

**ANALYSING THE BUSINESS
FACILITATION (MISCELLANEOUS
PROVISIONS) ACT 2022
AND ITS IMPACT ON THE
NIGERIAN BUSINESS
ENVIRONMENT**



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Introduction

The ease of doing business ranking¹ places nations according to how favourable and straightforward their regulatory environments are to company operations, including how well their governments safeguard investors' and citizens' rights to property, amongst other factors. In Nigeria, some of the factors that influence Nigeria's business environment include economic policies, government regulations and security, amongst other things.



The Business Facilitation (Miscellaneous Provisions) Act 2022, otherwise known as “the Omnibus Act” (“the Act”) was recently passed to ensure that Nigeria is friendly to business operations by easing regulatory requirements and guaranteeing openness, efficiency, and productivity, which will, in turn, promote economic growth. The Act which is the legislative brainchild of the Presidential Enabling Business Environment Council was approved by the Senate in December 2022, and signed into law by the President, Muhammadu Buhari in February 2023, as part of the Federal Government's initiatives to foster an enabling business environment for micro, small, and medium-sized enterprises (MSMEs) in Nigeria.

By revising numerous business-related laws, the Act achieves its main objective of removing administrative obstacles and bureaucratic bottlenecks from conducting business in Nigeria. The affected business laws include; the Companies and Allied Matters Act (“CAMA”), Investment and Securities Act, Nigerian Investment Promotion Commission Act, Foreign

¹ <https://archive.doingbusiness.org/en/rankings>

Exchange (Monitoring and Miscellaneous) Act, Nigerian Export Promotion Council Act, Customs and Excise Management Act (CEMA), Export Prohibition Act, Financial Reporting Council Act, Immigration Act, National Housing Fund Act, National Office for Technological Acquisition and Promotion Act, National Planning Commission Act, Nigerian Customs Service Board Act, Nigerian Oil and Gas Industry Content Development Act, Nigerian Ports Authority Act, Patents and Designs Act, Pension Reform Act, Standards Organization of Nigeria Act, Industrial Inspectorate Act, Industrial Training Fund Act, and Trademarks Act.

Highlighted below are some of the key provisions of the Act:

1. Transparency & Efficiency Requirements

The Act mandates Ministries, Departments and Agencies (“MDAs”) to publish, within 21 days from the commencement of the Act,² a complete list, both on their website and customer help desk or designated offices, the requirements for obtaining any products and services offered by them. The Act requires the MDAs to maintain and publish a register of applications for products and services and to ensure that the information in the register is verified and updated. Where there is a conflict between a published and an unpublished list of requirements, the published list would be applicable.³

The products and services include permits, licences, waivers, tax-related processes, filings, approvals, registration, certifications and other products and services in line with the functions of the relevant MDAs. The essence of these provisions is to drive an

efficient and transparent administration and to give citizens a clear understanding of some of the duties of these MDAs as well as specify the timelines for the execution of their responsibilities.

In cases where an application is rejected or approved within the stipulated timeline, the MDA is mandated to communicate the grounds for the rejection to the applicant or issue a certificate within 14 days of approval.⁴ Failure to communicate the approval or rejection of an application within the stipulated time contained in the published list of requirements of an MDA, will, by the provisions of the Act, be deemed approved and granted.⁵ The Act requires that an MDA shall maintain at least two modes of communication of its official decisions to applicants, and the preferred mode of communication shall be published on the website of the MDA.⁶

² Section 3(1), (3)(b)(i) and 3(b)(ii)

³ Section 3(4), (5) and (6)

⁴ Section 4(3) and (5)

⁵ Section 4(1)

⁶ Section 4(2)

2. One Government directives

To foster a smooth working relationship among all government MDAs, the Act empowers MDAs to obtain information from one another, for the purpose of conducting verification or certification of processes in respect of any application made by an applicant to an MDA. This provision is essentially a step by the Federal Government of Nigeria to enhance collaboration among the different MDAs in the country, in processing and delivering products and services to the public.

3. Service Level Agreements

MDAs are required to prepare Service Level Agreements (SLAs) which shall include a list of the products and services they render, documentation requirements, timelines for processing applications, applicable fees, application procedures, redress mechanisms, and such other requirements, as the MDA may consider necessary.⁷ The Act makes the SLA of an MDA binding on that MDA in the processing of applications⁸ and further requires that an SLA be published on the website of the MDA.⁹ The SLA is expected to provide clarity to the public on the functions of the relevant MDAs and their operational procedures. The failure of an operating officer to act within the stipulated timelines in the SLA, without lawful reason, amounts to misconduct punishable by the appropriate disciplinary

⁷ Section 6(1)

⁸ Section 6(2)

⁹ Section 6(3)

proceedings of the relevant law or regulations of the civil or public service.¹⁰

4. Overhaul of Port Operation

Given the importance of ports in Nigeria in driving imports and exports, the Act has sought to regulate the operation of ports by prohibiting and criminalising touting in all ports in Nigeria with prescribed fines and/or imprisonment. All agencies which are relevant to the operation of ports are equally required to harmonise their operation into one single interface operation resided in one location in the port, within the first 60 days of the commencement of the Act, to improve the activities at the port. In the same vein, all MDAs at the airports are expected to merge their departure and arrival interfaces into a single customer interface within 30 days of the commencement of the Act.¹¹

The single customer interface allows the MDA to capture, track, and record information on all goods arriving in and departing from Nigeria and to transmit the captured information to the Heads of the relevant offices as well as the Head of the National Bureau of Statistics (NBS) on a weekly basis.¹²

The Act prescribes penalties for violations, including failure to deploy the single user interface, solicitation for, and receipt of gratification by any officer of the MDA.

¹⁰ Section 6(4)

¹¹ Section 7(1), (9) and (10)

¹² Section 7(11)

5. Automation of Application Processes at the Corporate Affairs Commission

The Act mandates the Registrar-General of the Corporate Affairs Commission (CAC) to ensure that all application processes at the CAC are fully automated, from start to completion, within 14 days of the commencement of the Act.¹³

6. Amendment of Specific Legislation

A. Companies and Allied Matters Act 2020 (CAMA)

The Act has made critical amendments to twenty (20) provisions of CAMA. Some of these amendments introduced under the Act are analysed as follows:

Exemption of Foreign Companies.

The new Section 78(3)(c) of CAMA has widened the scope of exemption granted to foreign companies from registration as a Nigerian company, to include exemption by an Act of the National Assembly (NA). The purport is to give prerogative to the NA to exempt foreign companies from registration as a Nigerian company, without recourse to strict compliance to the provision on the exemption of foreign companies.

Increase in share capital.

The Act amends the provisions of Section 127(1) of CAMA to the effect that a company may increase its issued share capital by the allotment of new shares, either *in a General Meeting or by a resolution of the Board of*

Directors, subject to the condition or direction that may be imposed by the company in a General Meeting or in the Articles of Association of the company. Prior to this amendment, CAMA had provided that a company can increase its share capital by the members, only in a General Meeting, and not otherwise. This amendment has therefore relaxed the single route of procuring the Annual General Meeting (AGM) or an Extra-Ordinary General Meeting (EGM) before an increase in a company's share capital is achieved. Consequently, a company can now increase its share capital through its Board of Directors, provided that the company's Articles of Association or the shareholders, in a General Meeting, have authorized the Board of Directors to issue such resolutions. The necessary implication is that a company may have to amend its Articles of Association to empower the Directors to increase its share capital where this is not already provided in its Articles of Association.

Allotment of Shares

The Act amends Section 149(1) of CAMA to grant the Board of Directors of a company (whether public or private) the powers to

¹³ Section 8

allot shares, subject to the express authorisation of the members at a General Meeting or by the Articles of Association of the company. This amendment to Section 149(1) of CAMA was introduced essentially to align with the provisions of the amended Section 127(1) of CAMA, mentioned above. Thus, where a company's Articles of Association (whether for a public or private company) or the shareholders in a General Meeting have given room for the Board of Directors of a company to increase its share capital, such Board of Directors could equally allot the newly created shares, provided that the Articles of Association of the company, or the shareholders in a General Meeting have so authorised the Board of Directors to allot the shares.

Pre-Emptive Rights of Shareholders

Companies (whether public or private) were previously required to allot their shares, first to existing shareholders in the proportion to their existing shareholdings, before the same are offered to potential investors. The Act has however amended Section 142 of CAMA by restricting pre-emption rights to private companies only. It also provides for a specific timeline of a maximum of 21 days within which the offer of shares must be accepted by existing shareholders of private companies, or be deemed declined.¹⁴ This amendment eliminates the possible restriction placed on public companies regarding raising capital from the public, and will further help private companies drive their operation; especially where the private company is in dire need of

funds/investments and there are investors willing to subscribe to the shares of the company.

Return of allotment of shares

The Act, by amending the provisions of Section 154(1) of CAMA, has shortened the period within which to make a return on allotment of shares to the Corporate Affairs Commission (CAC) from one (1) month to fifteen (15) days. Companies are therefore required to ensure that necessary returns and filings are made with the CAC within the stipulated timeframe.

Share Certificate

By virtue of the new Section 171(7) of CAMA, share certificates may now be in physical or electronic form. The Act mandates the recognition of electronic share certificates.

Instrument of Transfer

The amended Section 181(1) of CAMA substitutes the word certificate of transfer with instrument of transfer. This amendment essentially gives clarity to the concept of instrument of transfer.

Fixed charge holder

By virtue of the amended Section 207(4) of CAMA, the conflict between Sections 204 and 207(4) has been laid to rest, thus a fixed charge holder can only have priority over all the debts of a company, including

¹⁴ Part 1, Paragraph 4 of the Schedule to the Act.

preferential debts, where there are no events of constructive notice in the case of a floating charge, envisioned in Section 204 of CAMA. The old section 207(4) of CAMA had allowed fixed charges to have priority over all debts or charges notwithstanding any provision in CAMA or any other legislation. The wording of this old provision had rendered the exception to fixed charges contained in Section 204 of CAMA inapplicable. Following the amendment to section 207(4) of CAMA by the inclusion of the phrase "...without prejudice to the provisions of section 204...", the contracting parties now have the right to restrict the ability of the creator of a floating charge to create a subsequent fixed charge. Thus, where a subsequent fixed charge is created contrary to such restriction, a fixed charge shall, in accordance with section 204 of CAMA, be subordinated to the existing floating charge.

Electronic notice , meetings and voting

Another major innovation by the amendment of the Act is the recognition of technology for the purpose of sending notices for general meetings, holding meetings and voting. This will no doubt ease the potential challenges which could arise in convening physical general meetings for companies. By this development, the amended Sections 240(2), 244(1) and 248(1) of CAMA now allow all companies (public or private) to give notice of meetings electronically, hold general meetings virtually and vote electronically at their general meetings.

Independent directors

The significance of independent directors for public companies has been stressed over time by various corporate governance codes (both general and industry-specific). While the pre-amendment status provided that having a minimum of three (3) Independent Directors was sufficient,¹⁵ the amendment has now expanded the scope and increased the minimum stake to be at least one-third of its Board of Directors.

Disqualification from appointment as director

The Act amends Section 283 of CAMA which is in respect of the disqualification from appointment as a director. Prior to the amendment, the restriction applicable to appointment as a member of the Board of Directors of a company, was quite broad as persons removed or suspended without any indictment or for any reason whatsoever, could be disqualified or restricted from being a member of a Board of Directors. With this amendment however, there are now specific grounds that could restrict or disqualify a person from being a member of the Board of Directors. Such conditions for disqualification are thus presently limited to persons removed under section 288 of CAMA, only on grounds of fraud, dishonesty, and unethical conduct.

The implication of this is that, if an individual is removed under section 288 of CAMA and where any of the grounds for such removal was not due to fraud, dishonesty, and unethical conduct, such an individual would still qualify for appointment as a director.

¹⁵ 275(1) and (2) of CAMA, 2020

Accounting standards for a company's financial statement

By virtue of the amendment made to Section 378(1) of CAMA, a company's financial statement must comply only with the requirements of the accounting standards as prescribed by the Financial Reporting Council of Nigeria (FRCN). This amendment eliminates the requirement to comply with both the accounting standards as provided in the First Schedule of CAMA and the requirements of the FRCN, as stated in the existing provisions of CAMA.

Winding up

The Act amends Section 572(a) of CAMA to grant the CAC powers to determine by regulation, the qualifying debt amount for insolvency in consideration for winding up by the court. In clear terms, the qualifying debt amount for insolvency is no longer a sum exceeding ₦200,000 (Two Hundred Thousand Naira) which the company is unable to pay, but it is rather subject to determination by regulation to be issued by CAC.

B. Amendment of the Custom and Excise Management Act (CEMA)¹⁶

The significance of the single window platform for trade facilitation has become important, given the need to improve the operation of customs in the country. Considering the impact of the importation of goods and how it can impact businesses of all types, the Single Window initiative best facilitates the operation of several MDAs that

would be engaged during the process of importation or exportation. By the amendment of the CEMA, section 2 now defines “single window” to mean a platform or facility that allows parties involved in trade and transport to lodge trade-import, export or transit-data required by government departments, authorities, or agencies through a single-entry point interface to fulfil all import, export, transit related and other regulatory requirements.

The inclusion of the Single Window provision will help MDAs facilitate the process for documentation and/or data requirements for importation, exportation or transit to a single-entry point using the support system of information and communications technology. Sections 18A and 18B have also been inserted to further the operation and provide the modalities surrounding the operation of the Single Window under CEMA.

Additionally, the Act has reduced the timeline for the dispute resolution process in buyers' appeals to the Customs Area Comptroller where buyers or their agents are not satisfied with the valuation of imported goods.

C. Amendment of the Export (Prohibition) Act¹⁷

The strict provision of Section 1 of the Export (Prohibition) Act has been whittled down as it now empowers the Minister of Finance to recommend goods to be prohibited from exportation. By the previous provision in the Export (Prohibition) Act, staple foods like

¹⁶ Cap C45, Laws of the Federation of Nigeria, 2004

¹⁷ Cap E22, Laws of the Federation of Nigeria, 2004.

beans, cassava tuber, maize etc. were prohibited from exportation. This no doubt negated the commitment to improve the export profile of agricultural goods to shore up the foreign reserves of the country. With this new amendment, the Minister of Finance can now, in line with current market realities, determine whether the exportation of such goods should be prohibited or permitted.

D. Nigerian Export Promotion Council Act¹⁸

The BFA amends section 2 of the Nigerian Export Promotion Council Act by substituting a new section 2 in the Act, which alters the composition of the Board. The Board now has:

- i. A Chairman, who shall be appointed by the President on the recommendation of the Minister;
- ii. A representative each from the following federal ministries - Foreign Affairs; Industry, Trade and Investment; Mines and Steel; Agriculture; Culture and Tourism; and Finance;
- iii. A representative each from the following agencies - Nigerian Customs Services; Bank of Industry; and the Central Bank of Nigeria;
- iv. A representative each of the following associations - the Nigerian Association of Chambers and Commerce, Industries, Mines

and Agriculture; and the Manufacturers Association of Nigeria (Export Group);

- v. one person to be appointed by the minister from the private sector who shall be a person possessing practical experience in the industry, commerce, finance, international trade, or export promotion; and
- vi. the Executive Director of the Council.

Further, the Omnibus Act provides that the Chairman shall be a person with cognate experience in industry, commerce, finance, international trade, or export promotion.

E. Amendment of the Financial Reporting Council Act¹⁹

By the amendment of Section 59(3) of the Financial Reporting Council Act, companies, government organisations and corporations are now expected to prepare their financial statements in line with the standards, regulations, rules, and pronouncements issued and adopted by the Financial Reporting Council of Nigeria.

F. Amendment of Foreign Exchange (Monitoring and Miscellaneous Provisions) Act ("Foreign Exchange Act")²⁰

The significance of authorised dealers and buyers for capital importation makes their regulation strictly coordinated. The Act has thus amended Section 6(1) of the Foreign

¹⁸ Cap. N108, Laws of the Federation of Nigeria, 2004

¹⁹ No. 6, 2011

²⁰ Cap F34, Laws of the Federation of Nigeria 2004.

Exchange Act to provide grounds upon which the Central Bank of Nigeria can now revoke the appointment of authorised dealers. The grounds stipulated in the Act, include situations where the authorised dealer fails to utilise his licence within 30 days, fails to communicate its exchange business within 6 (Six) months from the date of the licence, fails to disclose any material information known to the licensee, or has not complied with a directive under the Act, amongst others.

G. Amendment to the Immigration Act²¹

As part of the efforts to provide clarity and improve access of foreigners to Nigeria, Sections 20(8) & (9) have been inserted into the Immigration Act by virtue of the amendment in the Act. The new provisions in the Immigration Act stipulate a 48-hour time frame for Embassies to either issue or reject with reason(s), entry visas to Nigeria. Furthermore, the importance of a display of information has been stressed, and a mandate given, to provide a comprehensive and up-to-date list of requirements, conditions, and procedures for obtaining a visa on arrival, as well as all other entry visas — including the estimated timeframe — in all immigration-related websites, embassies and high commissions, and all Nigerian ports of entry.

The Act also amended Section 36(1)(b) of the Immigration Act where it replaced the Minister of Interior with the Comptroller General of Immigration (CG). Accordingly,

the CG, not the Minister of Interior, now has the mandate to issue to non-Nigerians, on application, the authorisation to practice any profession, establish, or acquire any business or a limited liability company. It must however be noted that this authority to practice any profession in Nigeria will be subject to qualifying conditions imposed by the enabling statutes applicable to the respective professions. In the same vein, the CG is now the proper party to be notified, and no longer the Minister of Interior, of any change to the business permit.

H. Amendment to the Industrial Inspectorate Act²²

The Act amends Section 3(1)(a) and 3(1)(b) of the Industrial Inspectorate Act by revising the minimum capital expenditure threshold for existing and new businesses when processing and obtaining a Certificate of Acceptance of Fixed Assets (CAFA), from ₦20,000.00 (twenty thousand naira) to ₦5,000,000.00 (five million naira), or as the Minister of Industries may prescribe through a regulation. This amendment is basically to reflect the prevailing economic situation and to provide the Minister with an opportunity to increase or decrease by regulation, without recourse to amending the enabling act.

I. Amendment of the Industrial Training Fund (ITF) Act²³

The Act has amended Section 6 of the Industrial Training Fund Act and stipulates that all employers with 25 or more

²¹ No. 8, 2015

²² Cap 18, Laws of the Federation of Nigeria, 2004.

²³ Cap 19, Laws of the Federation of Nigeria, 2004.

employees are now required to contribute 1% of their payroll to the ITF. This provision alters the previous position in the ITF Act which mandated businesses with 5 or more employees, or which generate more than ₦50 million in annual revenues, to contribute to the Fund. The Act also exempts employers, which are registered as approved entities in any of the free trade zones, from ITF contributions. It is expected that this amendment would help to refocus the ITF regime on employee empowerment by including only organizations which are required to participate by virtue of their size. The Minister may however, with the approval of the Federal Executive Council, vary the rate of contribution.

J. Amendment of Investment and Securities Act²⁴

An amendment to the provision of Section 67(1) of the Investment and Securities Act has removed the limitation previously placed on private companies from inviting the public to acquire their shares. By this amendment, private companies can now, through any lawful means stipulated by the Corporate Affairs Commission, invite the public to acquire their shares.

K. Amendment of the National Housing Fund (NHF) Act²⁵

Some time in 2019, the President had jettisoned the proposed steps taken by the National Assembly to repeal the National Housing Fund (NHF) Act. It turns out however, that some of the proposed

amendments in the 2018 NHF Bill have been inserted into the existing NHF Act, by virtue of the amendment in the Act. Consequently, the Act, as a way of enabling owners of MSMEs to gain access to mortgage finance, has expanded the scope of NHF beyond that of employees of organisations, to include self-employed individuals.

Similarly, the Act has amended the employee earning threshold for contribution to the NHF previously pegged at ₦3,000 to the national minimum wage and above. In the same vein, the amended NHF Act mandatorily requires employees in the public sector or self-employed persons to contribute 2.5% of their monthly income to the NHF while the contributions of employees in the private sector are now optional. An interest rate of 2% per annum, or as may be determined by the Federal Mortgage Bank of Nigeria, is also required to be payable on the contributions.

L. Amendment of the National Office for Technology Acquisition and Promotion Act²⁶

The Act amends Section 5(2) of the National Office for Technology Acquisition and Promotion (NOTAP) Act to allow for a grace period of two (2) years for organisations to operate their businesses without incurring the penalty for late registration of contracts or agreements entered into with foreigners. Consequently, where contracts or agreements for the transfer of foreign technology to Nigerian parties are registered by organisations before the end of the second year of their business operation, such

²⁴ No. 29, 2007.

²⁵ Cap N45, Laws of the Federation of Nigeria, 2004

²⁶ Cap N62, Laws of the Federation of Nigeria, 2004

organisations shall not be liable to late registration penalties. This was previously not the case, as companies were formerly expected to register all contracts or agreements entered into with foreigners, within sixty days from the date of execution of the contracts.

M. Amendment of National Planning Commission Act²⁷

The Act amends the membership structure of the National Planning Commission (NPC) to include the Director-General of the Infrastructure Concession Regulatory Commission (ICRC). This is essentially done to give the ICRC an oversight function over the activities of the NPC given the NPC's role around Public Private Partnerships.

N. Amendment of Nigerian Customs Service Board Act (NCSB Act)²⁸

The Act, in amending section 3 of the NCSB Act, mandates the Nigerian Customs Service Board to adopt modern means of operationalization and develop regulations for the administration of the activities of the Nigerian Customs Service.

O. Amendment of the Nigerian Investment Promotion Commission (NIPC) Act²⁹

By the amendment of Section 20 of the NIPC Act, it is expected that Nigerian companies which subsequently acquire foreign participation after commencing business must now register with the Nigerian

Investment Promotion Commission (the Commission), within three months of such acquisition. It can be recalled that only companies with foreign shareholding at the time of incorporation were previously required to register at the NIPC. In view of this amendment, companies which acquire foreign participation after their registration are required to register with the NIPC.

The Act further creates new obligations for the Commission in promoting and identifying strategic investments, following the amendment of section 22 of the NIPC Act. The new section 22 of the NIPC Act now requires the Commission to develop and publish on its website and the Federal Government Gazette, the criteria for determining strategic investment, details of special incentives awarded through negotiation, and to designate and publish an investment that satisfies the criteria of strategic investment.

It also mandates the Commission to specify priority areas of investment and their applicable benefits and incentives, as well as negotiate specific incentive packages for strategic investments.

P. Amendment of Nigerian Oil and Gas Industry Content Development Act³⁰

Section 3 of the Nigerian Oil and Gas Industry Content Development Act ("Local Content Act") gives preference to Nigerian independent operators; the said law does not however, define a Nigerian independent

²⁷ Cap N66, Laws of the Federation of Nigeria, 2004

²⁸ Cap N100, Laws of the Federation of Nigeria, 2004.

²⁹ Cap N117, Laws of the Federation of Nigeria, 2004.

³⁰ No. 2, 2010

operator. Consequently, the Act in amending section 106 has defined “Nigerian Independent Operators” to mean a Nigerian Company. A Nigerian Company is a company formed and registered in Nigeria in accordance with the provisions of CAMA with not less than 51% equity shares held by Nigerians.

Q. Amendment of Nigerian Ports Authority Act³¹

As a means of improving the operation of ports in Nigeria, section 7 of the Nigerian Ports Authority Act has been amended to bestow upon the Nigerian Ports Authority (NPA) the responsibility of removing all unauthorised personnel from the ports, together with the duty to establish and maintain a single window through which all the operations of all government authorities and agencies in the ports in Nigeria, are undertaken and harmonised through a single window domiciled within the ports. The amended section 7 equally allows the Nigerian Port Authority to provide facilities for using information and communications technology for operations within the ports. The whole essence is to drive the integrity and efficiency of the ports across the nation and to provide seamless access to imported and exported items.

R. Amendment of Patents and Designs Act³²

The last pandemic – COVID-19 has inspired the conversation about the grant of compulsory licenses for patents that are

essential to addressing or preventing the spread of diseases. By virtue of this amendment, there is a new Paragraph 13A of the Patent and Designs Act which grants the Minister the authority to issue by regulation, the procedure for the application, grant, use and withdrawal of compulsory licenses.

S. Amendment of Pension Reform Act³³

A major amendment by the Act is the amendment of Section 89(2) of the Pension Reform Act which provides that pension assets are now eligible for securities lending, subject to the approval of the National Pension Commission (PenCom). In addition, pension fund administrators may, subject to guidelines issued by PenCom, apply a percentage of the pension assets in the Retirement Savings Account (RSA) towards the payment of equity contribution for payment of residential mortgage by the holder of an RSA and for the purpose of securities lending. This position appears to align with the stance of PenCom, particularly in relation to PenCom’s Guidelines on Assessing Retirement Savings Account (RSA) Balance Towards Payment of Equity Contribution for Residential Mortgage by RSA Holders. These Guidelines provide for the use of 25% of the balance of the RSA towards the payment of equity contribution for mortgage.

³¹ Cap N126, Laws of the Federation of Nigeria, 2004.

³² Cap P2, Laws of the Federation of Nigeria, 2004.

³³ No. 4, 2014

T. Amendment of Standards Organisation of Nigeria Act³⁴

The Act, as a way of conforming the functions of the Standards Organisation of Nigeria to global best practices, has amended Sections 5(b), (e) and (l) of the Standards Organisation of Nigeria Act. By this amendment, the Standards Organisation of Nigeria (SON) is now required to compile and publish an inventory of products requiring standardisation, undertake investigations as necessary, into the quality of facilities, materials and products imported into Nigeria, establish a quality assurance system including certification of factories, products, and laboratories, and to undertake the registration of all regulated products.

The Act also amends Section 29 (1) of the SON Act. By this amendment, the Director General (DG) of SON is expected to make an ex parte application to the court, for an order to seize and detain hazardous products for a period not exceeding 30 days, and upon the expiration of the 30 days duration, to make a further ex parte application for a fresh 30 days period to detain such products. It also requires the DG to make a similar application for an order to forfeit hazardous products, seal up the premises where such products

are manufactured or stored, among others. The pre-action period before instituting an action against the SON has been reduced from 3 months to 30 days.

U. Amendments of Trade Marks Act³⁵

As important as trade mark has been in the identification of goods and protecting the goodwill of business, the operative law – Trade Marks Act does not define “goods”. By this amendment, the definition of "goods" under Section 67 of the Trade Marks Act has been expanded to include services. As a result, the definition of “trade mark” in the Trade Marks Act has been modified as follows:

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

Conclusion

The Federal Government of Nigeria is commended for the enactment of the Omnibus Act, as there is no doubt that making investor-friendly policies or legislation is the first step to attracting investment. The Act, which is now operative, is expected to eliminate critical bottlenecks, promote the ease of doing business in Nigeria, create an enabling business

³⁴ No. 14, 2015

³⁵ Cap T13, Laws of the Federation of Nigeria, 2004.

environment and stimulate investments and economic growth in Nigeria. Although it remains to be seen how some of the provisions of the Act will be enforced, it is nonetheless expected that the Act, once fully implemented, will achieve its mandate of holding MDAs accountable for efficient services delivery, promoting the ease of doing business and herald new possibilities for businesses in Nigeria.

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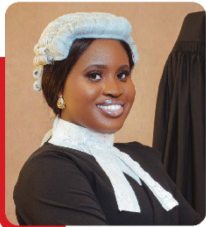


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