

RECOVERY OF PUBLIC PROPERTY (SPECIAL PROVISIONS) ACT

An Act to make provisions for the Investigation of the Assets of any Public Officer who is alleged to have been engaged in corrupt practices, unjust enrichment of himself or any other person who has abused his office or has in any way breached the Code of Conduct for Public Officers contained in the Constitution of the Federal Republic of Nigeria.

[1984 No. 3.]

[31st December, 1983]

[Commencement]

PART I

Constitution of Assets Investigation Panels

1. Investigation of assets of public officers

(1) For the purpose of ascertaining whether any public officer-

- (a) has been engaged in corrupt practices or has corruptly enriched himself or any other person; or
- (b) has by virtue of abuse of his office contributed to the economic adversity of the Federal Republic of Nigeria,

or has in any other way been in breach of the Code of Conduct, the President may constitute a panel to conduct an investigation into any matter with which the officer has been concerned in the performance of his duties or to conduct an investigation into the assets of any such public officer.

(2) Any public officer who-

- (a) has engaged in corrupt practices or has corruptly enriched himself or any other person;
- (b) has by virtue of abuse of his office contributed to the economic adversity of the Federal Republic of Nigeria;
- (c) has in any other way been in breach of the Code of Conduct; or
- (d) has attempted, aided, counselled, procured or conspired with any person to commit any of the offences set out in this section,

at any time after 30 September 1979 shall be guilty of an offence under this Act and upon conviction shall, apart from any other penalty prescribed by or pursuant to any other provision of this Act, forfeit the assets, whether movable or immovable property connected with the commission of the offence, to the Federal Government.

(3) A panel constituted under subsection (1) of this section-

- (a) shall consist of such persons as the President may direct; and
- (b) may, subject to any general or specific directions that may be given in that behalf by the President, regulate its own proceedings as it may deem fit.

(4) For the purposes of this section, "**public officer**" means any person who holds or has held any of the offices specified in Part II of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria at any time after 30 September 1979.

2. Application of the Act to other persons

(1) The provisions of this Act shall apply to any other person to the same extent as it applies to a public officer.

(2) Any person who engages in any manner whatsoever in any form of corrupt practice or corruptly enriches himself or any other person (whether a public officer or not) or has engaged in any unlawful activity in any form whatsoever, including banking or other financial business-

- (a) may have his assets investigated by the panel constituted under subsection (1) of section 1 of this Act; and
- (b) shall be tried under this Act and if found guilty of an offence shall be convicted by the Federal High Court.

3. Powers of the panel

(1) Where the panel is of opinion that it is appropriate so to do, the panel may-

- (a) issue a notice to declare assets as in Form A in the Schedule to this Act to be served on any public officer together with a form of declaration of assets as in Form B in that Schedule, which the said officer so served shall complete and return to the panel within thirty days after receipt thereof, or within such extension of the period as may be approved by the panel;
[Schedule. Form A. Form B.]
- (b) upon receipt of the said declaration of assets, thereafter direct any qualified person to check the statements in that declaration of assets and verify the accuracy of the statement of accounts therein.

(2) A notice to be served in accordance with paragraph (a) of subsection (1) of this section may be served on the person concerned directly and, without prejudice thereto, shall be deemed to have been served-

- (a) by sending it by registered post to the last known address of the public officer;
or
- (b) by pasting such notice on the door of the premises of the last known address of the public officer; or
- (c) by publication of the notice aforesaid in an issue of the *Federal Gazette* or of a newspaper having nationwide circulation.

(3) Any public officer-

- (a) who, without reasonable excuse, refuses, or neglects to declare his assets in the manner prescribed in subsection (1) (a) of this section; or
- (b) who makes a declaration of assets as required in that subsection which he knows to be false or which he makes without reasonable belief in its truth,

shall be guilty of an offence under this Act, and liable on conviction to imprisonment for a term of not less than five years without the option of a fine; and any undeclared assets whether or not they are in his name or under his control, shall be forfeited to the Federal Government.

(4) Any person who makes a declaration in the circumstances outlined in paragraph (b) of subsection (3) of this section, shall be deemed to have made it without belief in its truth or to have been reckless as to its truth or falsity unless he proves the contrary.

(5) Where the panel is satisfied that any person, not being a public officer, but related to, or otherwise connected with a public officer, appears to have acquired assets far in excess of any income from his known or ostensible means of livelihood, the provisions of this Act shall apply with necessary modifications in respect of such a person as they apply in respect of a public officer.

4. Verification and ascertainment of assets, etc.

(1) Where a declaration of assets is returned pursuant to paragraph (a) of subsection (1) of section 2 of this Act, a qualified person shall, if and when so directed by the panel in respect of that declaration, verify the statements set out therein and, as far as possible, ascertain the extent and nature of undisclosed assets, if any, and the nature of transactions affecting those assets.

(2) If the panel or a qualified person is of opinion that the declaration of assets as returned is incomplete in any respect or ought to be amplified, the panel or such qualified person may, whether or not any verification has been directed under subsection (1) of this section, require the public officer, or as the case may be any other person, to complete the declaration or furnish additional information by a supplementary declaration of assets in such form as the panel or qualified person, as the case may be, may prescribe or require, and in any such case the provisions of this Act shall apply in respect of such completion or the furnishing of additional information under this subsection as they apply to a declaration in the prescribed form in the Schedule to this Act.

[Schedule.]

(3) A qualified person shall have power under this section to require any person or authority concerned, to prepare copies of records of assets or of accounts connected with

particular assets and, in any proper case, statement of transactions relating thereto, and the person or authority concerned shall deliver the copies so required to that qualified person.

(4) A qualified person having completed his investigation as far as possible, shall report his findings to the panel together with the conclusions drawn by him and the reason there for and the panel shall likewise thereafter report to the Head of the Federal Government.

5. Supplementary

Any investigation conducted to completion by any person authorised in that behalf, whether by the President or any other authority, between the date of commencement of this Act and the date of its making, shall be deemed to have been conducted under this Act notwithstanding any deviations from the foregoing provisions of this Act but any such pending investigation shall, as from the date of the making of this Act, be conducted in conformity therewith.

PART II

Constitution and powers of Federal High Courts

6. Evidence of accomplices

Notwithstanding anything to the contrary in any law (including any rule of law), no witness shall, in any trial or enquiry under this Act, be presumed to be unworthy of credit by reason only that he took part in the commission of the offence.

[1984 No. 14.]

7. Power to issue search warrants

Notwithstanding the provisions of any other enactment conferring power to search, if the Chairman of a Federal High Court is satisfied that there is reasonable ground to suspect that there may be found in any building or other place whatsoever, any money or other property or any books, records, accounts, statements or information in any other form whatsoever which, in his opinion, are or may be material to the subject matter of any trial under this Act, he may issue a warrant under his hand authorising any police officer or any member of the armed forces or any security agencies to enter, if necessary by force, the said building or other place and every part thereof, and to search for, seize and remove any such thing as aforesaid found therein.

8. Power to control property under investigation

(1) Where at any state of a trial a Federal High Court is satisfied that a *prima facie* case has been made out against a person, the Judge of a Federal High Court may by order under his hand and for such time as he may direct or require, prohibit any disposition of property movable or immovable by or on behalf of that person, and whether or not the property is owned or held by that person or by any other person on his behalf, except to such extent and in such manner as may be specified in the order.

(2) An order under subsection (1) of this section shall have effect as therein specified, but any such order may at any time thereafter be varied or annulled by the Federal High Court.

(3) Failure to comply with the requirement of an order under this section shall be an offence punishable on conviction-

- (a) in the case of an individual, by imprisonment for a term of not less than two years or more than five years without the option of a fine;
- (b) in the case of any group of persons not being a body corporate, by the like punishment of each of such persons as is prescribed in paragraph (a) of this subsection;
- (c) in the case of a body corporate, by a fine of an amount equal to two times the estimated value of the property affected by the non-compliance or NI 00,000, whichever is higher.

9. Power to avoid artificial and other transactions

(1) Where a Federal High Court is satisfied that any transaction with respect to or disposition of, any property is artificial or fictitious or that effect has not in fact been given to the same, after giving an opportunity to any interested third party to be heard, the Federal High Court may disregard any such transaction or disposition.

(2) For the purposes of this section-

- (a) **"property"** may be either movable or immovable and any transaction or disposition in relation thereto includes arrangements for the benefit of creditors and a trust however created; and
- (b) any transaction or disposition may be treated as artificial or fictitious if entered into, made or performed-
 - (i) by reason of the unconscientious exercise or abuse of a power which one or more of the parties has or have either directly or indirectly over another or others of the parties; or
 - (ii) for the purpose of fulfilling an obligation prior to, under, or with respect to which any party to the transaction or disposition had not the means.

PART III

Penalties

10. Penalties

(1) The penalties which a Federal High Court may impose upon conviction of any person to which this Act applies shall, apart from forfeiture or any other penalty prescribed by or pursuant to any of the foregoing provisions of this Act, be either-
[1986 No. 21.]

- (a) imprisonment for a term not exceeding 21 years; or
- (b) in cases where the Federal High Court arrives at a finding that undeclared assets (whether in Nigeria or elsewhere) of such person have a value of or amount to not less than ₦1,000,000 or its equivalent in any other currency or combination of currencies, a sentence of life imprisonment.

(2) Where a person is charged with an offence but the evidence establishes an attempt to commit the offence, he may be convicted of having attempted to commit that offence, although the attempt is not separately charged, and punished as provided in subsection (1) of this section.

(3) Where a person is charged with an offence under this Act but the evidence established the commission of another offence under this Act the offender shall not be acquitted but he may be convicted of that other offence and punished as provided in subsection (1) of this section.

PART IV

Supplementary provisions

11. Interpretation

(1) In this Act, unless the context otherwise requires-

"**Code of Conduct**" means the Code of Conduct for Public Officers set out in Part I of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria 1999;
[Cap. C23.]

"**public officer**" has the meaning assigned thereto by section 1 (4) of this Act;

"**qualified person**" means any person appointed as such pursuant to Part I of this Act.

(2) It is hereby declared that any reference in this Act to any direction, notice or order given by any authority or person under this relating to assets or property of any public officer or other person concerned under this Act shall be construed as a reference to those assets or property wherever they may be situated or found within or outside Nigeria, as may be specified therein; and service of a copy of any such direction, notice or order on any person or authority shall be sufficient authority for due compliance by that person or authority with such direction, notice or order or any matter stated therein, notwithstanding anything to the contrary in any enactment, including the Constitution of the Federal Republic of Nigeria.

12. Short title

This Act may be cited as the Recovery of Public Property (Special Provisions) Act.

SCHEDULE

Forms

FORMA

Notice to declare assets

To

Address

Under the provisions of section 2 (1) of the Recovery of Public Property (Special Provisions) Act you are hereby required to complete the attached Form B being a declaration of assets and return it to me at _____ not later than the _____ day of _____ 20_____.

When completing the form you are to distinguish between assets held or owned on your own behalf and those held by you as trustee for any person or body of persons corporate or unincorporated.

When returning the form you are to use the enclosed addressed envelope and in your own interest you should ensure delivery thereof to the undersigned who will issue you with a receipt.

FORM A-continued

DATED at this day of 20 .

.....

For and on behalf of the President

FORM B

Declaration of assets

Under the Recovery of Public Property (Special Provisions) Act

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

To the President,

I, the undersigned being the person affected by a notice to declare assets, hereby declare as follows-

- 1. Name in full .
- 2. Address .

- (i) .
- (insert here place of residence and/or custody not a post office box number)

- 3. (ii) Office . Name(s)
- in full of wife/wives/husband .

- 4. . Name(s)
- in full of children (and age in brackets) .

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- 5. Amount held in own account-

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

- (a) First Bank of Nigeria Ltd .
- (b) Union Bank of Nigeria Ltd .
- (c) African Continental Bank Ltd .
- (d) Bank of the North Ltd .
- (e) National Bank of Nigerian Ltd .
- (f) United Bank for Africa Ltd .

FORM B—continued

- (g) Other banks
(to be named by the person completing form)
- (h) Outside Nigeria
(countries/banks to be named)
6. Amount held on behalf of or as trustee for any person other than your wife/husband*—
- (a) First Bank of Nigeria Ltd.
- (b) Union Bank of Nigeria Ltd.
- (c) African Continental Bank Ltd.
- (d) Bank of the North Ltd.
- (e) National Bank of Nigerian Ltd.
- (f) United Bank for Africa Ltd.
- (g) Other banks
(to be named by the person completing form)
- (h) Outside Nigeria
(countries/banks to be named)
7. Loans or advances made
8. Loans or advances received
9. Amount held on behalf of or as trustee of wife/husband
- (i) Cash in hand
- (ii) Cash at bank—
- (a) First Bank of Nigeria Ltd.
- (b) Union Bank of Nigeria Ltd.
- (c) African Continental Bank Ltd.
- (d) Bank of the North Ltd.
- (e) National Bank of Nigerian Ltd.
- (f) United Bank for Africa Ltd.
- (g) Other banks
(to be named by the person completing form)
- (h) Outside Nigeria
(Countries/Banks to be named)
10. Wife's/husband's/children's account held (*beneficial or otherwise*)—
- (i) Cash in hand
- names of companies, firms and partnerships)-*
- (a) by person affected by notice (*here State the bonds, etc.*) .
- (b) by wife (wives)/husband (*here state the bonds, etc.*) .
- (c) by children (*here state the bonds, etc.*) .
12. Property in Nigeria in which person affected by notice is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-
- (i) Land .
- (ii) Buildings .

FORM B-continued

- (ii) Cash at bank-
 (a) First
 Bank of Nigeria Ltd
- (b) Union
 Bank of Nigeria Ltd
- (c) African
 Continental Bank
 Ltd. .
- (d) Bank of
 the North Ltd
- (e) National
 Bank of Nigerian
 Ltd .
- (f) United
 Bank for Africa Ltd
- (g) Other
 banks .
*(to be named by the
 person completing
 form)*
- (h) Outside
 Nigeria .
*(countries/banks to
 be named)*
- Government
 securities, including
 premium bonds and
 other interests held
 in
 companies, firms or
 partnerships (*giving*

(iii) Other property, if any .

13. Property outside Nigeria in which person affected by notice is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-

(i) Land .

(ii) Buildings .

(iii) Other property, if any .

14. Property in Nigeria in which any wife/husband* is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-

(i) Land .

(ii) Buildings .

(iii) Other property, if any .

FORM B-continued

15. Property outside Nigeria in which any wife/husband* is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-

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

16. Property in Nigeria in which any child is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-

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

*17. Property outside Nigeria in which any child is or has been interested in any way since the year 1979 giving date when acquired or disposed of itemised as-

- (i) Land .
- (ii) Buildings .

18. (iii) Other property, if any . Names of other dependent relatives .

19. Estate in which person affected by a notice is interested as trustee/beneficially interested (name of deceased or trustee) .

20. Property held by other person on behalf of person affected by notice by-

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

Statutory declaration to be endorsed on Form B

I, do solemnly and sincerely declare that the information set out in the above declaration of assets is true and correct to the best of my knowledge and belief AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Oaths Act. [Cap. 0 1.]

.....

Signature

DECLARED at day of 20 Before me in.....

.....

Commissioner for Oaths or Notary' Public

FORM *B-continued*

*Delete the word or words not applicable.

Where a person is married to more than one wife, the information must be disclosed.

Where no Commissioner for Oaths or Notary Public is easily available the declaration could be made before any senior public officer whose name and designation must be written in full.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation