

TRAFFICKING IN PERSONS (PROHIBITION) LAW ENFORCEMENT AND ADMINISTRATION ACT

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TRAFFICKING IN PERSONS (PROHIBITION) LAW ENFORCEMENT AND ADMINISTRATION ACT

An Act to establish the National Agency for the prohibition of traffic in persons and other related matters and to vest it with the responsibility to enforce laws against traffic in persons, investigate and prosecute persons suspected to be engaged in traffic in persons and to take charge and co-ordinate the rehabilitation and counselling of trafficked persons; and for related matters.

[2003 No. 24, 2005 No. 28.]

[14th July, 2003.] [Commencement.]

PART I Establishment of the National Agency for Traffic in Persons Laws Enforcement and Administration

1. Establishment of National Agency for prohibition of traffic in persons

- (1) There is established a body to be known as the National Agency for the Prohibition of Traffic in Persons and Other Related Matters (in this Act referred to as "the Agency").
- (2) The Agency-
 - (a) shall be a body corporate with perpetual succession and a common seal; and
 - (b) may sue and be sued in its corporate name.

2. Establishment, membership, and appointment of members of the Governing Board

- (1) There is established for the Agency, a part-time Governing Board (in this Act referred to as "the Board").

- (2) The Board shall be the governing authority responsible for supervising the activities of the Agency, and for the formulation of its policies and shall also superintend generally, the affairs of the Agency, promoting the interest, objects and purposes of the Agency.
- (3) The Board shall consist of-
 - (a) a Chairman, being a person who by reason of his ability, character, experience and knowledge can deal with the problem of trafficked persons;
 - (b) six other members, two of whom shall be appointed from each of the six geo- political zones on the recommendation of the Minister; and
 - (c) the Executive Secretary.

[2005 No.
28.]

3. Tenure of office, etc.

- (1) The Chairman and members of the Board other than the Executive Secretary shall hold office for a term of four years and shall be eligible for re-appointment for another term and no more.
- (2) The office of the Chairman or a member of the Board shall become vacant if-
 - (a) he resigns his office by notice in writing under his hand addressed to the President and is accepted by him;
 - (b) the President is satisfied that it is not in the interest of the Agency or of the public for the person appointed to continue in office;
 - (c) he dies;
 - (d) he becomes of unsound mind or incapable of carrying out his duties;

- (e) he becomes bankrupt; or
 - (f) he is guilty of gross misconduct relating to his duties.
- (3) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment by the President, of a successor to hold office for the remainder of the term of office of his predecessor, and the successor shall represent the same interest as that member whose exit created the vacancy.

4. Functions of the Agency

The Agency shall be responsible for-

- (a) the enforcement and the due administration of this Act;
 - (b) the co-ordination of all laws on traffic in persons and related offences and the enforcement of those laws;
 - (c) adoption of measures to increase the effectiveness of eradication of traffic in persons;
 - (d) the facilitation or encouragement of the presence or availability of persons, including persons in custody, who consent to assist in investigations or participate in proceedings relating to traffic in persons and related offence;
 - (e) enhancing the effectiveness of law enforcement agents to suppress traffic in persons;
 - (f) establishing, maintaining and securing communication to facilitate the rapid exchange of information concerning offences, conduct research and improving international co-operation in the suppression of traffic in persons by road, sea and air;
- (4) The Chairman and other members of the Board shall be appointed by the President and Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria.

- (5) The provisions of the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein. [First Schedule.2005 No. 28.]
- (g) reinforcing and supplementing measures in such bilateral and multilateral treaties and conventions on traffic in persons as may be adopted by Nigeria to counter the magnitude and extent of traffic in persons and its grave consequences; (h) taking such measures and or in collaboration with other agencies or bodies that may ensure the elimination and prevention of the root causes of the problem of traffic in any person; (i) strengthening and enhancing effective legal means for international co-operation in criminal matters for suppressing the international activities of traffic in persons; (j) strengthening of co-operation between the office of the Attorney-General of the Federation, Ministry of Foreign Affairs, the Nigeria Police Force, the Nigeria Immigration Service, the Nigeria Customs Service, the Nigeria Prisons Service, welfare officials and other law enforcement agencies in the eradication of traffic in person; [2005 No. 28.] (k) taking charge, supervising, controlling and coordinating the rehabilitation of trafficked persons and participating in proceedings relating to traffic in persons. (l) taking charge of, supervising, controlling, coordinating all the responsibilities, functions and activities relating to current investigation and prosecution of all offences connected with or relating to traffic in persons and other related matters in consultation with the Attorney-General of the Federation; and (m) carrying out such other activities as are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Act. [2005 No. 28.]

5. Special power of the Agency

- (1) The Agency shall have the power to cause investigation to be conducted-
- (a) as to whether any person has committed an offence under this Act; and

(b) with a view to ascertaining whether any person has been involved in offences under this Act.

6. Secretariat and appointment of Secretary and other staff of the Agency

(1) There shall be established a Secretariat for the Agency.

(2) There shall be for the Agency, an Executive Secretary who shall be from the Directorate cadre in the Public Service of the Federation and shall be appointed by the President on the recommendation of the Attorney-General of the Federation.

(3) The Executive Secretary shall-

(a) be the Chief Executive and Accounting Officer of the Agency;

(b) be responsible for the day to day administration of the Secretariat;

(c) keep the books and records of the Agency; and

(d) be subject to the supervision and control of the Board of the Agency.

(4) The Executive Secretary of the Agency shall hold office for a term of five years in the first instance and shall be eligible for re-appointment for another term and no more.

(5) The Agency may, from time to time, appoint such other staff as it may deem necessary, to assist the Agency in the performance of its functions under this Act.

(6) The staff of the Agency appointed under subsection (2) shall be appointed on such terms and conditions of service as the Agency may, after consultation with the Federal Civil Service Commission determine.

- (7) The staff of the Agency shall be public officers as defined in the Constitution of the Federal Republic of Nigeria and other existing laws.

7. Pensions

- (1) Service in the Agency shall be public service for the purpose of the Pensions Act and, accordingly, officers and other staff of the Agency shall in respect of their service in the Agency, be entitled to such pension, gratuities and retirement benefits as are prescribed in the Pensions Act.
- (2) Notwithstanding the provision of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity in respect of that office.
- (3) For the purpose of the application of the provisions of the Pensions Act, any powers exercisable thereunder by a Minister or other authority of the Government of the Federation (not being the power to make regulations under section 23 thereof) are hereby vested in and shall be exercisable by the Agency and not by any other person or authority.

8. Establishment of Special Departments

- (1) For the effective conduct of the functions of the Agency, there shall be established the following Departments-
- (a) the Investigation Department;
 - (b) the Legal Department;
 - (c) the Public Enlightenment Department;
 - (d) the Counselling and Rehabilitation Department; and
 - (e) such other Departments as the Agency may establish with the approval of the Board.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Agency shall have the power to set up Technical

Committees and Task Forces to assist the Agency in the performance of its duties and functions under this Act.

9. Duties of the Special Departments

- (1) The Investigation Department shall liaise with the police for the prevention and detection of offences in violation of the provisions of this Act, and shall work in collaboration with the Immigration Service, Custom Service and other relevant security agencies.
- (2) The Legal Department shall be responsible for prosecuting offenders under this Act, supporting the investigation department with legal advice and assistance whenever it is required, acting as secretariat to the Board, conducting such proceedings as may be necessary towards the recovery of any asset or properties forfeited under this Act and performing such other legal duties as the Agency may refer to from time to time.
- (3) The Public Enlightenment Department shall, in collaboration with the Federal Ministries of Information and National Orientation Agency, Women and Youth Development, Employment, Labour and Productivity and Federal Ministry of Education be responsible for campaigns, seminars and workshops aimed at educating the public on the problem of trafficking in any person, thereby stimulating interest in and awareness about the problem.
- (4) The Counselling and Rehabilitation Department shall, in collaboration with the Federal Ministries of Women and Youth Development, Employment, Labour and Productivity, Culture and Tourism, Nigerian Police Service be responsible for-
 - (a) counselling, after-care rehabilitation, social reintegration and education of trafficked persons; and
 - (b) counselling and the promotion of the welfare of convicts.

- (5) There shall be appointed for each of the Departments a Principal Officer who shall be known by such designations as the Agency may determine.

10. Training programmes

The Agency may initiate, develop or improve specific training programmes for the relevant law enforcement agents and other personnel of the Agency charged with the responsibility for the detection of offences created by this Act and the programmes shall include-

- (a) methods used in the detection and suppression of offences under this Act;
- (b) give information on routes and techniques used by persons involved in offences under this Act and appropriate counter-measures;
- (c) assistance in monitoring of the movement of trafficked person; and
- (d) dissemination of information about traffic in persons laws.

11. Exportation of any person out of Nigeria and importation of persons into Nigeria.

Any person who—

- (a) exports from Nigeria to any place outside Nigeria any person under the age of eighteen years with intent that such person, or knowing it to be likely that such person will be forced or seduced into prostitution in that place; or
- (b) imports into Nigeria from any place outside Nigeria, any person under the age of eighteen years with the intent that may be, or knowing it to be likely that such person will be forced into prostitution anywhere in Nigeria.

12. Procurement of any person

Any person who—

- (a) by use of deception, coercion, debt bondage or any means whatsoever induces any person under the age of eighteen years to go from one place to another to do any act with intent that such person, may be, or knowing that it is likely that the person will be forced or seduced into illicit intercourse with another person; or
- (b) in order to gratify the passions of another person, procures, entices or leads away, even with such person's consent, any person under the age of eighteen years, commits an offence and is liable on conviction to imprisonment for ten years without an option of fine.

13. Causing or encouraging the seduction or prostitution of any person under eighteen years

- (1) Any person who, having the custody, charge or care of any person under the age of eighteen years, causes or encourages the seduction, unlawful carnal knowledge or prostitution of, or the commission of an indecent assault upon any person, commits an offence and is liable on conviction to imprisonment for ten years.
- (2) A person shall be deemed to have caused or encouraged the seduction, unlawful carnal knowledge or prostitution of or the commission of indecent assaults upon any person who has been seduced, unlawfully carnally known, or indecently assaulted, or who has become a prostitute, if he knowingly allows such person to consort with, or to enter or continue in the employment of, any prostitute or person of known immoral character.

14. Procurement of any person under eighteen years

- (1) Any person who procures a person who is under the age of eighteen years to have unlawful carnal knowledge with any other person or persons, either in Nigeria or any place outside Nigeria, commits an offence and shall be liable on conviction to imprisonment for ten years.

(2) Any person who procures any person under the age of eighteen years to--

- (a) become a prostitute, either in Nigeria, or any place outside Nigeria;
- (b) leave Nigeria with intent that such person may become a prostitute in any place outside Nigeria;
- (c) leave such person's usual place of abode in Nigeria, with intent that such person engage in prostitution either in Nigeria or any place outside Nigeria, commits an offence and is liable on conviction to imprisonment for ten years.

15. Procurement of any person for prostitution, pornography and use in armed conflict

Any person who-

- (a) procures, uses or offers any person for prostitution, or the production of pornography, or for pornographic performance;
- (b) keeps a brothel;
- (c) allows a person under the age of eighteen years to be in a brothel or trades in prostitution;
- (d) procures, uses or offers any person for the production and trafficking in drugs; (e) traffics any person for the purpose of forced or compulsory recruitment use in armed conflict, commits an offence and is liable on conviction to imprisonment for fourteen years without an option of fine.

16. Foreign travels which promote prostitution

Any person who organises or promotes foreign travels which promote prostitution of any person or encourages such activity commits an offence and is liable on conviction to imprisonment for ten years without an option of fine.

17. Unlawful detention with intent to defile

Any person who-

- (a) conspires with another to induce any person under the age of eighteen years by means of any false pretence or other fraudulent means, permit any man to have unlawful carnal knowledge of such person commits an offence and is liable on conviction to imprisonment for five years;
- (b) detains any person under the age of eighteen years against such person's will in or upon any premises for the purposes of being unlawfully carnally known by any man, whether a particular man or not, commits an offence and is liable on conviction to imprisonment for ten years.

18. Procuring defilement of any person by threats, fraud or administering drugs

Any person who-

- (a) with threats or intimidation of any kind procures any person under the age of eighteen years, to have carnal connection with a man or an animal, either in Nigeria or any place outside Nigeria;
- (b) under false pretence procures of any person under the age of eighteen years to have carnal connection with a man within or outside Nigeria;
- (c) administer to any person under the age of eighteen years, or causes any person under the age of eighteen years, to take any drug or any other thing with intent to, stupefy or overpower such person in order to enable any man, whether a particular man or not, to have carnal knowledge of such person, commits an offence and is liable on conviction to imprisonment for ten years or a fine not exceeding N200,000.00.

19. Kidnapping from guardianship

(1) Any person who-

- (a) takes or entices any person under eighteen years of age or any person of un- sound mind out of the custody of the

lawful guardian of such person without the consent of the guardian or conveys any such person beyond the limits of Nigeria without the consent of someone legally authorised to give consent to such removal, commits an offence and is liable on conviction to imprisonment of fourteen years without an option of fine;

- (b) by force compels or by deceitful means induces any person to go from any place, commits an offence and is liable on conviction to imprisonment for ten years or to a fine not exceeding N200,000.00 or both;
 - (c) confines or detains another person in any place against his will, or otherwise unlawfully deprives another person of his personal liberty, commits an offence and is liable on conviction to imprisonment for five years or to a fine of N 100,000.00 or both;
 - (d) unlawfully takes an unmarried person under the age of eighteen years out of the custody or protection of such person's father or mother or other person having the lawful care or charge of such person and against the will of such father or mother or persons having lawful care or charge of such person, commits an offence and is liable on conviction to imprisonment for ten years without an option of fine; and
 - (e) with intent to deprive any parent, guardian, or other person who has the lawful care or charge of a person under the age of eighteen years, of the possession of such person forcibly or fraudulently takes or entices away, or detains the person, or receive or harbours the child, knowing the child to have been so taken or enticed away or detained, commits an offence and is liable on conviction to imprisonment for fourteen years without an option of fine.
- (2) A person is deemed to detain any person in or upon any premises in paragraph (e) of subsection (1) of this section when the person is in or brought upon any such premises with a view to such person being so carnally known, or to detain such person in such premises with intent to compel or induce such person to remain in or upon the premises, he withholds from such person any wearing apparels, other

property belonging to such persons or the person's travelling documents.

20. Kidnapping and abducting in order to commit

culpable homicide A person who kidnaps, abducts or by deceitful means lures any person away in order that such person may be killed for any purpose, commits an offence and is liable on conviction to imprisonment for life.

21. Buying or selling a person for a purpose Any person who buys, sells, hires, lets or otherwise obtains possession or disposes of any person under the age of eighteen years with intent that such person be employed or used for immoral purposes or knowing it to be likely that such person will be employed or used for any such purposes, commits an offence and is liable on conviction to imprisonment for fourteen years without the option of a fine.

22. Unlawful forced labour

(1) Any person who-

(a) requires any other person, or permits any place within or outside Nigeria, to be used for forced labour, or

(b) employs a child to work in any capacity except where he is employed by a member of his family or light work of an agricultural, horticultural or domestic character, or

(c) employs a child in any case to lift, carry or move anything so heavy as to be likely to adversely affect his physical, mental, spiritual, moral or social development, or

(d) employs a child as a domestic help outside his own home or family environment, or

(e) employs a child in an industrial undertaking

commits an offence and is liable on conviction to a fine not exceeding N I 00,000.00 or to imprisonment for a term of five years or both such fine and imprisonment.

- (2) When an offence under this section is committed by a body corporate, any person who at the time of commission of the offence was a proprietor, director, general manager or other similar officer, servant or agent of the body corporate, shall be deemed to have jointly and severally committed the offence and may be liable on conviction to a fine of N 250, 000.00.
- (3) Nothing in sub-sections (1) and (2) shall apply to work done by children in technical schools or similar approved institution if the work is supervised by the appropriate Authority.

23. Traffic in slaves

Any person who imports, exports, removes, buys, sells, disposes, traffics or deals in any person as a slave or accepts, receives, or detains a person against that persons will as a slave, commit an offence and is liable on conviction to imprisonment for life.

24. Slave dealing

Any person who-

- (a) deals or trades in, purchases, sells, transfers or takes any person in order or so that such person should be held or treated as a slave;
- (b) places or receives any person in servitude as a pledge or security for debt whether then due and owing, or to be incurred or contingent whether under the name of a pawn or by whatever other name such person may be called or known;
- (c) conveys or induces any person to come within the limits of Nigeria in order or so that such person should be held, possessed, dealt with or treated in, purchased, sold, or transferred as a slave or be placed in servitude as a pledge or security for debt;
- (d) holds or possesses any person as a slave;

- (e) enters into any contact or agreement with or without consideration of doing any of these or accomplishing any of the purposes enumerated in this section, commits an offence and is liable on conviction to imprisonment for life.

25. Effect of conviction abroad

Where a person is convicted outside Nigeria for an offence relating to trafficking in persons, he shall, on his return to Nigeria after serving his sentence in that country, be liable to be tried in Nigeria for bringing the image of Nigeria into disrepute, and shall on conviction, forfeit his assets to the Federal Government in addition to. serving a term of imprisonment not exceeding two years.

26. Offence by alien

- (1) Any person resident in Nigeria who-
 - (a) causes or encourages the seduction or prostitution of any person under the age of eighteen years;
 - (b) keeps a brothel;
 - (c) permits the defilement of any person under the age of eighteen years in his premises;
 - (d) allows a person under the age of eighteen years to be in a brothel or trades in prostitution;
 - (e) procures, uses or offers a person for the production of pornography or for pornographic performance; and
 - (j) procures a person for prostitution, commits an offence and is liable on conviction to imprisonment for ten years.
- (2) An alien convicted under subsection (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.

27. Attempt

- (1) 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 of 12 months imprisonment or a fine of N 50,000.00 or both.
- (2) Where a person is charged with an attempt to commit an offence under this Act, but 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 in this Act.

28. Offence by bodies corporate

- (1) Where an offence under this Act which has been 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 purported to act in any such capacity, he shall be liable on conviction to imprisonment for three years or to a fine of N200,000.00 or both.
- (2) Where a body corporate is convicted of an offence under this Act, it shall be liable to a fine of N 2 million and the Court may issue an order to wind-up the body and its assets and properties forfeited to the Victims of Trafficking Trust Fund.

29. Commercial carrier Any commercial carrier who knowingly carries any person in contravention of this Act in addition to any other penalty provided in any other Act or enactment, commits an offence and is liable on conviction to imprisonment for two years or a fine of N 2,000,000.00 instead thereof.

30. Responsibility of tour operators and travel agents

Every tour operator and travel agent shall-

- (a) notify its clients of its obligation under this Act not to aid and abet, facilitate or promote in any way the traffic in any person;

- (b) notify their clients of their obligation under this Act not to aid, abet, facilitate or promote in any way, any person's pornography and other person's exploitation in tourism;
- (c) insert in contracts with corresponding suppliers in destination countries, clauses requiring them to comply with the obligations stated in the preceding paragraphs of this subsection;
- (d) refrain from utilising messages on printed material, video or the Internet that could suggest or allude to behaviour incompatible with the objective of this Act; (e) inform their staff of their obligations under this Act; and
- (f) include clauses regarding their obligations under this Act to their staff in new employment contracts.

31. Responsibilities of Airlines

Every airline company shall promote through every Possible means, public awareness the guiding of the guiding principles of this Act in in-flight magazines, tickets, jackets, Internet Departments and video on long lane flights.

32. Penalties for breach

Any tour operator, travel agent or airline who violates the provisions of sections 30 and 31 of this Act commits an offence and in addition to any other penalty provided in any other law or enactment is liable on conviction to a fine not exceeding N200,000.00.

33. Jurisdiction, etc.

- (1) The High Court, shall have jurisdiction to try offences under this Act.
- (2) The High Court has powers to impose the penalties provided for in this Act, notwithstanding anything to the contrary in any other enactment.

34. Forfeiture of passport

The passport of any person convicted of an offence involving traffic in person under this Act shall be forfeited to the Federal Government and shall not be returned to that person unless or until the President directs otherwise, after the grant of a pardon or on the exercise of the Constitution of the Federal Republic of Nigeria.

35. Forfeitures after conviction in certain cases

- (1) A person convicted of an offence under this Act shall forfeit to the Victims of Trafficking Trust Fund-
 - (a) all the assets and properties which may or are the subject of an interim order of the Court after an attachment by the Agency as specified in section 40 of this Act;
 - (b) any assets or properties confiscated, or derived from any proceeds the person obtained, directly or indirectly, as a result of such offence not already disclosed in the Assets Declaration Form specified in Form I of the Second Schedule to this Act or not falling under paragraph (a) of this subsection;
 - (c) any person's property or instrumentalities used in any manner to commit or facilitate the commission of such offence not already disclosed in the Assets Declarations Form or not falling under paragraph (a) of this subsection.
- (2) The Court in imposing a sentence on any person under this section, shall order, in addition to any other sentence imposed pursuant to this Act, that the person forfeit to the Victims of Trafficking Fund all properties described in subsection (1) of this section.
- (3) In this section "proceeds" means any property derived or obtained, directly or indirectly, through the commission of an offence under this Act.

36. Forfeiture of property

All properties of a person convicted of an offence under this Act and shows to be derived or acquired from such illegal act which are already the subject of an interim order shall be forfeited to the Victims of Trafficking Trust Fund.

37. Foreign assets

- (1) Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of such criminal activity, such assets or properties subject to any treaty or arrangement with such foreign country, shall be forfeited to the Victims of Trafficking Trust Fund.
- (2) The Agency shall, through the office of the Attorney-General of the Federation, ensure that the forfeited assets or properties are effectively transferred and vested in the Victims of Trafficking Trust Fund. [2005 No. 28.]

38. Property subject to forfeiture

Any property-

- (a) whether real or personal, which represents the gross receipts which a person obtains directly as a result of the violation of this Act or which is traceable to such gross receipts;
- (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 exceeding one year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria, subject to forfeiture to the Victims Trafficking Trust Fund. [2005 No. 28.]

39. Further provisions as to forfeiture of property

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-

- (a) all means of conveyance, including vehicles or vessels which are used or are intended for use to transport or in any manner, facilitate trafficking or any person such as;
 - (i) known means of conveyance used by any person as a common carrier in the transaction of business as a common carrier shall be forfeited under this section unless it shall appear that the owner or other person in charge of such means of conveyance was a consenting party or privy to a violation of this Act,
 - (ii) known means of conveyance which 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) known means of conveyance which shall be forfeited under this section to the extent of an interest of an owner, by reason of any act established by that owner to have been committed without the knowledge, consent or wilful connivance of that owner;

- (b) all monies, negotiable instruments, securities and other things of value furnished by any person in exchange for any illegal act or in violation of this Act or all proceeds traceable to such exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act;

- (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 improvements or appurtenances which are used or intended to be used, in any manner or part to commit or facilitate the commission of an offence under this Act.

40. Seizure of property

- (1) Seizure of any property subject to forfeiture under this Act may be affected by the Agency where-

- (a) the seizure is incidental to an arrest or search;
 - (b) the property is liable to forfeiture upon process issued by the Court following an application made by the Agency in accordance with the prescribed rules.
- (2) Whenever property is seized under any of the provisions of this Act, the Agency may-
- (a) place the property under seal; or
 - (b) remove the property to a place designed by the Agency.
- (3) Properties taken or detained under this section shall be deemed to be in the custody of the Agency, subject only to an order of a Court. [2005 No. 28.]

41. Investigation of assets and properties of an arrested person

Where a person is arrested for an offence under this Act, the Agency shall immediately trace and attach all the assets and properties of the person acquired as a result of such illegal act and shall thereafter cause to be obtained an interim attachment order by the Court.

42. Disclosure of assets and properties by an arrested person, etc.

- (1) Where a person is arrested for committing an offence under this Act, it shall be obligatory for such person to make full disclosure of all his assets and properties by completing the Declaration of Assets Form as specified in Form 1 of the Second Schedule to this Act.
- (2) The Declaration of Assets Form shall be forwarded to the Agency for full investigation by the Investigation Department of the Agency.
- (3) Any person who-

- (a) knowingly fails to make full disclosure of his assets and liabilities, or
 - (b) knowingly makes a declaration that is false, or
 - (c) fails to answer any question, or
 - (d) fails neglects or refuses to make a declaration or furnish any information required, in the Declaration of assets Form, commits an offence under this Act and is liable on conviction to an imprisonment for a term ten years.
- (4) Subject to the provisions of section 39 of this Act, whenever the assets and properties of any person arrested under this Act are attached, the Agency shall apply to the Court for an interim forfeiture order under the provisions of this Act.

43. Interim forfeiture order

Where-

- (a) the assets or properties of any person arrested under this Act has been seized; or
- (b) any assets or property have been seized by the Agency under this Act, the Agency shall cause an application to be made to the Court for an interim forfeiting the property concerned to the Victims of Trafficking Trust Fund and the Court shall if satisfied that there is *prima facie* evidence that the property to the Victims of Trafficking Trust Fund.

44. Final order

Where an arrested person is convicted of an offence under this Act, the Agency or any authorised officer shall apply to the Court for the order of confiscation and forfeiture of the convicted person's assets and properties acquired or obtained as a result of the crime already subject to an interim order under this Act.

45. Final disposal of forfeited property

- (1) A copy of every final order forfeiting the asset and property of a person convicted under this Act shall be forwarded to the Agency.

- (2) Upon a receipt of a final order pursuant to this section, the Executive Secretary to the Agency shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold, the proceeds thereof shall be paid into the Victims of Trafficking Trust Fund.
- (3) Where any part of the property included in the final order is money in a bank account or in the possession of any person, the Agency 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 Agency and the Agency shall pay the money received into the Victims of Trafficking Trust Fund
- (4) The Attorney-General of the Federation may make rules and regulations for the disposal or sale of any property or assets forfeited pursuant to this Act. [2005 No. 28.]

