay adequate compensation to him for any economic, physical, psychological, emotional, or other injury, loss or damage which he may have suffered as a result of the offence as may be determined by the Court.
- (3) For the purpose of this section, the term "abuse, endangering or exploitation of vulnerability" includes circumstances where it is apparent or should have been apparent to the person that the smuggled person had little real choice but to agree to submit to the conduct defined as an offence under sub-section (2) of this Section, particular where the smuggled person –
- (a) is a woman or a person below the age of eighteen years; or
 - (b) had little real choice but to agree to submit to –
 - (i) torture, cruel, inhuman or degrading treatment;
 - (ii) abnormal or dangerous travel, living or working conditions;
 - (iii) the provision of services to the smuggler or some other persons at the instance of, or with the connivance of the smuggler, either without payment or for abnormally low payment; and

- (iv) payment of an excessive amount or with sexual services, for goods or services, including food, water, accommodation, transport, immigration and employment related services provided by the smuggler.

Offences relating to enabling illegal residence

- 67. – (1) any person who intentionally or knowingly, in order to obtain, directly or indirectly, a financial or material benefit, enables a person who is not a national or permanent resident of a country to stay illegally in that country by means of a fraudulent identity document or any other illegal means, commits an offence, and is liable on conviction to imprisonment for a term of seven years and a fine of not less than one million Naira or both, and is in addition liable to refund to the smuggled person all monies obtained from him in the course of the commission of the offence.
- (2) any person who intentionally, in order to obtain a financial or material benefit from another person, engages in a fraudulent Act or conduct purportedly for the purpose of procuring, facilitating or promoting the stay by that other person in a country of which he is not a national or a permanent resident, commits an offence and is liable on conviction to imprisonment for a term of ten years or a fine of not less than one million Naira or both, and is in addition liable to refund to the smuggled migrant all monies obtained from him in the course of the commission of the offence.

Offences against procurement of fraudulent traveling document or identity document

- (68). – (1) Any person who, in order to obtain directly or indirectly a financial or material benefit, intentionally or knowingly produces, procures, provides or possesses a fraudulent travel or identity document for the purpose of enabling the smuggling of migrants provided for in Section 65, or the enabling of illegal residence provided for under Section 67 commits an offence and is liable on conviction to imprisonment for a term of not less than seven years or a fine of not less than One Million Naira or both, and is in addition liable to refund to the smuggled person all monies fraudulently obtained from him.
- (2) Where the offence in subsection (1) of this Section is committed in circumstances which endanger the life or safety of the smuggled migrant concerned or any such other person, or entails inhuman or degrading treatment or exploitation of such migrant or such other person, or is committed by a member of a criminal group, the offender is liable on conviction to imprisonment for a term of twelve years and a fine of not less than two Million Naira or both, and in addition liable to pay compensation to the smuggled migrant as may be determined by the Court.

Penalty for an offence under another relevant law committed for the purpose of enabling the smuggling of a migrant

69. Any person who is convicted of any offence not created under this Act, but is created under any other relevant law, and that offence is committed for the purpose of enabling the smuggling of a migrant or enabling illegal residence, notwithstanding any penalty provided for that offence in that other law, the offender is liable on conviction to imprisonment for a term of ten years or a fine of One Million Naira or both.

Organising or directing participation, aiding and abetting and preparatory acts

70. Any person who-

- (a) organizes or directs any other person to commit an offence under this Act or under any other relevant law;
- (b) participates as an accomplice in the commission of an offence under this Act or under any other relevant law;
- (c) procures any other person by any means whatsoever to commit an offence under this Act or under any other relevant law;
- (d) aids, abets or counsels any other person to commit or is an accessory to any act or offence under this Act or under any other relevant law; or
- (e) does any act preparatory to or in furtherance of the commission of an offence under this Act or under any other relevant law;

Commits an offence and is liable on conviction to the same penalty as is provided for the offence itself under this Act or under any other relevant law, and where no penalty is provided for such an offence under this Act, to twice the penalty provided under any such other law.

Provided that the penalties provided under such law is not the equivalent to or higher than the punishments provided under this Act.

Conspiracy to commit an offence

71. Any person who conspires with another to commit an offence under this Act or any other relevant law commits an offence, and is liable –
- (a) where the offence is committed, to the punishment provided for the commission of that offence under this Act or any other such relevant law;

Provided that where the offence is committed for the purpose of enabling the smuggling of a migrant, notwithstanding any penalty provided for that offence in any such law, the offender is liable on conviction to imprisonment for a term of ten years and a fine of One Million Naira or both.

Provided also that if the penalties provided for such offences under that relevant law is higher than the penalties provided for under this Act, those penalties shall apply: and

- (b) where the offence is not committed, to a penalty which is half of the punishment provided for the offence under paragraph (a) of this section.
72. (1) Any person who attempts to commits any offence under this Act or any other relevant law is liable on conviction to a penalty which is not less than half of the penalty provided for the offence under this Act or any other relevant law.
- (2) Where a person is charged with any of the offences under this Act or any other law and the evidence establishes an attempt to commit that offence, he may be convicted of having attempted to commit the offence and is liable on conviction to the penalty provided for in sub-section (1) of this Section.
 - (3) Where a person is charged with an attempt to commit an offence under this Act or any other relevant law, but the evidence establishes the commission of the full offence, the offender shall not be entitled to acquittal but shall be convicted for the commission of the offence and is liable to the penalty provided for the offence under this Act.

Escape or aiding and abetting escape

73. (1) Any person who –
- (a) being in lawful custody, escapes or abetting escape;
 - (b) aids, facilitates or abets the escape of a person in lawful custody of the Service or suspected to have committed an offence under any of the provisions of this Act or any other relevant law;
- (2) Where the offender under sub-section (1) of this Section, commits the offence in circumstances which endanger the life or safety of any law enforcement officer, other public official or witness, or which entails the subjection of such officer or official or witness to torture, cruel, inhuman or degrading treatment, or exploitation, or is committed as a member of a criminal group, the offender is liable on conviction to imprisonment for a term, of fifteen years or to a fine of not less than three million Naira or both and is also liable to pay compensation to such officer, official or witness as may be determined by the Court, and in addition, all his assets traceable to have been derived from the commission of an offence under this Act is subject to forfeiture and shall be paid into the Objects of Smuggling of Migrants Trust Fund established under Section 97 of this Act.

Tampering with evidence and witnesses, and obstruction of justice

74. (1) Any person who uses physical force, threat or intimidation, blackmail or similar acts, or the promise or offering or giving of any material or other benefit, or of an undue advantage to induce false testimony or to interfere in the giving of testimony or the production of evidence by a witness in a proceeding in relation to the commission of offences created by this Act or any other relevant law, commits an offence and is liable on conviction to imprisonment for a term of fourteen years or to a fine of not less than Two Million Naira or both.
- (2) Any person who tampers with evidence or exhibit by falsification, conversion, destruction or forgery commits an offence and is liable on conviction to imprisonment for a term of fourteen years or to a fine of not less than Two Million Naira or both.
- (3) Any person who uses physical force, threat or intimidation, blackmail or similar acts, or the promise or offering or giving of any material or benefit, or of undue advantage, to interfere with the exercise of official duties by a judicial officer, law enforcement or other public official commits an offence and is liable on conviction to imprisonment for a term of fifteen years or to a fine of not less than Three Million Naira or both.
- (4) Any person who in any other way not provided for under sub-sections (1) and (2) of this Section obstructs, prevents, perverts, or defeats the course of justice commits an offence and is liable on conviction to imprisonment for a term of fourteen years or a fine of not less than Two Million Naira or both.
- (5) Where the offender under sub-sections (1), (2), (3) and (4) of this Section commits the offence in circumstances which endanger the life or safety of any judicial officer, law enforcement or other public official or witness, or which entails the subjection of such judicial officer, law enforcement or other public official or witness to torture, cruel, inhuman or degrading treatment, or exploitation, or is committed as a member of a criminal group, the offender is liable on conviction to a term of imprisonment for sixteen years or to a fine of not less than Four Million Naira or both and is also liable to pay compensation to the person affected by his offence, and in addition all his assets traceable to have been derived from the commission of an offence under this Act shall be subject to forfeiture and shall be paid into the objects of smuggling of Migrants Trust Fund established under section 97 of this Act.
- (6) In addition to any other penalty provided for any offence under this Section, all the assets of the offender traceable to have been derived from the commission of an offence under this Act shall be subject to forfeiture and shall be paid into the Objects of Smuggling of Migrants Trust Fund established under Section 97 of this Act.

Consent of an object of an offence

75. – (1) Without prejudice to the provisions of this Act, the consent of an object of any of the offences created under this Act or any other relevant law to the intended procurement of illegal entry into or illegal stay in a country of which he is not a national or permanent resident or to any form of exploitation punishable under the Act or any other relevant law, shall not be a defence for an offender to any offence under this Act or any other relevant laws.
- (2) Notwithstanding the provision of any other law to the contrary, the consent of an object of any of the offences created under this Act or any other relevant law, to or his collaboration in any such offence, shall not constitute a bar to the making of restitution or the payment of compensation or costs to him, and neither shall it constitute a bar to his instituting a civil proceeding for the purposes of his obtaining remedy for any injury, loss or damage which he may suffer as a result of the commission of the offence by the smuggler.

PART XII – RESTITUTION AND COMPENSATION

Restitution to smuggled persons

76. – (1) Where any person is convicted of an offence under this Act or any other relevant law, the Court may, in addition to any penalty or measure, and irrespective of the immigration status of the smuggled person, order offender to –
- (a) return to the smuggled person any money or property obtained from him in the course of or for the purpose of the commission of the offence;
- (b) defray the medical or other expenses of the smuggled person incurred as a result of any injury, loss or damage suffered by him in connection with or as a result of the commission of the offence, including loss of wages where applicable.
- (2) Where there are two or more offenders convicted of an offence and they are adjudged to make restitution to the person who suffered injury, loss or damage, the court shall apportion the amount of restitution payable by each offender according to the degree of the benefit he derived, or as the Court may otherwise determine.
- (3) Notwithstanding any other provision of this Act or any other law, a smuggled person has the right to institute civil action against a smuggler and any other person, including a public officer who may have exploited him or abused his person, for restitution or recovery of any property or assets unlawfully taken from him in the course of the commission of any of the offences created under this Act or under any other relevant law.
- (4) Where restitution is ordered in addition to any other penalty and that other penalty is subject to appeal, the restitution shall not be made before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision on the appeal.
- (5) Where an order for restitution has been executed and the conviction is later set aside, the restitution order shall stand notwithstanding:

Provided that such an unexecuted restitution order may be enforced even after the conviction has been set aside where the circumstances are such that a civil court would have ordered restitution in similar circumstances had the matter been tried before it in a civil suit.

77. – (1) Where any person is convicted of an offence under this Act or any other relevant law, the Court may, in addition to any penalty or measure and irrespective of the immigration status of the smuggled person, order the offender to compensate in whole or in part an object of any such offence for the economic, physical, psychological, emotional or other injury, loss or damage caused to or suffered by him in the course of or in consequence of the commission of the offence where in the opinion of the court compensation is recoverable by civil suit.

(2) The award of such compensation shall be a bar to any further action for the same injury loss or damage:

Provided however that an action may lie with the consent of the Court consequent upon an application for the purpose upon the ground that the award by the criminal court is so grossly inadequate as to amount to a miscarriage of justice:

Provided also that in any such subsequent civil proceeding the court shall take into account any such sum already awarded as compensation in awarding its own compensation.

(3) Where there are two or more offenders convicted of an offence and they are adjudged to make compensation to the person who suffered injury, loss, or damage, the Court shall apportion the amount of compensation payable by each offender according to the degree of his guilt or the benefit derived by him, or as the Court may otherwise determine.

(4) Where compensation is awarded, in addition to any other punishment and that other punishment is subject to appeal, no such amount awarded in compensation shall be paid before the period allowed for presenting the appeal has elapsed or, if an appeal is presented, before the decision or the appeal.

(5) Where an order for compensation has been executed and the conviction is later set aside, the compensation order shall stand notwithstanding:

Provided that any such unexecuted compensation order may be enforced even after the conviction has been set aside where the circumstances are such that a civil court would have ordered compensation in similar circumstances had the matter been tried before it in a civil suit.

Enforcement of Restitution of Compensation Order

78. (1) When an offender has been ordered to make restitution or to pay compensation upon his conviction, the court may, for the purpose of enforcing its payment, issue a warrant for the levy of the amount –

- (a) by the seizure and sale of any movable property belonging to the offender;
 - (b) by the attachment of all or part of any debts or part of any debt due to the offender; or
 - (c) subject to the provisions of the Land Use Act, by the attachment and sale of any immovable property of the offender situated within the jurisdiction of the Court.
- (2) A warrant for seizure and sale of the immovable property of an offender shall be addressed to the Court within the local limits of which jurisdiction it is to be executed.
- (3) When execution of a warrant is to be enforced by attachment of debts, income or by sale of immovable property, the warrant shall be sent for execution to any court competent to execute orders for the payment of money in civil suits and such court shall follow the procedure for the time being in force for the execution of such orders .

Appeal against order of Restitution or Compensation

79. An appeal shall lie against any order awarding restitution or compensation under the preceding Sections in this Part as if it were a conviction and a sentence thereupon.

State Compensation to Object of Smuggling Migrants Offences

80. Where a court which tries a smuggling of migrant offender under the provisions of this Act or any other relevant law considers the award of compensation to be appropriate in the case, and no resources or insufficient resources are available or ascertainable from the offender from which the compensation can be paid, the Court shall order the payment of the compensation from the Objects of Smuggling of Migrants Trust Fund to the smuggled person.

PART XIII – SEIZURE, ATTACHMENT AND FORFEITURE OF ASSETS

Forfeiture of Passport

81. The passport of any Nigerian convicted of an offence of smuggling of migrants under this Act shall be forfeited to the Federal Government and it shall not be returned to that person unless the Minister directs otherwise or after the grant of a pardon or on the exercise of the Prerogative of Mercy under the Constitution of the Federal Republic of Nigeria.

Forfeiture of assets after Conviction

82. (1) A person convicted of an offence under the Act shall forfeit to the Federal Government –

- (a) all the assets and properties which are the subject of an interim Attachment Order of the Court after an attachment by the Service as specified by the provisions of this Act;
- (b) any assets or properties derived from any proceeds obtained directly or indirectly not already disclosed in the Assets Declaration Form specified in Form A of the Schedule to this Act, or not subject of an Interim Attachment Order; and
- (c) any property or instrumentalities used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Assets Declaration Form or not subject of an Interim Attachment Order;

and the amount of these assets and properties shall be vested in the Federal Government and their proceeds shall be paid into the Consolidated Revenue Fund of the Federation from which they shall immediately be paid into the Objects of Smuggling of Migrants Trust Fund.

- (2) The Court in imposing a sentence on any person under this Act shall, in addition to any other sentence imposed pursuant to this Act or any other relevant law, order that the person forfeits to the Federal Government all properties described in sub-section (1) of this Section and the proceeds accruing from such properties shall be paid into the Consolidated Revenue Fund of the Federation from which they shall immediately be paid into the Objects of Smuggling of Migrants Trust Fund.
- (3) In this section, the term "proceeds" means any property derived or obtained, directly or indirectly through the commission of an offence under this Act or any other relevant law, or any income accruing from such property.

Seizure of Property of Arrested Persons

83. On the arrest of a person suspected to have committed an offence

under this Act or any other relevant law, the Court may, in addition to any money taken out of his possession, order the seizure and sale of any property found on him or in any place known to belong to him or to be in his possession or under his control, or any property known to belong to him (whether movable or immovable), or any property suspected to be the proceeds of or obtained through the commission of any such offence, and at the conclusion of the trial, the Court may use such property its proceeds, as appropriate, to satisfy the smuggled person, either in restitution of any money or property taken from him in the course of or as a result of the commission of such offence, or as compensation for any injury, loss or damage suffered by such smuggled person.

Property within Nigeria subject to Forfeiture

84. (1) Any property--

(a) in Nigeria whether real or personal, which represents the gross receipts which a person obtains directly or indirectly as a result of the commission of an offence created under this Act or any other relevant law, or which is traceable to such gross receipts ; and

(b) within Nigeria, which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offence or activity would be punishable by imprisonment for a term of imprisonment of not less than a year and which would be punishable by imprisonment under this Act or any other relevant law if such act or activity had occurred with in Nigeria;

is subject to forfeiture to the Federal Government and the proceeds accruing therefrom shall be paid into the Consolidated Revenue Fund of the Federation from which they shall immediately be paid into the Objects of Smuggling of Migrants Trust Fund.

(2) Without prejudice to the provisions of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them immediately upo¹¹ such forfeiture:

(a) all means of conveyance, including vehicles or vessels or aircrafts or other means of transportation which are used or are intended for use to transport or in any manner facilitate the smuggling of any migrant, except that no means of conveyance—

(i) used by any person in the transaction of business as a common carrier shall be forfeited under this section unless it appears that the owner or other person in charge of such means of conveyance was a consenting party or privy to the commission of a¹¹ offence created under this Act or any other relevant law,

(ii) shall be forfeited under this section by reason of any act established by the owner thereof to have been committed by any person other than such owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof, and

(iii) shall be forfeited under this section to the extent of an interest of a¹¹ owner by reason of any act established by that owner to have been committed without the knowledge, consent or willful connivance of that owner.

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

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

Forfeiture of Foreign Assets

85. Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of any of the offences under this Act or any other relevant law, or such assets or properties, subject to any treaty or arrangement with such foreign country, shall be forfeited to the—

(c) Federal Government and the proceeds accruing therefrom shall be paid into the Consolidated Revenue Fund of the Federation from which they shall immediately be paid into the objects of Smuggling of Migrants Trust Fund; or

(b) the Service shall, through the Office of the Minister, ensure that the proceeds accruing from such forfeited assets or properties are effectively transferred and vested in the Objects of Smuggling of Migrants Trust Fund from the Consolidated Revenue Fund of the Federation into which they were initially paid.

Seizure of Property Subject to Forfeiture

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

(a) seizure is incidental to an arrest or search as provided for under section 83 of this Act; or

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

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

- (a) place the property under seal; or
 - (b) remove the property to a place designated by the Service.
- (3) Property taken or detained under this section shall be deemed to be in the custody of the Service subject only to the order of the Court .

Investigation of Assets and Property of an Arrested Person

87. Where a person is arrested for a11 offence under this Act or any other relevant law, the Service shall immediately trace and attach all the assets and properties of the person acquired as a result of the offence.

Disclosure of Assets and Property by an Arrested Person

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

- (2) The disclosures made in the Declaration of Assets Form shall be investigated by the Service.
- (3) Any person who—
- (a) knowingly fails to make full disclosure of his assets and liabilities,
 - (b) knowingly makes a declaration that is false, or
 - (c) fails, neglects or refuses to make a declaration or furnish any information required, in the Declaration of Assets Form,

commits an offence and is liable on conviction to imprisonment for a term of five years or a tine of One Million Naira or both, and such assets not disclosed in the Assets Declaration Form shall be forfeited to the Federal Government and

the proceeds accruing there from shall be paid into the Consolidated Revenue Fund of the of the Federation from which they shall immediately be paid into the Objects of Smuggling of Migrants Trust Fund.

(4) Whenever the assets and properties of any person arrested under this Act or any other relevant law are to be attached, the Service shall apply to the Court for an Interim Attachment Order under the provisions of this Act.

Interim Attachment Order after Seizure of Property

89. Where any asset or property has been seized by the Service under this Act, the Service shall immediately cause an application to be made to the Court for an Interim Attachment Order and the Court shall if satisfied that there is prima facie evidence that the property concerned is liable to forfeiture make an Interim Attachment Order.

Final Order of Forfeiture

90. Where an arrested person is convicted of an offence under this Act or any other relevant law, the Service shall apply to the Court for a Final order of Forfeiture of the convicted person's assets and properties which are—

(a) already subject to an Interim Attachment Order :

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

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

Disposal of Forfeited Properties

91. (1) A copy of every Final Order forfeiting the assets and properties of a person convicted under this Act or any other relevant law shall be forwarded to the Service.

(2) Upon receipt of a final order pursuant to this section, the Comptroller-General of Immigration shall take steps to gazette in a Federal Government Gazette all such properties concerned before carrying out sales by a Federal Government licensed auctioneer.

(3) Where any part of the property included in a final order is money in a bank or any financial institution or in the possession of any person, the Service shall cause a copy of the order to be produced and served on the manager or any person in control of the head office or branch of the bank concerned and that manager or person shall forthwith pay over the money to the Service and the Service shall pay the money received into the Consolidated Revenue Fund of the Federation, from which it shall be paid immediately into the Objects of Smuggling of Migrants Trust Fund.

Offences in Relation to Forfeiture Orders

92.--(1) Any person who, without due authorisation by the Service, deals with, sells or otherwise disposes of any property or asset which is the subject of attachment, seizure, Interim Attachment Order or Final Forfeiture Order, commits an offence and is liable on conviction to imprisonment for a term of fourteen years without an option of a fine and the return of a sum which is twice the amount of the value of such property' or asset.

(2) Any bank or other financial institution or the manager or person in control of the head office or branch which fails to pay over any money which is the subject of a Final Forfeiture Order to the Service upon the production of that Order to him or the bank or financial institution or its branch. commits an offence and is liable on conviction to imprisonment for a term of ten years or a fine of Two Million Naira or both, and the return of a sum which is twice the amount of the money so withheld from payment to the Service, and the Service shall immediately file a report on the matter with the Central Bank of Nigeria:

Provided that the bank or financial institution shall also be subject to the penalty provided for offences by bodies corporate under Section 105 (2) of this Act.

Consequences of an acquittal in Respect of Confiscated Assets and Properties

93.--(1) Where a person is discharged or acquitted by a court of an offence under this Act, the court may make an order of revocation or confirmation as the case may be, of an Interim Attachment Order made pursuant to this Act whichever order is considered just, appropriate or reasonable in the circumstances.

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

(3) Where an Interim Order is revoked by a court under sub-section (1) of this Section, all assets and properties of the person concerned shall be released and immediately returned to him by the Service.

Freezing Order on Banks or other Financial Institutions

94.--(1) Notwithstanding anything contained in any other enactment, where any person is arrested or is under investigation for an offence under this Act or any other relevant law, the Comptroller-General of Immigration may, if satisfied that the money in the account of an arrested person is made through the commission of an offence under this Act or any other relevant law, apply to the Court ex parte for an order authorising the Service to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form B of the Schedule to this Act, addressed to the manager of the bank or any person in control of the financial institution where the account is or believed by him to be or the head office of the bank or other financial institution, to freeze the account:

Provided the freezing order shall not be in place for a period longer than is necessary or expedient for the determination of the case.

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

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

(4) In this section—

(a) "Bank" has the meaning given to it in the Banks and Other Financial Institutions Act, CAP 83, Laws of the Federation of Nigeria, 2004, as amended; and

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

PART XIV--MIGRANT REMEDY WITHOUT CRIMINAL CONVICTION

Migrant's Civil Remedy

95.--(1) A person who is an object of any offence of smuggling of migrants as prescribed under this Act or any other relevant law shall have the right to institute civil proceedings against any person who subjected him to the act or conduct constituting the offence, and the Court shall have jurisdiction to entertain the action, and to order the provision of appropriate material or non-material remedy, including the making of restitution or payment of appropriate compensation, or both, to such object of the offence for the economic, physical, psychological, emotional, or other injury, loss or damage, including any violence, torture, cruel, inhuman or degrading treatment or punishment, or threat to his life or safety or that of any member of his is family suffered by him as a result of his being subjected to any such act or conduct.

(2) The right to institute such a civil action shall not be affected by or be dependent upon the existence or outcome of criminal proceeding in connection with the same act or conduct from which the civil action derives.

(3) The immigration status or return to his home country or some other form of his absence from jurisdiction of the object of an offence created under this Act or any other relevant law shall not affect the jurisdiction of the Court to hear the case and determine the matter.

PART XV—JURISDICTION

Jurisdiction to try Immigration and Smuggling of Migrants Matters

96.--(1)The Federal High Court shall have jurisdiction to hear and determine proceedings in all matters relating to immigration and smuggling of migrants under this Act, however arising, including offences relating to Nigerian passports, visas, permits or other travel, work or residence documents, and in the case of offences, whether or not an offence was commenced in Nigeria and completed outside Nigeria, or whether or not an offence was committed outside Nigeria and completed in Nigeria and the object of the offence is—

- (a) a citizen or resident of Nigeria; or
- (b) a foreigner who-
 - (i) is in transit ;
 - (ii) has a link with Nigeria; or
 - (iii) is dealing with or on behalf of the Governments of Nigeria and the alleged offender is in Nigeria.

(2) For the purpose of sub-section (1) of this Section, there shall be established a Division of the Federal High Court which shall be responsible for trying all matters relating to immigration and smuggling of migrants.

PART XVI OBJECTS OF SMUGGLING OF MIGRANTS TRUST FUND

Establishment and Management of Objects of Smuggled Migrants Trust Fund

97.--(1) There is established the Objects of Smuggling of Migrants Trust Fund, into which all proceeds of the sale of assets and properties of smugglers shall be paid.

- (2) The Fund shall be managed by a Management Board comprising—
 - (a) the Comptroller General of Immigration, as Chairman;
 - (b) representative of the Federal Ministry of interior;
 - (c) representative of the Federal Ministry of Health ;
 - (d) representative of the Federal Ministry of Finance;
 - (e) representative of the Federal Ministry of Women Affairs and Social Development;
 - (f) representative of the Office of the Accountant-General of the Federation;
 - (g) representative of the Office of the Federation ;

- (h) representative of the Central Bank of Nigeria;
 - (i) representative of National Agency for the Prohibition of Trafficking in Persons (NAPTIP);
- (i) Deputy Comptroller-General (Migration) ; and
 - (k) Comptroller in charge of the section on Administration as Secretary.

(3) The Minister shall make regulations and issue guidelines for the management of the Fund established under sub-section (1) of this Section, or any other fund assigned to the Board for its management under this Act, and other related matters.

PART XVII - TREATMENT OF SMUGGLED MIGRANTS

Treatment OF Smuggled Migrants

98. The Service shall ensure that—

- (a) a smuggled migrant is not subjected to discriminatory treatment on account of race, colour, gender, age, language, religion, political or other opinion, cultural beliefs or practices, national, ethnic or social or origin, property, birth or other status, including his status as a smuggled migrant;
- (b) a smuggled migrant has access to adequate health and other social services during the period of his temporary residence in Nigeria;
- (c) a smuggled migrant has access to the embassy or consulate of the country of which he is a citizen or where there is no embassy or consulate, to the diplomatic representative of the State that takes charge of the country's interest or nationals, to protect him;
- (d) a smuggled migrant is able to return home safely, if he wishes and when he is able to do so;

- (e) a smuggled migrant is not denied temporary residence visas during the pendency of any criminal, civil or other legal actions;
- (f) investigation, detection, gathering and interpretation of evidence are conducted in such a manner as to minimize intrusion into the personal history of a smuggled migrant;
- (g) the identity of a person smuggled is protected;
- (h) the use of any person's history of being smuggled to discriminate or cause harm to such person, his family or his friends in any way whatsoever, particularly with regard to freedom of movement, marriage or search for gainful employment, is prohibited;
- (i) steps are taken to maintain and rehabilitate facilities provided for smuggled migrants; and
- (j) a smuggled migrant and his family are protected from intimidation, threats, and reprisals from smugglers and their associates, including reprisals from persons in position of authority.

Non-detention or Prosecution of Smuggled Person

99. No smuggled migrant shall be detained or prosecuted for any of the offences created under this Act or any other relevant law simply by reason of his being an object of any of the offences created under this Act or any other relevant law.

Establishment of Transit Shelters

100.--(1) There shall be established for the Division, transit shelters which shall be managed and supervised as facilities for caring for rescued smuggled migrants.

- (2) The transit shelters shall be run by appropriate staff of the Division with the aim of providing protection, assistance, counseling, rehabilitation rehabilitation and reintegration into the society.

PART XVIII- PROTECTION OF INFORMATION, INFORMANTS AND WITNESSES

Protection of Information, Informants and Witnesses

- 101.--(1) Where a person volunteers to the Service or an official of the Service any information which may be useful in the investigation or prosecution of an offence under this Act or any other relevant law, the Service shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.
- (2) In any criminal trial undertaking for the prosecution of any offence created under this Act or any other relevant law, any witness for the prosecution, and wherever necessary, members of his family shall be put under an appropriate witness protection programme which may be necessary for the protection of his life and safety, and the protection of life and safety of members of his family.

PART XIX--MISCELLANEOUS AND SUPPLEMENTAL PROVISIONS

Public Private Partnership and Sharing Formula

- 102.-(1) The Service shall collaborate with Public and Private sector interest groups 011 a Public-Private Partnership Platform to attract funds for acquisition, provision and development of infrastructure and equipment to enable the Service provide appropriate professional skills and modern migration management facilities.
- (2) All revenue accruing from the Public-Private Partnership Platform shall be shared in the following manner 40% to the Federal Government, 30% to the Service Provider or Providers and 30% to the Nigeria Immigration Service:
- Provided that the revenue accruing to the Service under this subsection as well as that accruing from all fines collected by virtue of the provisions of this Act, shall be managed by the Management Board established under Section 97 (2) of this Act.

- (3) There shall be defrayed out of the funds provided by the National Assembly, any expenses incurred for the purpose of this Act by the Minister and the Comptroller-General of Immigration.

Refugees

103. The Comptroller-General of Immigration upon the recommendation of the National Commission for Refugees shall issue any relevant immigration document in respect of a refugee in Nigeria.

Burden of Proof

104. In any proceeding under this Act or Regulations made under this Burden of Act, or on examination by an immigration officer, if the question arises—
- (a) whether any person is in possession of a passport, visa or permit,
 - (b) whether any person is a citizen of Nigeria, or
 - (c) whether any person is a citizen of any other country, the burden of proof that the person is in possession of a passport, visa or permit, or that he is a citizen of Nigeria, or that he is a citizen of that other country, lies on that person.

Offences of a Body Corporate

- 105.--(1) Where an offence under this Act or any other relevant law committed by a body corporate is proved to have been committed on the instigation or with the connivance of or is attributable to any neglect on the part of a director, manager, secretary of the body corporate, or any person purporting to act in any such capacity, the officer or person is liable on conviction to imprisonment for a term of three years or to a fine of Two Million Naira or both :

Provided that where the offence committed is an offence relating to smuggling of migrants, the director, manager, secretary or such other person purporting to act in any such capacity, the officer or person is liable to the penalty prescribed for individuals under the various provisions for such offences under this Act.

(2) Where a body corporate is convicted of an offence under this Act, it is liable to a fine of Five Million Naira and the Court may issue an order to wind up the body:

Provided that where a body corporate is convicted of an offence relating to smuggling of migrants, it is liable to a fine of Ten Million Naira, and the Court may issue an order to wind-up the body corporate, and its assets and property transferred to the Objects of Smuggling of Migrants Trust Fund.

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

(4) Anybody corporate that refuses to-

(a) renew its expatriate quota within the stipulated time; or

(b) render its expatriate monthly returns commits an offence and is liable on conviction to a fine of three million Naira.

Criminal Responsibility of Ships and Airlines Operators, other Commercial Carriers, Tour Operators and Operators of Travel Agencies

106.-(1) Every airline operator, sea or other water vessel operator, or land transportation, or commercial carrier, tour operator, or operator of a travel agency is under obligation not to aid and abet, facilitate and promote—

(a) any immigration offence ;

(b) smuggling of persons; or

(c) any exploitation in tourism.

(2) Every airline operator, sea or other water vessel operator, commercial carrier including motor vehicle operator, tour operator or operator of a travel agency shall notify its clients of its obligation under sub-section (1) of this Section,

- (3) Every airline operator, sea or other water vessel operator, commercial carrier, tour operator or travel agency is required to—
- (a) insert in contracts with corresponding suppliers in destination countries, clauses requiring the suppliers to comply with the obligations stated in sub-sections (1) and (2) of this Section;
 - (b) refrain from utilising messages on printed materials, video or the internet that could suggest or allude to behaviour incompatible with the objectives of this Act;
 - (c) inform their staff of their obligations under this Act; and
 - (d) include clauses regarding their obligations under this Act in their conditions of service.
- (4) Every airline operator, sea or other water vessel operator, commercial carrier, tour operator or travel agency who violates the provisions of sub-sections (1) and (2) of this Section, commits an offence, and in addition to any other penalty provided in any other law or enactment, is liable on conviction to a fine of two million Naira

Provided that where the offence committed is an offence relating to smuggling of migrants, the commercial carrier, tour operator or travel agency shall be liable to a fine not exceeding ten million Naira, and the Court may issue an order to wind-up the business of the carrier, tour operator or travel agency and its assets and properties transferred to the Objects of Smuggling of Migrants Trust Fund.

Evidence as to Orders

107. A document purporting to be an order, notice or directives made or given by the Minister for the purposes of this Act, and to be signed by him or on his behalf, shall be received in evidence, and shall until the contrary is proved, be deemed to be made or issued by him: and prima facie evidence of any such order, notice or directive may in any legal proceedings, be given by production of a document bearing a certificate purporting to be signed by or on behalf of the Minister and stating that the document is a true copy of the order, notice or directive.

Application of Certain Enactments

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

- (a) the Mutual Assistance in Criminal Matters within the Commonwealth (Enactment and Enforcement) Act, Cap. M-24, Laws of the Federation of Nigeria, 2004; and
- (b) the Transfer of Convicted Offenders (Enactment and Enforcement) Act, Cap. T-16, Laws of the Federation of Nigeria, 2004, to apply to any country outside the Commonwealth and accordingly the provisions of the Acts mentioned in paragraphs (a) and (b) of this Section shall have effect in their application to this Act or any relevant law.

Restriction on Legal Proceedings against the Service

109.-(1) No civil action shall be commenced against the Service, or its authorised officers before the expiration of a period of 30 days after a written notice of intention to commence the suit shall have been served on the Service by the intending plaintiff or his agent, and the notice shall clearly state the-

- (a) cause of action;
- (b) particulars of the claim;
- (c) name of the plaintiff;
- (d) name and office address of the intending plaintiff's counsel; and
- (e) relief which he claims,

(2) The notice referred to in sub-section (1) of this Section and any summons, or other documents required or authorised to be served on the Service under this Act or any other enactment or law, may be served by-

- (a) delivering it to the Headquarters of the Service; or
- (b) sending it by registered post addressed to the Service Headquarters.

Restriction on Execution against the Property of the Service

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

Indemnity of Officers of the Service

111. The Comptroller-General of Immigration, or any other officer or employee of the Service shall be indemnified out of the assets of the Service against any proceedings brought against him in his capacity as the Comptroller-General of Immigration, an officer or employee of the Service where the act complained of was performed in the course of his official duties and is not unlawful or ultra vires of his powers.

Regulations

112.-(1) The Minister may make regulations as in his opinion are necessary or expedient for giving full effect to the provisions of this Act and for the due administration thereof.

(2) Without limiting the generality of the provisions of sub-section (1) of this Section, regulations may be made for all or any of the following purposes—

- (a) for the control of immigrants resident in Nigeria;
- (b) for the patrol of Air, Sea, and Land Borders;
- (c) for the administration, control and issuance of passports, visas and other travel documents ; and
- (d) for any other matter covered by the provisions of this Act.

Power to Institute Proceedings

113. Where by this Act, any power to institute proceedings or to recover funds is vested in the Minister, that power may be exercised in his name by any authorised immigration officer,

Repeal

114. The Immigration Act, Cap. I1, Laws of the Federation of Nigeria, 2004, and the Passport (Miscellaneous Provisions) Act, Cap. P1, Laws of the Federation of Nigeria, 2004, are hereby repealed.

Savings Provisions

- 115.-(1) It is declared that, without limiting the provisions of the Interpretation Act, the repeal by this Act shall not affect any document made or anything done under the enactment so repealed .
- (2) Every order, requirement, certificate, notice, authorisation, consent, application, request, or things made, issued, given or done under the repealed Act, shall if in force at the commencement of this Act, and so far as it could have been made, issued, given or done under this Act continue in force and have effect as if made, issued, given or done under the corresponding provision of this Act.

Interpretation

116. In this Act-

"alter" with its grammatical variations and cognate expression, when used with reference to a passport or any other travel document, identity document, work or residence permit shall include effecting a change or changes in a passport or any other such document, or permit, or the production or reproduction, or assistance in the production or reproduction of any part or portion of a passport or any other such document;

"Area Office" means an administrative unit under the State Command comprising at least three Local Government Areas;

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

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

"Board" means Civil Defence, Fire, Immigration and Prisons Services Board (CDFIPB);

"citizen of Nigeria" has the meaning assigned thereto by Sections 23 to 25 of the Amended Constitution of the Federal Republic of Nigeria, 2011, signed into Law by the President of the Federal Republic of Nigeria on the 10th day of January, 2011, unless the context otherwise permits;

"Command" means an administrative unit comprising among other, Area Offices, Out-post and Local Government Immigration Offices under a Comptroller of Immigration Service;

"commercial carrier" means any person or any public, private or other entity engaged in transporting person, goods or mails, by air, land or water, including the sea, for remuneration, hire or any other commercial benefit;

"Court" means the Federal High Court;

"criminal group" means a group which has been in existence for a period of not less than six months preceding the commission of the offence under this Act or any other relevant law, and which consists of three or more persons, the members of which have been acting in concert in the commission of crimes amounting to felony since its coming into existence, in order to obtain, directly or indirectly, financial or other material benefit;

and the group need not have formally defined roles for its members, continuity of or permanence in its membership, or a developed structure;

"crew" in relation to a ship or aircraft means all persons actually employed in the working or service of a ship or aircraft including the master of the ship and captain of the aircraft, and *"supernumerary crew"* shall be construed accordingly;

"Directorate" means an administrative unit at the Service Headquarters headed by a Deputy Comptroller-General of Immigration;

"Division" means an administrative unit under the Directorate at the Service Headquarters headed by an Assistant Comptroller-General of Immigration;

"enter" with its grammatical variations and cognate expressions shall include land;

"Federal Government" means Federal Government of Nigeria;

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

"fraudulent document" means a document which is forged, improperly issued or obtained through misrepresentation, corruption or duress or any other unlawful manner, produced or reproduced without lawful authority or used by a person other than the lawful holder;

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

"immigrant" means any person who is not a Nigerian citizen, or persons accorded immunity by reasons of diplomatic status, who enters or seeks to enter Nigeria;

"immigration officer" means any fit person employed in accordance with section 3 of the Act;

"import" with its grammatical variations and cognate expressions means to bring or cause to be brought into Nigeria;

"land" means disembark from a ship or aircraft and *"disembark"* shall be construed accordingly;

"leave" with grammatical variations and cognate expressions include embark;

"*Minister*" means the Minister charged with responsibility for Immigration;

"*minor*" means any young person under the age of 18 years;

"*object of an offence of smuggling of migrants*" means a smuggled person, whether or not he has suffered any economic, physical, psychological, emotional, social, or other injury, loss or damage, including any violence, torture, cruel, inhuman or degrading treatment or punishment, or threat to his life, health or safety, or he has been subjected to exploitation by a smuggler, in relation to any of the offences of smuggling of migrants created under this Act or other relevant law;

"*passport*" means with reference to the person producing it a travel document furnished with a photograph of such person and issued to him by or on behalf of the country of which he is a subject or a citizen and for a period which according to the laws of that country has not expired and includes any other similar document approved by the government establishing the nationality and identity of the person to whom it refers to the satisfaction of an immigration officer;

"*permit*" includes pass;

"*person*" means an individual or corporate entity under this Act;

"*prescribed*" means prescribed by this Act or by Regulations or any Order under this Act;

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

"*procure*" includes recruit, incite, promise, or induce;

"*prohibited immigrant*" includes any person liable to be refused entry or to be deported under this Act;

"*recognized port*" or "Port of Entry" means in respect of landing from or embarking in an aircraft any recognized airport where there are facilities for customs, health and immigration inspection and in respect of persons landing from or embarking in a ship or otherwise arriving in or departing from Nigeria means any place where there are the like facilities;

"*residence permit*" means a document that allows a non-Nigerian to reside in Nigeria and carry out an approved activity as specified in the document, or to a company, resident or citizen of Nigeria as a dependant;

"*receiving country*" means the country into which a migrant is smuggled or the country in which he is enable to stay illegally;

"*section*" is an administrative unit under a Division at the Headquarters and State Command;

"*Service*" means the Nigeria Immigration Service established by this Act;

"*smuggling of migrants*" means the procurement, in order to obtain directly or indirectly a financial or material benefit, of the illegal entry of a person into a country of which the person is not a national or a permanent resident, or to facilitate the illegal stay of such a person in a country;

"*smuggled person*" means any person who is an object of any of the offences of smuggling of migrants created under this Act or any other relevant law regardless of whether that person consented to, or collaborated or participated in the process of the smuggling or not, and regardless of whether the perpetrator is identified, apprehended, prosecuted or convicted or not;

"*smuggler*" means a smuggling of migrants offender;

"*superior Immigration Officer*" for the purpose of exercising authority in respect of this Act, means an officer not below the rank of Assistant Superintendent of Immigration II;

"*trafficking*" means all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchase, sale, transfer, receipt, or harbouring of a person involving the use of deception, coercion or debt bondage for the purpose of placing or holding the person, whether for or not in involuntary servitude (domestic, sexual or reproductive), in forced or bonded labour, or in slavery-like conditions;

"*transit shelter*" means shelter established by the Service for the purpose of receiving, caring for, rehabilitating and re-integrating into society, objects of smuggling or migrants offences;

"*travel document*" for entry into Nigeria includes in any proper case a visa and employment papers and international certificates of health valid for such entry and where a citizen of Nigeria is departing include any visa, employment papers and international certificates of health valid for entry into or travel through any other country as the case may require;

"*Trust Fund*" means the Objects of Smuggling of Migrants Trust Fund established under section 97 of this Act;

"*visa*" means an impress, vignette or endorsement on a travel document purporting to be signed and dated by an officer appointed for that purpose by or on behalf of the government of Nigeria and authorising entry into or transit across Nigeria subject to compliance with any special requirements prescribed by the Immigration Authorities at a port of entry and valid for specified time and for the number of journeys stated therein;

"*work permit*" means a document that allows a non-Nigerian expert to reside and work in Nigeria for a specified period of time;

"*zone*" means an administrative unit comprising of some State Commands headed by an Assistant Comptroller-General of Immigration Service.

SCHEDULE

CONFIDENTIAL FORM A

Sections 82 (1) (b) and (c), 88 (1), (2) and (3), and 90 (b) and (c)

IMMIGRATION ACT 2015

OFFENDERS DECLARATION OF ASSETS FORM

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

All available information should be included.

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

- A. (i) knowingly fail to make full disclosure of your assets and liabilities;
- (ii) knowingly make a declaration that is false;
- (iii) fail to answer any question contained in this Form;
- (iv) fail, neglect or refuse to make a declaration or furnish any information required.
- B. (i) each item is to be completed. If it does not apply, the person affected must write "nil" or "none" in the space. Where necessary an extra sheet or sheets may be used and attached to this form by the person affected.
- (ii) the form should be addressed to the Comptroller-General of the NIGERIA IMMIGRATION SERVICE

I,.....

being accused of an offence

----- under the IMMIGRATION, ACT, 2015

of ----- declare as follows:

7. Child- ren (i) (ii) (iii)											
8. Relative, Uncle, Aunt Next-of-kin Uncle, Aunt Next-of-kin											
9. Asso- ciate Persons		Names in full	Address		Occupation						

8. Relative, Uncle, Aunt Next-of-kin Uncle, Aunt Next-of-kin						
9. Asso- ciate Persons		Names in full	Address		Occupation	Nationality

10.	(a) State (b) if Aliens	Alien Registration Naturalized Certificate No.				
11.	Schools attended with dates Post Primary School or Secondary, University, etc. attended Qualifications					

12. Amount held in own account N : K

- (i) Cash in hand
- (ii) Cash at bank
- (iii) Outside Nigeria (Countries/Bank to be named
- (Denomination in foreign currency)

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

- (i) Cash in hand
- (ii) Cash at bank
- (iii) Outside Nigeria (Countries/Bank to be named
- (Denomination in foreign currency)

14. Loans or advances made.....

15. Loans or advances received.....
16. Amount held on behalf of or as trustee of wife/husband N : K
 - (i) Cash in hand
 - (ii) Cash at bank
 - (iii) Outside Nigeria (Countries/Bank to be named(Denomination in foreign currency)
17. Wife's/husband's/children's account held (beneficial or otherwise) N: K
 - (i) Cash in hand.....
 - (ii) Cash at bank
 - (iii) Outside Nigeria.....(Countries/Bank to be named.....)
18. Government securities, including premium bonds and other interests held in companies, firms or partnerships (giving names of companies, firms and partnerships)-
 - (a) by you (here state the bonds, etc.;
 - (b) by Wife (wives/husband" (here state the bonds, etc.:
 - (c) by children (here state the bonds, etc.
19. Property in Nigeria which you are interested in, giving date when acquired-
 - (i) Land:
 - (ii) Buildings:
 - (iii) Other property (if any):
21. Property outside Nigeria in which you are interested i11 giving date when acquired-
 - (i) Land:
 - (ii) Buildings:

- (iii) Other property(if any):
- 22. Property outside Nigeria which any wife/husband is interested in giving date when acquired-
 - (i) Land:
 - (ii) Buildings:
 - (iii) Other property (if any):
- 23. Property outside Nigeria which any wife/husband is interested in giving date when acquired -
 - (i) Land:
 - (ii) Buildings:
 - (iii) Other property (if any):
- 24. Property in Nigeria which any child of yours is interested in giving date when acquired-
 - (i) Land:
 - (ii) Buildings:
 - (iii) Other property (if any):
- 25. Property outside Nigeria which any child of yours is interested in giving date when acquired-
 - (i) Land:
 - (ii) Buildings:
 - (iii) Other property (if any):
- 26. Names of other dependant relatives.
- 27. Estate in which you are interested as trustee or beneficially interested (Name of deceased or trustee) .
- 28. Property held by any person on your behalf - (in or outside Nigeria)
 - (i) Cash in hand:

(ii) Cash at bank: