

A
Bill for

an Act to Repeal the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act, Cap. C34, Laws of the Federation of Nigeria, 2004 and Enact the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Bill to make comprehensive provisions for the prohibition and control of counterfeit medical products, fake drugs and unwholesome processed foods; and for Related Matters, 2026.

Sponsor:.....

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

PART I — OFFENCES AND PENALTIES

Prohibited activities relating to counterfeit medical products, fake drugs and unwholesome processed foods

1. (1) A person who:

- (a) produces, imports, exports, manufactures, transships, transports; or
- (b) aids or abets another person to produce, import, export, manufacture, tranship, transport; or
- (c) distributes, sells or displays for sale; or
- (d) aids or abets another person to distribute, sell or display for sale; or
- (e) knowingly is in possession of, for the purpose of distribution or sale; or
- (f) prints, produces, sells, distributes or is in possession of labels, wrappers, packaging materials, chemicals or equipment for the purpose of manufacture, revalidation, warehousing, distribution, sale or use of a counterfeit, adulterated, banned or fake, substandard or expired medical products, drugs or unwholesome processed foods or packaged water, adulterated cosmetic or adulterated or mislabelled chemical in any form whatsoever, commits an offence.

(2) A person who neglects or fails to issue to a person to whom he has sold drugs a written receipt indicating the drugs sold, date of sale, name and address of the seller commits an offence.

Prohibited activities relating to the hawking, sale or display of

2. (1) A person who:

- (a) hawks or sells; or
- (b) displays for the purpose of sale; or

(c) aids or abets any person to hawk, sell or display for the purpose of sale, of a drug or poison on-line or in a place not duly licensed or registered by the appropriate authority for the purpose of drug or poisons distribution including a market, kiosk, motor park, road-side stall, street, or in a bus, ferry or other means of transportation, commits an offence.

(2) In this section, "appropriate authority" means:

(a) the Pharmacist Council of Nigeria; or

(b) a person or body authorised to grant licences or register premises for the sale and distribution of drugs and poisons.

Conspiracy to commit offences under section 1 or 2 of this Bill.

3. (1) A person who:

(a) conspires with another person to commit an offence under sections 1 or 2 of this Bill; or

(b) with intent to commit an offence under section 1 or 2 of this Bill agrees with another person to do an act or make an omission; commits an offence.

(2) Where an offence under section 1 or 2 of this Bill has been committed by a body corporate, every person who at the time of the commission of the offence was a proprietor, director, general manager, secretary or other similar officer, servant or agent of the body corporate (or a person purporting to act in any such capacity), he, as well as the body corporate, shall be deemed to be guilty of the offence and may be proceeded against and punished accordingly.

Penalties for offences under sections 1, 2 and 3 of this Bill.

4. (1) A person who commits an offence under:

(a) section 1 (1) (a) or (c) of this Bill shall be liable on conviction to:

(i) fifteen (15) years imprisonment, and

(ii) payment of compensation to the victim or his next of kin or personal representative of an amount not less than Ten Million Naira.

(b) section 1 (1) (b), (c), (d) or (e) of this Bill shall be liable on conviction to:

(i) imprisonment for a term of ten years in addition to payment of a fine of an amount not less than Five Million Naira or both, and

(ii) payment of compensation to the victim or his next of kin or personal representative in the event of death or grievous bodily harm, of an amount not less than Five Million Naira.

(c) section 1 (2) of this Bill, shall be liable on conviction to imprisonment for a term of four years or to a fine of not less than seven Hundred and fifty Thousand Naira or to both imprisonment and fine;

(d) section 2 of this Bill, shall be liable on conviction to imprisonment for a term of three years and to a fine of not less than One Million Naira or both; and

(e) section 3 of this Bill, shall be liable on conviction to imprisonment for a term of not less than two years or to a fine of not less than seven Hundred and fifty Thousand Naira or both.

(2) Without prejudice to section 6 of this Bill, where a corporate body commits an offence under sections 1, 2 or 3 of this Bill, the court shall:

(a) order the corporate body to pay the prescribed fine; and

(b) seal the premises of the corporate body for a period not exceeding the term of imprisonment prescribed for the relevant offence.

(3) Where a person listed under paragraphs (a) to (e) of section 6 of this Bill contravenes the provisions of:

(a) subsection (1) of section 1 of this Bill, the court shall on conviction, make an order prohibiting the convict from directing, engaging in the production, importation, exportation, manufacture, distribution or sale of medical products either by itself or in association with or on behalf of anybody corporate or individuals for not more than 10 years; or

(b) subsection (2) of section 1 and section 2 of this Bill, the court shall on conviction, make an order prohibiting the convict from directing, engaging in the production, importation, exportation, manufacture, distribution or sale of medical products either by itself or in association with or on behalf of anybody corporate or individuals for a period of not less than 4 years.

Duty of occupier or manager to report.

5. An occupier or person responsible for the management of any premises who knows or is likely to know that any counterfeit medical product, fake drugs, unwholesome processed food, adulterated cosmetic or adulterated or mislabelled chemical is being produced or stored within his premises but fails, neglects or refuses to report to the Agency commits an offence and shall be liable on conviction to imprisonment for a term of five years or to a fine of Five Million Naira or to both imprisonment and fine.

Offence by body corporate.

6. Where an offence under this Bill is committed by a body corporate or firm or other association of individuals:

(a) every director, manager, secretary or other officer of the body corporate;

- (b) every partner or officer of the firm;
- (c) every trustee of the body concerned;
- (d) every person concerned in the management of the affairs of the association; or
- (e) every person who was purporting to act in any capacity referred to in paragraphs (a) to (d) of this section, is severally guilty of that offence and liable to be proceeded against and punished for that offence in the same manner as if he had himself committed the offence unless he proves that the act or omission constituting the offence took place without his knowledge, consent or connivance.

PART II — ENFORCEMENT PROVISIONS

National Agency for Food and Drug Administration and Control to enforce Bill.

7. (1) The National Agency for Food and Drug Administration and Control established under the National Agency for Food and Drug Administration and Control Act, Cap. N1, LFN, 2004 (in this Bill referred to as "the Agency") shall be responsible for the enforcement of the provisions of this Bill and shall for this purpose exercise any of its powers under the National Agency for Food and Drug Administration Act.

(2) The Agency shall have powers to deploy technology in the tracking and tracing of substandard and falsified medical products, unwholesome foods and other defective regulated products.

National Task Force on Counterfeit Medical Products, Fake Drugs and Unwholesome processed Food.

8. (1) A Task force to be known as the National Task Force on Counterfeit Medical Products, Fake Drugs and Unwholesome processed Food (in this Bill referred to as "the National Task Force") shall be constituted by the Minister.

(2) The National Task Force constituted under subsection (1) of this section shall consist of:

- (a) a Chairman who shall be an officer of the Agency not below the rank of a Director, to be appointed by the Minister;
- (b) the Director of the Food and Drug Department of the Federal Ministry of Health or his representative;
- (c) two officers of the Nigeria Police Force not below the rank of Chief Superintendent of Police, to be nominated by the Inspector-General of Police;
- (d) a representative of the Nigeria Customs Service not below the rank of Assistant Comptroller of Custom to be appointed by the Comptroller-General of Customs;
- (e) a representative of the Nigeria Immigration Service not below the rank of Assistant-Comptroller of Immigration to be appointed by the Comptroller-General of Immigration;

- (f) the Head of the Inspectorate Department of the Pharmacists Council of Nigeria or his representative;
- (g) the Head of Enforcement Directorate of the Agency;
- (h) the Head of the Legal Directorate of the Agency;
- (i) a representative of the Minister of Agriculture;
- (j) a representative of the Minister of Environment;
- (k) a representative of the Minister in charge of Trade, Investment and Industry;
- (l) a representative of the Association of Food, Beverage and Tobacco Employers;
- (m) a representative of the Pharmaceutical sector;
- (n) such other persons as may be co-opted by the Director General of the Agency and approved by the Minister; and
- (o) one representative of the medical profession.

State Task Force on Counterfeit Medical Products, Fake Drugs and Unwholesome processed Food.

9. (1) The Minister shall constitute for each State of the Federation a State Task Force on Counterfeit Medical Products, Fake Drugs and Unwholesome Processed Food (in this Bill referred to as the "State Task Force").

(2) The State Task Force constituted under subsection 1 of this section shall consist of:

- (a) the Head of the State Office of the Agency, as chairman;
- (b) an officer of the Nigeria Police Force, not below the rank of Chief Superintendent of Police, to be nominated by the Inspector-General of Police;
- (c) a representative of the State Commissioner for Health;
- (d) a principal officer nominated by the State Office of the Pharmacists Council of Nigeria; and
- (e) the officer-in-charge of the State Command of the Nigerian Customs Service.

Operations of the National and State Task Force on Counterfeit Medical Products, Fake Drugs and Unwholesome processed Food.

10. (1) A Committee constituted under this Bill shall assist and advise the Agency in the discharge of the Agency's functions under this Bill and shall:

- (a) in the case of the National Committee:

- (i) meet at least twice yearly, and
- (ii) supervise the State Committees.

(b) in the case of a State Committee:

- (i) meet quarterly;
- (ii) be concerned with the Agency's State or Zonal Offices; and
- (iii) work under the supervision of, and submit quarterly reports to, the National Committee.

(2) The Agency is responsible for the administration of the secretariats of the National and State Committees.

(3) The Members of the National and State Committees shall be paid such allowances as the Agency may from time to time approve.

Functions of the task force.

11. The task force shall have powers to:

- (a) enter any premises at any reasonable time, with reasonable force, and examine any article found in the premises if there is reason to believe that the provisions of this Bill or related legislation are being contravened;
- (b) take samples or specimen of any article and where practicable, open and examine any container or package while on the premises.
- (c) examine a book, document or record found on the premises, which is reasonably believed to contain an information relevant to the enforcement of this Bill or related legislation and cause copies or extracts to be made of or from them;
- (d) seize a counterfeit medical product, a banned, fake, substandard or an expired medical product including drugs, or an adulterated or a mislabeled chemical product or packaged water, an adulterated cosmetic or a counterfeit medical product or a drug or poison or an unwholesome processed food product;
- (e) seize a document, an item or article which is the subject matter or constitutes evidence of an offence under this Bill or related legislation;
- (f) arrest a person suspected of committing an offence under this Bill or related legislation and detain the person on the premises of the Agency or any other premises designated by it;
- (g) seal any premises that is used or is being used in connection with an offence under this Bill until the medical product, processed food, packaged water, cosmetic, chemical, drug or poison, as the case may be, on the premises has been removed by

the task force or until such reasonable time as is necessary for proper investigation and prosecution of suspects; and

(h) establish and maintain designated inspection points at all ports of entry in Nigeria for the purpose of examining all products regulated and controlled by the Agency.

Nigeria Police squad on counterfeit medical products, fake drugs and unwholesome processed food.

12. (1) There is established, a Nigeria Police Squad on Counterfeit Medical Products, Fake Drugs and Unwholesome processed Food (in this Bill referred to as "the Squad") which shall consist of:

(a) a Superintendent of Police; and

(b) such number of Police Officers, to be appointed by the Inspector-General of Police.

(2) The Squad shall:

(a) assist the Agency in the lawful execution of the Agency's functions under this Bill and Related Legislations;

(b) arrest any person suspected of committing an offence under this Bill and Related Legislations; and

(c) assist in conducting investigation into matters arising under the Act and Related Legislations.

Agency not to be obstructed.

13. (1) A person shall not:

(a) obstruct or resist a member of the Agency or a person authorised by it in the exercise of its powers under this Bill; or

(b) without the authority of the Agency, remove, alter or interfere in any way with a drug, poison, processed food product, medical product, chemical, cosmetic, packaged water or any other thing seized under this Bill.

(2) A person who contravenes the provision of this section commits an offence and liable on conviction to a term of imprisonment of two years or to a fine of One Million Naira or to both fine and imprisonment.

PART III — FORFEITURE OF PROCEEDS AND DESTRUCTION OF SEIZED PROPERTY

Property liable to forfeiture and destruction of seized property.

14. (1) A property:

(a) whether real or personal, which is used for the commission of an offence or represents the proceeds of an offence under this Bill;

(b) within Nigeria, which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction the offence or activity would be punishable by imprisonment or fine and which would be punishable by imprisonment or fine under this Bill if the act or activity had occurred within Nigeria;

(c) in the form of a book, record, research material and data used or intended to be used in violation of this Bill;

(d) in the form of money, negotiable instrument, security or other thing of value furnished or intended to be furnished by a person in exchange for an act to further the commission of an offence under this Bill or all proceeds traceable to the exchange, and any money, negotiable instrument and security used or intended to be used to facilitate a violation of this Bill; and

(e) in the form of real property, including a right, title and an interest (including a leasehold interest) in the whole or part of a piece or parcel of land and an improvement or appurtenances on or to the land, which is used or intended to be used, in any manner or part to commit, or facilitate the commission of an offence under this Bill, is liable to forfeiture to the Federal Government and no other property rights shall exist on it.

(2) Without prejudice to subsection (1) of this section, a means of transportation or carriage, including an aircraft, a vehicle, and a vessel used or intended for use to transport or in any manner, to facilitate or conceal an offence under this Bill is liable to forfeiture, but a means of transportation:

(a) used by a person as a common carrier in the transaction of business shall not be forfeited under this section unless it is proved that the owner or other person in charge of the means of transportation was a consenting party or privy to a violation of this Bill;

(b) shall not be forfeited under this section by reason of an act established by the owner to have been committed by a person other than the owner while the means of transportation was unlawfully in the possession of a person, other than the owner, in violation of the criminal laws of Nigeria or a part of Nigeria; and

(c) shall not be forfeited under this section to the extent of the interest of an owner, by reason of an act established by that owner to have been committed without the knowledge, consent or connivance of that owner.

(3) The Agency shall destroy an article or a property, other than real property seized under subsection (1) of this section, where:

(a) the court on the conviction of the person in respect of which the article or property, other than real property, was seized orders its destruction; or

(b) the owner of the article or property consents in writing to its seizure and destruction.

(4) Where the Agency destroys an article or a property under subsection (3) of this section, the person convicted or the owner of the article or property, as the case may be, shall bear the cost of its destruction.

Laundering, concealment and related offences.

15. (1) A person who:

(a) converts or transfers property, knowing the property to represent proceeds of an offence under this Bill; or

(b) conceals or disguises the true nature, source, location, disposition or movement of the property or rights of ownership in respect of property, knowing the property to represent proceeds of an offence under this Bill or related Acts, commits an offence and shall be liable on conviction to imprisonment for a term of five years or payment of a fine five times the value of the property or to both the imprisonment and fine.

(2) A person who:

(a) whether by concealment, removal from jurisdiction, transfer to nominees or otherwise retains property constituting the proceeds of an offence under this Bill on behalf of another person with knowledge that the other person is engaged in or has benefited from conduct constituting an offence under this Bill; or

(b) unlawfully acquires, is in possession of or uses property constituting the proceeds of an offence under this Bill knowing that the property directly or indirectly represents proceeds of an offence; commits an offence and shall be liable on conviction to imprisonment for a term of five years or payment of a fine five times the value of the property or to both the imprisonment and fine.

Foreign properties and assets.

16. (1) Where a person is convicted of an offence under this Bill, a property or an asset in a foreign country belonging to the person which constitutes proceeds of the offence shall, subject to a treaty or an arrangement with that foreign country, be forfeited to the Government of the Federation.

(2) The Agency shall, through the Office of the Attorney-General of the Federation, ensure that the forfeited asset or property is transferred and vested in the Government of the Federation.

Disclosure of assets and properties by an arrested person.

17. (1) Where a person is arrested for committing an offence under this Bill, the person shall make full disclosure of all his assets and properties by completing the Declaration of Assets Form as specified in Form A set out in the Schedule to this Bill.

(2) The completed Declaration of Assets Form shall be investigated by the Agency.

(3) A person who:

- (a) knowingly fails to make full disclosure of his assets and properties;
- (b) knowingly makes a declaration that is false; or
- (c) fails, neglects or refuses to make a declaration or furnish an information required, in the Declaration of Assets Form commits an offence under this Bill and shall be liable on conviction to imprisonment for a term of five years.

(4) Except for the purpose of prosecution for an offence under subsection (3) of this section, evidence of a declaration by a suspect made under this section is inadmissible in the trial of the suspect or proceedings for the interim attachment of a property subject to forfeiture.

(5) The Director - General may modify or alter the Declaration of Assets Form specified in Form A set out in the Schedule to this Bill as may be necessary in order to give effect to the provisions of this Bill.

Seizure of property.

18. (1) An officer of the Agency may, in the course of investigation or search, seize a property where the officer reasonably believes that the property is liable to forfeiture under this Bill.

(2) Where a person is arrested for an offence under this Bill, the Agency shall immediately trace and seize all the assets and properties of the person used for or constituting proceeds of an offence under this Bill.

(3) Whenever property is seized under this section, the Agency may:

- (a) place the property under seal; or
- (b) remove the property to a place designated by the Agency.

(4) A property taken or detained under this section is deemed to be in the custody of the Agency, subject only to an order of Court.

Interim order of forfeiture.

19. (1) Where the Agency has seized an asset or a property under section 18 of this Bill, it shall, not more than one week after the seizure, apply to the Court for an interim order of forfeiture of the property concerned to the Government of the Federation and the Court shall, if satisfied that there is prima facie evidence that the property concerned is subject to forfeiture under this Bill, make an interim order forfeiting the property to the Government of the Federation.

(2) Where the Court declines to make an interim order of forfeiture under subsection (1) of this section, the Court shall order the Agency to forthwith return the property seized to the person from whose custody it was removed.

Forfeiture order after conviction.

20. (1) A person convicted of an offence under this Bill shall forfeit to the Government of the Federation:

(a) all the assets and properties which are the subject of an order of attachment of Court made under section 19 of this Bill;

(b) an asset or a property, not falling under paragraph (a) of this subsection, proved to have been derived from the proceeds of an offence under this Bill, notwithstanding that the person convicted did not disclose the asset or property in the Declaration of Assets Form specified in Form A set out in the Schedule to this Bill; and

(c) a property not falling under paragraph (a) of this subsection, used in any manner to commit or to facilitate the commission of an offence under this Bill, notwithstanding that the person convicted did not disclose the property in the Declaration of Assets Form specified in Form A set out in the Schedule to this Bill.

(2) The Court in imposing a sentence on a person under this section shall, in addition to any other sentence imposed pursuant to any other provisions in this Bill, order that the person forfeit to the Government of the Federation all properties described in subsection (1) of this section.

Disposal of forfeited property.

21. (1) The Agency shall apply for the forfeiture order from the court upon conviction of the Defendant(s).

(2) On receipt of the forfeiture order pursuant to this section, the Agency shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold, the net proceeds shall be paid into the Asset Recovery Fund established under section 37 of this Bill.

(3) Where a part of the property included in a forfeiture order is money in a bank account or in the possession of a person, the Agency shall cause a copy of the order to be produced and served on the person, manager of the bank or a person in control of the head office or branch of the bank concerned.

(4) The bank or person, on receiving a copy of an order under subsection (3) of this section, shall forthwith pay over the money to the Agency without any further assurances than this Bill and, subject to subsection (2) of this section; the Agency shall pay the money received into the Consolidated Revenue Fund of the Federation.

Forfeiture of property where there is no prosecution or conviction for an offence.

22. (1) Where a property has been seized under this Bill and there has been no prosecution or conviction for an offence, the Agency may, before the expiration of twelve months from the date of the seizure, apply to the Court for an order of forfeiture of that property on the ground that the property constitutes proceeds of an offence under this Bill.

(2) The Court to whom an application is made under subsection (1) of this section shall direct a notice to be published in at least two national daily newspapers calling on a person who claims

to have an interest in the property to appear before that Court on a date specified in the notice, to show cause why the property should not be forfeited to the Government of the Federation.

(3) Where the Court to which an application is made under subsection (1) of this section is satisfied that:

(a) the property constitutes the proceeds of an offence under this Bill or is used to further the commission of the offence; and

(b) there is no purchaser in good faith for valuable consideration of the property without notice, the Court shall make an order for the forfeiture of the property.

(4) Where in respect of a property seized under section 18 of this Bill, prosecution is not commenced or an application is not made under subsection (1) of this section after the expiration of twelve months from the date of its seizure, the Agency shall release the property to the person from whom it was seized.

Offences in relation to forfeiture orders.

23. (1) A person who, without due authorization by the Agency, deals with, sells or otherwise disposes of a property or an asset which is the subject of an attachment, interim order or final order commits an offence and shall be liable on conviction to imprisonment for a term of not more than five years or payment of a fine of at least twice the amount for which the property was disposed, or both.

(2) A manager or person in control of the head office or branch office of a bank or other financial institution who fails to pay over to the Agency on the service on him of the final order made under section 21 of this Bill commits an offence and shall be liable on conviction to imprisonment for a term of not less than three years, without the option of a fine.

Consequences of an acquittal in respect of assets and properties.

24. (1) Without prejudice to subsection (2) of this section and where a person is discharged and acquitted by a Court of an offence under this Bill, the Court shall revoke an interim order of attachment made pursuant to this Bill or make a final order, as the case may be.

(2) The Court may make an order in respect of property already subject to an interim order 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, the Agency shall release to the person concerned all assets and properties which are affected by an order of attachment.

Freezing order on financial or designated non-financial institutions.

25. (1) Notwithstanding anything contained in any other enactment or law, the Director-General or an officer authorized by the Director General may, if satisfied that the money in the account of a person constitutes proceeds of an offence under this Bill, apply to the Court ex-parte for power to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form B set out in the Schedule to this Bill.

(2) An order issued under subsection (1) shall be addressed to the manager of the financial institution or the person in control of the designated non-financial institution where the account is or believed by him to be or the head office of the financial institution or the designated non-financial institution to freeze the account.

(3) The Agency, or an officer authorized by it may by an order issued under subsection (1) of this section, or by a subsequent order, direct the financial institution or designated non-financial institution to:

(a) supply an information and produce books and documents relating to the account; and

(b) stop all outward payments, operations or transactions (including a bill of exchange) in respect of the account of the person.

(4) The manager or the person in control of the financial institution or designated non-financial institution shall on being served with the order made pursuant to subsection (2) of this section shall take appropriate steps to comply with the requirements of the order

(5) In this section:

(a) "bank" has the meaning given to it in the Banks and other Financial Institutions Act; and

(b) "Designated non-financial institutions" means dealers in "jewellery, cars and luxury goods, chartered accountants, audit firms, tax consultants, clearing and settlement companies, legal practitioners, hotels, casinos, supermarkets or such other business as the Federal Ministry of Trade and Investment or appropriate regulatory authorities may from time to time designate";

(c) "Financial Institution" means —

(i) anybody or institution which carries on any banking business or financial transactions whether lawfully or unlawfully as defined in the Banks and other Financial Institutions Act,

(ii) banks, body, association or group of persons whether corporate or incorporate which carries the business of investments and securities, a discount house, insurance institutions, debt factorization and conversion firms, bureau de Change, finance Company, Money brokerage firms whose principal business includes factoring, project financing equipment leasing, debt administration, fund management, private ledger services, investment services, local purchase order financing, export finance, project consultancy , pension funds management and other business as the Central Bank or other appropriate regulatory authorities may from time to time designate;

(d) Reference to an order issued Reference to an order issued, includes a reference to an order, a direction or requirement addressed to the manager of a bank or other officer

of a bank which directs the manager or other officer to stop all outward payments, operations or transactions in respect of an account with that bank.

PART IV — PROCEEDINGS AND EVIDENCE

Jurisdiction and special powers of the Court.

26. (1) The Federal High Court shall have exclusive jurisdiction to try any offence under this Bill and deal with all matters arising from or relating to the provisions of this Bill.

(2) The Court has power, notwithstanding anything to the contrary in any other Act to:

(a) ensure that all matters brought before the Court by the Agency against a person, body or an authority shall be conducted with dispatch and given accelerated hearing; and

(b) adopt all lawful measures necessary to avoid unnecessary delays and abuse in the conduct of matters brought by the Agency before it or against a person, body or an authority.

(3) The Chief Judge of the Federal High Court may designate a Court or Judge as he deems appropriate to hear and determine all cases under this Bill or other related offences under this Bill.

Admissibility of statements in document produced from computers.

27. In proceedings under this Bill, a statement contained in a document reproduced by means of a computer or other electronic media is admissible as evidence of a fact stated in it in any circumstance where oral evidence would be admissible.

Conduct of proceedings.

28. (1) Subject to the provisions of section 174 of the Constitution of the Federal Republic of Nigeria, 1999, a legal officer or legal practitioner appointed by the Agency shall conduct criminal proceedings in respect of offences under this Bill or regulations made under this Bill and related legislation.

(2) In judicial proceedings for an offence under this Bill or regulations made under it, the provisions of the Administration of Criminal Justice Act apply in respect of the matter.

Presumption of source of proceeds.

29. Where, in a case involving the proceeds of an offence under this Bill:

(a) the property or money was acquired during or within a reasonable time after the commission of an offence; and

(b) there is no other source of the property or money other than the offence, the Court shall, subject to any contrary evidence, presume that the property or money constitutes the proceeds of that offence.

Appeals against interlocutory rulings.

30. Subject to the provisions of the Constitution of the Federal Republic of Nigeria, 1999, an application for stay of proceedings, in respect of a criminal matter brought or commenced by the Agency before the Court, shall not be entertained by any court until final judgment is delivered by the Court in the substantive criminal matter.

Evidence of accomplice and agent provocateur.

31. Notwithstanding a written law or rule of law to the contrary, in any proceedings against a person for an offence under this Bill:

- (a) a witness is not regarded as an accomplice by reason only that the witness is in any manner concerned with the commission of the offence, or that he had knowledge of the commission of the offence if, before the completion of the act or acts constituting the offence, the witness had reported his knowledge of his participation to the Agency;
- (b) an agent provocateur, whether he is an officer of the Agency or not, is not presumed to be unworthy of credit by reason only of his having attempted to commit, or abet or having abetted or engaged in a criminal conspiracy to commit the offence, if the main purpose of the attempt, abetment or engagement was to secure evidence of the commission of the offence against the person; and
- (c) a statement, whether oral or written, made to an agent provocateur by the person is admissible as evidence at his trial.

Bail.

32. (1) Where a person is arrested for, or charged with an offence under this Bill, the Court may on an application by the person grant bail unless there is reasonable ground to believe that if that person is released on bail he may-

- (a) commit another offence under this Bill;
- (b) evade trial;
- (c) influence, interfere with or intimidate witnesses;
- (d) conceal or destroy evidence; or
- (e) interfere with the investigation of the case.

(2) In addition to any other condition prescribed under any other law, the Court may require the deposit of a sum of money or other security as the Court may specify from the person applying for bail or the surety before bail is granted.

Power to receive information without hindrance.

33. (1) The Agency shall seek and receive information from a person, authority, a corporation or company without let or hindrance in respect of an offence under this Bill.

(2) An officer of the Agency shall not be compelled to disclose the source of information or identity of an informant except by order of court.

Penalty for false information.

34. (1) A person who makes or causes another person to make to an officer of the Agency in the course of the exercise by the officer of his duties, a statement which to the knowledge of the person making the statement, or causing the statement to be made:

(a) is false, or intended to mislead or is untrue in any material particular; or

(b) is inconsistent with another statement previously made by the person to another person who had authority or power under any law to receive, or require to be made that other statement, notwithstanding that the person making the statement is not under any legal or other obligation to tell the truth; commits an offence and shall be liable on conviction to imprisonment for a term of five years or to a fine not exceeding One Hundred Thousand Naira or both.

(2) For the purposes of subsection (1) of this section, a statement criminal, or a statement made by a person in the course of disciplinary proceedings, whether the legal or disciplinary proceedings are against the person making the statement or against another person, is deemed to be a statement made to a person having authority or power under the law to receive the statement so made.

Establishment of an asset recovery fund.

35. (1) There is established for the Agency under this Bill an Asset Recovery Fund into which shall be paid a percentage of proceeds of assets recovered from crimes committed under this Bill.

(2) The percentage referred to in sub-section (1) of this section to be paid to the Agency, shall be as may be determined by the President of the Federal Republic of Nigeria from time to time.

(3) The Agency shall, subject to regulations made by the Minister under section 38 of this Bill, administer the monies in the Assets Recovery Fund solely for the purpose of:

(a) strengthening the activities of the Agency; and

(b) exercising the other related powers of the Agency.

Power to make regulations.

36. (1) Subject to the other provisions of this Bill, the Agency with the approval of the Minister may make regulations:

(a) for the disposal or sale of any property or assets forfeited pursuant to this Bill;

(b) to prescribe the obligation and responsibilities of retailers, distributors or manufacturers in the eradication of counterfeit medical products; and

(c) generally for purposes of this Bill and its due administration.

(2) The Agency may prescribe, subject to the approval of the Minister, payment of such monetary reward to a person who gives vital and genuine information that leads to the arrest and

prosecution of a person who has committed an offence under the provisions of this Bill and of the recovery of an article or item connected with the commission of the offence.

Repeal of Cap. C34, LFN, 2004 and savings.

37. (1) The Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act, Cap. C34, LFN, 2004 is hereby repealed.

(2) The repeal of the Act specified in subsection (1) of this section shall not affect a thing done or purported to be done under the repealed Act.

Interpretation.

38. In this Bill, unless the context otherwise requires:

"adulterated" when used in relation to medical product, chemical or cosmetic, refers to a situation when:

(a) the method used in, or the facilities or controls used for, its manufacture, processing, packing, or holding do not conform to, or are not operated or administered in conformity with, current good manufacturing practice to ensure that the product meets-

- (i) the requirements of the Food and Drugs Act, Cap. F32, LFN, 2004 or any other standard prescribed by any other legislation as to safety, identity and strength, and
- (ii) the quality and purity characteristics, which it purports or it represents to possess; or

(b) it purports to be or is represented as a product, the name of which is recognized in an official compendium or in a legislation and has its strength differing from, or its quality or purity falling below the standard set forth in the compendium or legislation;

"Agency" means the National Agency for Food and Drug Administration and Control Agency established under the National Agency for Food and Drug Administration and Control Act;

"banned medical product" means a medical product prohibited under the provisions of a legislation or notice issued by the Minister;

"chemical" means a substance or reagent that is produced or used in a process to produce a chemical effect and it includes dusts, mixtures and common materials such as paints, fuels, solvents and fertilizers;

"cosmetic" includes a substance or mixture intended to be rubbed, poured or sprinkled or sprayed, introduced into or otherwise applied to the human body or any part of it for cleansing, beautifying, promoting attractiveness, altering the complexion, skin, hair or teeth and include deodorants and detergent powder;

"Council" means the Governing Council of the Agency;

"counterfeit medical product" means a product whether branded or generic that is falsely labeled with respect to identity or source and includes a medical product without the correct active ingredients or with insufficient quantity of active ingredients or with fake packaging;

"Director-General" means the Director General of the Agency;

"drug and drug product" includes any product containing an active medicinal ingredient, packaging materials, labels, wrappers, containers, instruments, apparatus, or equipment used in the manufacture, processing, storing, dispensing or packaging of drugs";

"fake medical product" means:

(a) a medical product:

(i) which is not what it purports to be,

(ii) which is so coloured, coated, powdered or polished that the damage is concealed,

(iii) which is made to appear to be better or of greater therapeutic value than it really is,

(iv) which is not labeled in the prescribed manner or which label or container or anything accompanying a drug bears any statement, design or device which makes a false claim for a drug or which is false or misleading,

(v) the container of which is so made, formed or filled as to be misleading; or

(b) a drug or drug product the label of which does not bear adequate directions for use and such adequate warning against use in those pathological conditions or by children where its use may be dangerous to health or against unsafe dosage or method or duration of use;

"medical product" include drug, medical device and their accessories, active pharmaceutical ingredient, excipients, biologics, vaccines, toxins, venoms, blood and blood products and tissues;

"medical device" includes packaging material, label, wrapper, container, instrument, apparatus, or equipment used in the manufacture, processing, storing, dispensing or packaging of a medical product;

"market" includes a place of commercial activities where drugs and drug products are sold, bought, displayed for sale or offered for sale; and this includes cyber sale;

"Minister" means the Minister charged with the responsibility for matters relating to health;

"National Committee" means the National Committee established under section 8 of this Bill;

"On line" includes the internet, web retailing, on-line market places or e-commerce service provider;

"poison" includes the substances enumerated in the Poison and Pharmacy Act, Cap. I52, LFN, 1958 which shall, whether natural or synthetic, be deemed poisons whether mixed with other ingredients or not and whatever restrictions placed on any particular poison shall apply to it whether it is unmixed or is contained as an ingredient in some preparation, unless it is contained in one of the preparations specifically exempted from such provision;

"proceeds" means, subject to section 26 of this Bill, property or money derived or obtained directly or indirectly, from the commission of an offence under this Bill;

"property" means any property, whether real or personal which is capable of being owned by a person;

"related legislations" include the:

(i) National Agency for Food and Drug Administration and Control Act, Cap. N1, LFN, 2004 and related regulations;

(ii) Food Drugs and related Products (Registration, etc.) Act, Cap. F33, LFN, 2004 and related agencies;

(iii) Marketing Breast Milk Substitute Act Cap. M5, LFN, 2004 or regulations made there under;

(iv) Import Prohibition Act Cap. 13, LFN 2004 and related regulations;

(v) section 1 (18) and (19), 2 and 3 of the Miscellaneous Offences Act, Cap. M17, LFN, 2004;

(vi) section 243 of the Criminal Code Act, Cap. C38, LFN, 2004; and

(vii) National Drug Formulary and Essential Drugs List Act, Cap. N29, LFN, 2004 or regulations made there under;

"substandard drug" means a drug which has in its preparation or manufacture an ingredient that falls below the specification contained in the official compendium, namely, the British Pharmacopoeia, British Pharmaceutical Codex, United States Pharmacopoeia, European Pharmacopoeia or any official compendium recognized by the Agency;

"the Act" means the National Agency for Food and Drug Administration and Control Act, Cap. N1, 2004;

"unwholesome processed food product" means any food product which:

(a) consists in whole or in part, of any filthy, putrid or decomposed substance;

(b) has been prepared, transported, marketed, packaged or stored under unsanitary conditions where it may have been contaminated with filth or whereby it may have been rendered injurious to health;

(c) is packed in a container composed in whole or in part of any injurious or deleterious substance which may render the content injurious to health;

(d) bears or contains for the purposes of colouring only a colour other than one which is prescribed;

(e) contains any harmful or toxic substance which may render it injurious to health or has been mixed with some other substance which may render it injurious to health or has been mixed with some other substance so as to reduce its quality or strength;

(f) the "best before" date, batch number, ingredients list, information as prescribed by the Agency or date of expiry on the label of the food article has been revalidated";

(g) is a food article beyond the shelf-life stated on the label, packaging material or beyond the Best Before Date prescribed by the National Agency for Food and Drug Administration and Control for that food article";

(h) is labeled, presented or advertised in a manner that is false, deceptive or misleading; or

(i) has an expired best before date; or

(j) when imported does not leave sufficient time as prescribed by the Agency for distribution before the best before date;

"victim" means a person who has suffered a disability or an adverse consequence as a result of using or consuming a counterfeit medical product, an adulterated, banned or fake, substandard or an expired medical product or unwholesome processed foods or a packaged water, adulterated cosmetic or adulterated or mislabeled chemical in any form.

Short title.

39. This Bill may be cited as the Counterfeit Medical Products, Fake Drugs and Unwholesome Processed Foods (Prohibition and Control) Bill, 2026.

SCHEDULE

FORM A

Sections 17, 20

**COUNTERFEIT MEDICAL PRODUCTS, FAKE DRUGS AND UNWHOLESOME
PROCESSED FOODS (PROHIBITION AND CONTROL) ACT, 2012**

DECLARATION OF ASSETS FORM

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

All available information should be included Important:

(A) It is an offence punishable by up to a maximum of 5 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, or

(iii) fail, neglect or refuse to make a declaration or furnish any information required

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

(ii) The Form shall be addressed to the Director General or any other officer authorized by him

I.....being accused of the offence..... under the Counterfeit Medical Products, Fake Drugs And Unwholesome Processed Foods (Prohibition and Control) Bill, 2012 declare my assets as follows:

10. Aliens:

(a) Nationality

(b) If Naturalized Alien provide Registration No. Certificate

11. Schools attended with dates: Primary School:

Post Primary School

Secondary:

University, etc.

Qualifications attained.

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 person other than your spouse:

(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 spouse:

(i) Cash in hand

(ii) Cash at bank

(iii) Outside Nigeria (Countries/Banks to be named)

17. Spouse/children's account held (beneficial or otherwise):

(i) Cash in hand

(ii) Cash at bank

(iii) Outside Nigeria (Countries /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 spouse (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. Membership, ownership, directorship, shareholding, or other related interest in:

(i) A Company incorporated in Nigeria

(ii) A Company incorporated outside Nigeria

(iii) A Partnership or sole proprietorship

21. Property outside Nigeria in which you are interested in giving date when acquired:

(i) Land:

(ii) Buildings:

(iii) Other property, (if any)

22. Property outside Nigeria in which any spouse is interested in giving date when acquired —

(i) Land:

(ii) Buildings:

(iii) Other property, (if any):

23. Property in Nigeria in which any spouse is interested in giving a date when acquired:

(i) Land

(ii) Buildings

(iii) Other Property, (if any):

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

(i) Land:

(ii) Buildings:

(iii) Other property, (if any).

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

(i) Land:

(ii) Buildings

(iii) Other property (if any).

26. Names of other dependent relatives:

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

28. Property held by any person on your behalf — (in or outside Nigeria):

(i) Cash in hand;

(ii) Cash at bank;

(iii) Land:

(iv) Buildings

(v) Other Properties

If outside Nigeria, insert names of countries and banks .

.....
Signature of Suspect/Accused Person

.....
Signature and Address of Witness

FORM B

Section 26 (1)

COUNTERFEIT MEDICAL PRODUCTS, FAKE DRUGS AND UNWHOLESOME PROCESSED FOODS (PROHIBITION AND CONTROL) ACT, 2012.

FREEZING ORDER

(This form may be amended according to circumstances)

1. To the Manager

(Here insert name and branch of bank)

Under the authority conferred on me by section 22 of the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act 2012, you are hereby ordered to —

(a) 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) 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 the named accounts)

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

(Here indicate the accounts)

2. This order shall remain in force until revoked.

Dated at, this day of, 20.....

.....
Director- General/Authorised Officer

EXPLANATORY MEMORANDUM

This Bill seeks to Repeal the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Act, Cap. C34, Laws of the Federation of Nigeria, 2004 and Enact the Counterfeit and Fake Drugs and Unwholesome Processed Foods (Miscellaneous Provisions) Bill to Make Comprehensive Provisions for the Prohibition and Control of Counterfeit Medical Products, Fake Drugs and Unwholesome Processed Foods.