46. Offences in relation to forfeiture orders

- (1) Any person who, without due authorisation by the Agency, deals with, sells or otherwise disposes of any property or assets which is the subject of an attachment, interim order or final order commits an offence and is liable on conviction to imprisonment for a term of five years without the option of a fine.
- (2) Any manager or person in control of the head office or branch of a bank or other financial institution who fails to pay over to the Agency upon the production to him of a final order commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than one year and not more than three years, without the option of a fine.

47. Consequences of an acquittal in respect of assets and properties

- (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 order made pursuant to this Act whichever order is considered just, appropriate or reasonable within 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 subsection (1) of this section, all assets and properties of the person concerned shall be released to him by the Agency.

48. Freezing orders on banks or other financial institutions

- (1) Notwithstanding anything contained in any other enactment or law, where any person is arrested under this Act, the Executive Secretary of the Agency may, if he is satisfied that the money in the account of an arrested person is made through the commission of an offence under this Act, apply to the Federal High Court *ex parte* for power to issue or instruct a bank examiner or such other appropriate regulatory authority to issue order as specified in Form 2 of the Second 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 is believed by him to be at the head office of the bank or other financial institution to freeze the account. [Second Schedule]
- (2) The Executive Secretary of the Agency or bank examiner may by an order issued under subsection (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.
- (3) The manager or any other person in control of the financial institution shall take necessary steps to comply with the

requirements of the order made pursuant to sub section (2) of this section.

- (4) In this section-
- (a) **"bank"** has the meaning given to it in the Banks and Other Financial Institutions Act, 1991, 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 or transactions in respect of any account with that bank.

49. Power to search, seize and arrest

- (1) Any police officer, customs officer, immigration officer, or the Chairman of the Agency or any officer of the Agency authorised by regulation in that behalf, may for the purpose of this Act-
- (a) with a warrant, enter and search any land, building or carrier, including air- craft, vehicle or container or any other instrumentalities whatsoever which he has reason to believe is connected with the commission of an offence under this Act;
- (b) perform, test and take samples of any substance relating to the commission of an offence under this Act, which are found on land or building or carrier, including aircraft, vehicle, container or any other instrumentalities whatsoever searched pursuant to paragraph (a) of this subsection;
- (c) arrest any person whom he has reason to believe has committed an offence under this Act; and
- (d) seize any item or substance which he has reason to believe has been used in the commission of an offence under this Act.

- (2) A written receipt of the Agency shall be given by a duly authorised member of the Agency for any item, substance or thing seized under subsection (1) of this section, to the person, from whom any such item or substance was seized.

50. Treatment of trafficked persons

The Agency shall ensure that-

- (a) a trafficked person is not subjected to discriminatory treatment in practice on account of race, colour, gender, sex, age, language, religion, political or other opinion, cultural beliefs or practices, national ethnic or social origin, property, birth or other status, including his status as a victim of trafficking or having worked in the sex industry;
- (b) a trafficked person has access to adequate health and other social services during the period of temporary residence;
- (c) a trafficked person has access to the embassy or consulate of the country of which he is a citizen or where there is no embassy or consulate, ensure access to the diplomatic representative of the state that takes charge of the country's interest or any national to protect him;
- (d) a trafficked person is able to return home safely, if he so wishes and when he is able to do so;
- (e) a trafficked person 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 minimise intrusion into the personal history of a trafficked person;
- (g) the identity of a person trafficked is protected;
- (h) the use by any person's history of being trafficked to discriminate or cause harm to any trafficked person his family or his friends in any way whatsoever, particularly

with regards to freedom of movement, marriage or search for gainful employment is not encouraged;

- (i) it takes steps to maintain and rehabilitate facilities provided for trafficked person; and
- (j) a trafficked person and his family if protected from intimidation, threats, and reprisals from traffickers and their associates including reprisals from person in position of authority.

51. Non-detention or presentation of a trafficked person in certain circumstances

Where the circumstances so justify, trafficked persons shall not be detained, imprisoned or prosecuted for offences relating to being a victim of trafficking, including non possession of a valid travel stay or use of a false travel or other document.

52. Right to institute civil action

A trafficked person, irrespective of his immigration status-

- (a) has the right to institute civil action against a trafficker and any other person including a public officer who has exploited or abused him; and
- (b) is entitled to compensation, restitution and recovery for economic, physical and psychological damages to be met from the assets if any of the convicted trafficker forfeited and paid to the Victims of Trafficking Trust Fund. [2005 No. 28.]

53. Application of certain enactment

- (1) The President of the Federal Republic of Nigeria 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; and

- (b) the Transfer of Convicted Offenders (Enactment and Enforcement) Act, to apply to any country outside the commonwealth and accordingly the provisions of the Acts mentioned in paragraph (a) of this paragraph of this subsection shall have effect in their application to this Act.

54. Fund

- (1) There shall be established for the Agency a fund from which all expenses reasonably incurred by the Agency for the execution of its function under this Act shall be paid.
- (2) There shall be paid and credited to the Fund such moneys as may in each year be approved by the National Assembly for the purpose of the Agency.
- (3) There shall be established for the Agency a Victims of Trafficking Trust Fund, where all proceeds of the sale of assets and properties of traffickers are paid into.
- (4) The Agency may accept gifts of land, money or other property (whether within or outside Nigeria) upon such terms and conditions, if any, as may be specified by the person or organisation making the gift, provided that the terms and conditions are not contrary to the objectives and functions of the Agency under this Act.

55. Accounts and audit The Agency shall keep proper accounts, in a form which conforms with existing laws on auditing of its receipts, payments, assets and liabilities and shall submit the accounts annually, for auditing by a qualified auditor from the list of auditors supplied by the Auditor-General of the Federation.

56. Power to borrow money The Agency shall have power to borrow money from banks with the approval of the Board and the Agency shall have power to borrow money on recommendation of the Board and approval by the Attorney-General of the Federation.

57. Annual report The Agency shall, not later than 30th September in each year, submit to the Federal Executive

Council, a report of its activities during the immediate preceding year and shall include in such report the audited accounts of the Agency.

58. Obstruction of the Agency or authorised officers

A person who-

- (a) wilfully obstructs the Agency or any authorised officer of the Agency in the exercise of any of the powers conferred on the Agency by this Act; or
- (b) fails to comply with any lawful enquiry or requirements made by any authorised officer in accordance with the provisions of this Act, commits an offence under this Act, and is liable on conviction to imprisonment for a term not exceeding five years or to a fine of N50,000.00 or to both.

59. Protection of informant and information

Where a person volunteers to the Agency or an official of the Agency any information which may be useful in the investigation of an offence under this Act, the Agency shall take all reasonable measures to protect the identity of that person and the information so volunteered shall be treated as confidential.

60. Power of the Minister to give directives to the Agency

- (1) The Minister may, from time to time, give general policy guidelines to the Agency.
- (2) Without prejudice to the generality of the provisions of subsection (1) of this section, the Minister may give to the Agency directives of a general or specific nature relating generally to a particular matter or case, as the case may be.
- (3) The Agency shall comply with any policy guideline or any directive given to it by the Minister pursuant to subsection (1) or (2) of this section.

61. Offences committed outside Nigeria, etc.

- (1) Where an offence under this Act is committed in any place outside Nigeria by any citizen or person granted permanent residence in Nigeria, he may be dealt with in respect of such offence as if it was committed at any place within Nigeria.
- (2) The Agency has the power to engage the service of International Police or any local or international Agency on the detection of cross border crimes through the Nigerian Police.

62. Right of appeal

A person convicted for an offence under this Act or any other law prohibiting traffic in persons or for related offences shall have the exercise any of all such rights of appeal as are conferred on him by the Constitution of the Federal Republic of Nigeria in such case.

63. Power to make regulations

The Minister may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Agency under this Act.

64. Interpretation

In this Act-

"Agency" means the National Agency for prevention for Prohibition of Traffic in Persons, and other related matters established under section 1 of this Act;

"brothel" includes any enclosure, house, premises, hotels, restaurants, drinking places, vessels or stationary or moving receptacles where a person offers her body commonly for acts of lewdness and sexual gratification;

"commercial carriers" means any person or any public, private or other entity engaged in transporting persons, goods or mails for remuneration, hire or any other benefit;

"confiscation" include forfeiture or the permanent deprivation of property by order of a court;

"export" with its grammatical variations and cognate expressions means to take or cause to be taken out of Nigeria;

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

"force" or "coercion" includes obtaining or maintaining through act of threat the labour, service, or other activities of a person by physical, legal, psychological or mental coercion, or abuse of authority;

"High Court" means Federal High Court, High Court of the Federal Capital Territory and the High Court of the State;

"import" with its grammatical variations and cognate expressions means to bring or cause to be brought into Nigeria; [2005 No. 28.]

"Minister" means Attorney-General of the Federation and Minister of Justice; [2005 No. 28.]

"slave" means a person who is held in bondage whose life, liberty, freedom and property are under the absolute control of someone;

"trafficked persons" means a victim of trafficking in persons;

"trafficker" means a person or an entity that intends to commit, aids, abets or acquiesces to an act of trafficking in persons;

"trafficking" includes all acts and attempted acts involved in the recruitment, transportation within or across Nigerian borders, purchases, 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 force or bonded labour, or in slavery-like conditions.

65. Short title

This Act may be cited as Trafficking in Persons (Prohibition) Law Enforcement and Administration Act, 2003.

FIRST SCHEDULE [Section 2 (5)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings

1. (1) The Board shall, for the purpose of this Act, meet not less than three times in each year.
- (2) Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend any particular meeting a member may be appointed by the members present to act as Chairman for that particular meeting.
- (3) A quorum at a meeting of the Board shall be one-third.
- (4) The Board shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by a notice given to him by not less than five other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.
- (5) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit but a person who is a member by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committees

2. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, its functions under this Act as the Board may determine.

- (2) A committee appointed under this paragraph shall consist of such number of persons (not necessarily members of the Board as may be determined by the Board) and a person other than a member of the Board shall hold office in the committee in accordance with the terms of his appointment.
- (3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

- 3.** (1) The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, Secretary or any other person authorised generally or specifically to act for that purpose by the Board.
- (2) Any contract or instrument, which if made or executed by a person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the Board by the Chairman, Secretary or any person generally or specially authorised to act for the purpose by the Board.
- (3) Any document purporting to be a document duly executed under the seal of the Board shall be received in evidence and shall, unless and until the contrary is proved, be presumed to be so executed.

SECOND SCHEDULE
CONFIDENTIAL FORM I
[Sections 35 and 42 (1), (2) and (3)]
[2005 No. 28.]

TRAFFICKING IN PERSONS (PROHIBITION) LAW ENFORCEMENT
AND ADMINISTRATION (AMENDMENT) ACT, 2003

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 ten years imprisonment under the Act to

- (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;
- (v) each item is to be completed. If it does not apply, the person affected must write "none" in the space. Where necessary an extra sheet or sheets may be used and attached to this form by the person affected;

To
The Executive Secretary to the
NATIONAL AGENCY FOR THE PROHIBITION OF TRAFFICK IN
PERSONS AND OTHER RELATED MATTERS (NAPTIP)

I, ,
being accused of an offence under the Trafficking in Persons
(Prohibition) Law Enforcement and Administration (Amendment)
Act, 2004.

SURNAME	Other Names	Date of Birth	If Dead Date of Death	State	Place of Birth	Nationality	State of Origin	Local Government	Occupation	Present Address	Home Address
(a) Now	(b) At birth if Different					(a) Now	(b) At Birth				
1. Declarant											
2. Spouse If married State Date and Place											
3. Father											
4. Mother											
5. Brothers											
i.....											
ii.....											

iii.....

6. Sisters

i.....

ii.....

iii.....

7. Sisters

i.....

ii.....

iii.....

8. Dependent

Relative.....

Uncle, Aunt

Next of Kin

9. Associated Persons

Names in Full

Address

Occupation

Nationality

i.....

.....

.....

.....

.....

ii.....

.....

.....

.....

.....

10. Aliens

(a) State if Alien Naturalized

(b) Registration Certificate No.

11. Schools Attended with Dates

Primary

Post-primary or School or Secondary

University etc.

Qualification Attended

.....

.....

.....

.....

12. Amount held in own account

- (i) Cash in hand
- (ii) Cash at bank
- (iii) Outside Nigeria (Countries' Banks to be named)

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

- (i) Cash in hand
.....
- (ii) Cash at bank
.....
- (iii) Outside Nigeria (Countries' Banks to be named).....

14. Loans or advances made

15. Loans or advances received

16. Amount held on behalf of or as trustee of wife/husband

- (i) Cash in hand
- (ii) Cash at bank
- (iii) Outside Nigeria (Countries' Banks to be named)

17. Wife's/Husband's children's accounts held (beneficial or otherwise)

- (i) Cash in hand
.....
- (ii) Cash at bank
.....

(iii) Outside Nigeria (Counties' Banks 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 in which you are interested in giving date when acquired –

(i) Land:

(ii) Buildings:

(iii) Other property, (if any):

20. Property outside Nigeria in which you are interested in giving date when acquired-

(i) Land:

(ii) Buildings:

(iii) Other property, (if any):

21. Property in Nigeria in which any wife/husband* is interested in giving date when acquired –

(i) Land:

(ii) Buildings:

(iii) Other property, (if any):

22. Property outside Nigeria in which any wife/husband* is interested in giving date when acquired –

- (i) Land:
- (ii) Buildings:
- (iii) Other property, (if any):

23. Property in Nigeria which any child of yours is interested in giving date when acquired-

- (i) Land:
- (ii) Buildings:
- (iii) Other property, (if any):

24. Property outside Nigeria in which any child of yours is interested in giving date when acquired –

- (i) Land:
- (ii) Buildings:
- (iii) Other property, (if any):

25. Names of other dependent relatives:

Estate in which you are interested as trustee or beneficially interested (Name of deceased or trustee).

Property held by any person on your behalf - (in or outside Nigeria)

- (i) Cash in hand;
- (ii) Cash at bank;
- (iii) Land;
- (iv) Buildings;
- (v) Other property, (if any).

.....
Signature of Accused Person

.....
...
Signature & Address of
Witness

FORM 2
[Section 48 (1)]

FREEZING ORDER
(This form may be amended according to circumstances)

To the Manager

.....
.....

*(Here insert name and branch of
bank)*

1. Under the authority conferred to me by section 48 of the
TRAFFICKING IN PERSONS (PROHIBITION) LAW
ENFORCEMENT AND ADMINISTRATION (AMENDMENT) ACT,
2004 you are hereby ordered –

(a) to supply the following information relating to the under-
mentioned accounts, that is to say-

.....
.....
*(Here set out the information required in respect
of named accounts)*

(b) to produce the books and documents relating to the under-
mentioned accounts, that is to say –

.....
.....

(Here set out the books and documents to be produced in respect of named accounts)

- (c) to stop all outward payments, operations or transactions (including bills of exchange) as far as possible in the ordinary course of banking in respect of the following accounts:

.....
.....

(Here indicate the accounts)

- 2. This order shall cease to have effect after the day of 20, unless sooner revoked by the President.

DATED at this day of,
....., 20

.....
.....
.....
.....
Ch
airman/
Bank
Examin
er

- 22.** This Act may be cited as the Trafficking in Persons (Prohibition) Law Enforcement and Administration (Amendment) Act, 2005.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation