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## **Foreword**

I am delighted to write the foreword to the 3<sup>rd</sup> edition of the Bill Digest, an initiative of the Department of Legislative Support Services. The maiden edition of the Bill Digest was published in the year 2007 by the defunct Policy Analysis and Research Project (PARP). Thereafter, the 2<sup>nd</sup> edition (Vol. II No. I) was published in 2019 followed by this edition. As a matter of global legislative practice and procedure, Bills undergoing legislative consideration are usually subjected to scrutiny and analysis by experts, the results of which are published in periodicals. A good example can be found in the United States, Australia and India. The aim is to assist legislators with expert opinions on the rationale/justification of legislative proposals. The context of their likely social, financial and legal implications, are analysed with insightful doctrinal, empirical and/or cross-country evidence. The publication of the Bill Digest fulfils one of the cardinal mandates of the NILDS to conduct informed, high quality research to support legislative governance across the country. I commend the entire staff of the Department of Legislative Support Services for their effort in putting together this edition. I recommend the publication to legislators, the general public and researchers.

**Professor Abubakar Olanrewaju Sulaiman**  
*Director General*  
*National Institute for Legislative and Democratic Studies*  
*National Assembly*  
*Abuja*  
*November, 2020*

## **Preface**

The idea of undertaking analysis of legislative proposals was initiated in 2005 by the erstwhile Policy Analysis and Research Project (PARP) of the National Assembly. The primary objective is to assist lawmakers with expert input into Bills under legislative consideration. The first edition of Bill Digest was published in 2007. The National Institute for Legislative and Democratic Studies (NILDS), is the successor to PARP, vested with statutory mandate to support and strengthen legislative governance at the national and sub-national levels. This is the 3<sup>rd</sup> edition of the Bill Digest, following the revival of the Digest in 2019. The Bills analysed in this and previous editions undergo technical evaluation using expert templates including the background of the legislative proposal, comments on specific clauses contained in the proposal, existing legal order (to avoid duplication), cross-country experience from which lessons may be learnt in relation to the Bill, the recommendation made by the analyst and conclusions to be drawn from the review/evaluation.

This publication provides the legislature and other stakeholders with broad insight into the normative and empirical justifications for the passage or rejection of legislative proposals. The net benefit of the publication is to assist law makers, their technical support aides and other stakeholders with a concise knowledge of the legislative analysis/scrutiny process. The analysis includes adequate references. It is hoped that lawmakers, their technical support aides and researchers will find the publication useful in the effort to strengthen the quality of legislation in Nigeria.

**Professor Edoba B. Omoregie**

*Editor-in-Chief, Bill Digest*

*Ag. Director*

*Department of Legislative Support Services*

*National Institute for Legislative and Democratic Studies*

*National Assembly*

*November, 2020*

## **BILL ANALYSIS REPORT ON THE NATIONAL TOBACCO CONTROL ACT 2015 (AMENDMENT) BILL, 2019**

**Mohammed Amali\***

**Sponsor: Hon. Mohammed Tahir Monguno**

### **Objectives of the Bill**

The Bill seeks to improve upon the provisions of the Principal Act towards protecting the present and future generations of Nigerians and residents of Nigeria from the devastating health, social, economic, and environmental consequences of use of or exposure to tobacco or tobacco products and exposure to tobacco or tobacco produce smoke; and to give effect to the obligations to protect citizens against tobacco or tobacco product-related harms in the promotion of health and other human rights that Nigeria as a party to the World Health Organization (WHO) Framework Convention for Tobacco Control and other related treaties has agreed to undertake.

### **Summary of the Bill**

The Bill comprises 26 clauses. Clause 1 is the general amendment clause. Clauses 2, 3, 4 and 8 amend Section 2 of the Principal Act pertaining to the National Tobacco Control Committee. Clauses 6, 7 and 8 amend Section 9 of the Principal Act as it pertains to the regulation of smoking. Clause 9 deletes Subsection (3) of Section 11 of the Principal Act. Clauses 10, 11 and 12 amend Section 12 of the Principal Act as regards the prohibition of tobacco advertising, promotion and sponsorship. Clauses 13 and 14 amend Section 14 of the Principal Act regarding penalties/compliance pertaining to the prohibition of tobacco advertising, promotion and sponsorship. Clauses 15, 16 and 17 amend Section 16 of the Principal Act regarding penalties and compliance pertaining to sale of tobacco products. Clause 18 amends Section 17 of the Principal Act regarding the regulation of tobacco products, tobacco product contents and emission disclosures. Clause 19 amends Section 18 of the Principal Act as it pertains to product contents and

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\*LL.B, LL.M, PhD, BL, Research Fellow, National Institute for Legislative and Democratic Studies (National Assembly) Abuja, Nigeria, [mohammed.amali@nils.gov.ng](mailto:mohammed.amali@nils.gov.ng)

## BILL ANALYSIS REPORT ON THE SHERIFFS AND CIVIL PROCESS ACT (AMENDMENT) BILL 2019

Mohammed Amali\*

Sponsor: Hon. Dozie Ferdinand Nwankwo

### Objectives of the Bill

The Bill seeks to:

Amend the Sheriffs and Civil Process Act; and  
Make provisions for the service of Writs of Summons to be executed on defendants by registered courier companies, law chambers, or any other person so appointed by the court.

### Summary of the Bill

The Bill is divided into two clauses as follows:

Clause 1 amends Section 96 of the Sheriff and Civil Process Act to the extent that service of Writs of Summons may be effected on defendants by courier companies, law chambers, or any other person appointed by the Court in so far as such companies, law chambers and persons are duly registered and accredited by the Court. Clause 2 is the Citation Clause of the Bill.

### Background

It is a settled law that a writ of summons is the originating process of the Court in a civil action.<sup>1</sup> Thus due service of the summons on the party or his Counsel is a fundamental condition precedent required before the Court can have competence and jurisdiction to entertain a suit and this fulfils the principle of natural justice.<sup>2</sup>

It is equally a settled law that the object of service of processes is to give notice to a defendant so that he or she may be aware of, and be able to defend that which is claimed against him.<sup>3</sup> It is apposite therefore, to state the importance of service of court processes on defendants. Where there is a

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\*LL.B, LL.M, PhD, BL, Research Fellow, National Institute for Legislative and Democratic Studies (National Assembly) Abuja, Nigeria, [mohammed.amali@nils.gov.ng](mailto:mohammed.amali@nils.gov.ng)

<sup>1</sup> Per Nimpar, JCA in *Madam Elizabeth Ewukoya & Anor v. Tajudeen Buari & Ors* (2016) LPELR-40492, Pp. 7-8, Paras. D-A

<sup>2</sup> See *Ajidahun v. Ajidahun* (2000) LPELR-6774 (CA)

<sup>3</sup> *Hope Uzodinma v. Senator Osita B. Izunaso & Ors* (CA/A/51/2011) (2)



failure to serve a party who deserves to be served, and judgement is reached, the party concerned is entitled as a matter of right to have the order that emanated therefrom, set aside as a nullity because such a judgment would run contrary to the rules of natural justice.<sup>4</sup>

Also, for service to be proper, it must be effected by the persons authorized by the rules of Court to effect the service, effected in accordance with the rules of Court or other legislation regulating service of processes and there must be proof that the service was effected in accordance with the procedure stipulated by law. To this end, by the provisions of the *Sheriffs and Civil Process Act*, and the various rules of Courts, the service of Court processes are carried out by Sheriffs, Deputy Sheriffs, Bailiffs, and other officers of Court.

However, since the *Sheriffs and Civil Process Act* provides that “*writ of summons issued out of or requiring the defendant to appear at any Court of a state or the Capital Territory may be served on the defendant in any other state or the Capital Territory*,”<sup>5</sup> there are bound to be difficulties (bureaucratic bottlenecks, staffing issues etc.) with Bailiffs and Sheriffs alike struggling to meet up with the demands of serving individual processes on defendants especially those outside jurisdiction. There are also the attendant costs of such travels as well as the risks involved when a Bailiff has to for instance, travel from one end of the country to the other just to effect service.

Consequently, this (amendment) Bill seeks to improve upon the Principal Act by ensuring the effective execution of Court processes on defendants through the expansion of the scope and category of persons authorised to carry out services of summons on defendants. It thus, gives legal sanction to the use of courier services, law chambers, or other persons appointed by the Court. This is in line with the principles of natural justice because a defendant is entitled to have disclosed to him the nature of all relevant material evidence, including documentary evidence, prejudicial to him except in recognised exceptions.<sup>6</sup>

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<sup>4</sup>Mbadinuju v Ezuka(1994) 8 NWLR PT 364; Ewinstel Nigeria ltd v Abia (2011) LPELR-4132 (CA)

<sup>5</sup>Section 96 Of the Sheriffs and Civil Process Act.

<sup>6</sup>Bature Many a v The State(2012) LPELR-15185 (CA)

## COMMENTS

### Cross-Country Analysis

#### United Kingdom

By its Civil Procedure Rules and Practice Directions,<sup>7</sup> the United Kingdom utilises service of processes via post, fax or other electronic means, and by the Courts as well.<sup>8</sup> The services of specialist teams of court process servers are also retained and these services follow a strict set of rules and special instructions provided to them by the court.<sup>9</sup>

The table below<sup>10</sup> shows every method of service and what is deemed as effective service.

Method of Service	Deemed Date of Service
1. First class post (or other service which provides for delivery on the next business day)	The second day after it was posted, left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day.
2. Document exchange	The second day after it was left with, delivered to or collected by the relevant service provider provided that day is a business day; or if not, the next business day after that day.
3. Delivering the document to or leaving it at a permitted address	If it is delivered to or left at the permitted address on a business day before 4.30p.m on that day; or in any other case, on the next business day after that day.
4. Fax	If the transmission of the fax is completed on a business day before 4.30p.m on that day; or in any other case, on the next business day after

<sup>7</sup>[http://www.justice.gov.uk/courts/procedurerules/civil/rules/part06/pd\\_part06a#1.1](http://www.justice.gov.uk/courts/procedurerules/civil/rules/part06/pd_part06a#1.1)

<sup>8</sup>Rule 8 (1) CPR

<sup>9</sup>Diem Legal is one of such process servers- <https://www.diemlegal.co.uk/services/process-server/>

<sup>10</sup>Order 6.26 of the Civil Procedure Rules- <https://www.justice.gov.uk/courts/procedure-rules/civil/rules/part06>

	the day on which it was transmitted.
5. Other electronic method	If the e-mail or other electronic transmission is sent on a business day before 4.30p.m on that day; in any other case, on the next business day after the day on which it was sent.
6. Personal service	If the document is served personally before 4.30p.m on a business day, on that day; or in any other case, on the next business day after that day.

The admirable takeaway from the UK experience is the detailed manner in which every method of service is structured because this gives room for an effective delivery system. For service by post for instance, the rules state unequivocally that such services are carried out through First Class post with similarly clear pointers as to when such services are deemed delivered.

### Kenya

The provisions of *Order 5 of the Civil Procedure Rules of Kenya* governs the service of summons by providing the procedure through which a party maybe informed that a suit has been instituted against them. Just like this (amendment) Bill seeks to adopt, the Kenyan judiciary allows for the use of courier services as a means of delivering a Court Processes.

The Kenyan Judiciary also makes use of the services of licensed firms that work as Court Process Servers who are chosen after a thorough interviewing process.<sup>11</sup> These process servers are licensed to serve the Judiciary and are tasked with finding parties involved in a case and serving them with court processes.<sup>12</sup>



<sup>11</sup><https://www.judiciary.go.ke/licensing-of-court-process-servers-begins/>

<sup>12</sup> One of such licensed firms is Lolwe Auctioneers firm (<http://www.lolweauctioneers.com/about-us/about>)

### **Content structure of the Bill**

The Enacting Formula of the Bill does not conform to that adopted by the National Assembly which has been in use since the Fourth Republic.

The Explanatory Memorandum to the Bill reads-

“This Bill seeks to amend the provisions of the Sheriffs and Civil Process Act, Cap S.6 Laws of the Federation of Nigeria 2004.”

This is too brief and not expository enough for the Bill.

### **Conclusion and Recommendations**

The importance of proper service of Court processes cannot be overemphasised. While a case cannot be won by adhering to this sacrosanct procedure, a case can be lost in an instant if proper service is overlooked. By expanding the category of persons lawfully recognised to make such service on defendants, this (amendment) Bill is apt and worthy of consideration of the House of Representatives in line with the following recommendations as follows -

The Enacting formula should be redrafted to conform to the adopted model of the National Assembly that has been in use since the Fourth Republic.

The following redraft is recommended:

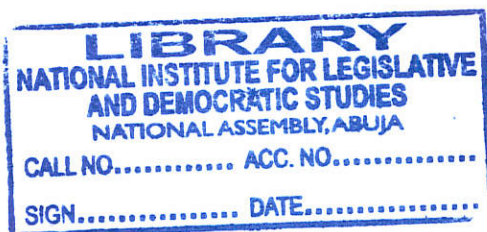
“ENACTED by the National Assembly of the Federal Republic of Nigeria-“

The Long Title of the Bill should be redrafted thus-

“A Bill for an Act to amend the provisions of the Sheriffs and Civil Process Act, Laws of the Federation of Nigeria 2004, and for related matters.”

The Explanatory Memorandum to the Bill should be redrafted to read-

“This Bill seeks to amend the provisions of the Sheriffs and Civil Process Act Cap S6 Laws of the Federation of Nigeria 2004 to expand the scope and category of persons authorised to carry out services of summons on defendants”.



## **BILL ANALYSIS ON FEDERAL HOUSING AUTHORITY BILL, 2019**

**Adaobi Julia Ofordeme\***  
**Sponsor: Hon. Zainab Gimba**

### **Objectives of the Bill**

The Bill seeks to repeal the Federal Housing Authority Act, Cap. F14, Laws of the Federation of Nigeria, 2004 and enact Federal Housing Authority Bill to:

make recommendations to the Federal Government in respect of urban and regional planning, transportation, communications, electric power, sewage and water supply development as may be relevant to the successful execution of housing programmes approved by the Federal Government;

Execute such housing programmes as may be approved by Government;

Provide social housing in all states of the Federation and the Federal Capital Territory;

Develop and manage estates on commercial and profitable basis in all states of the Federation and the Federal Capital Territory;

Execute special housing programmes as approved and funded by the Federal Government;

Determine the overall policy of the Authority especially regarding the financial, economic and operational programmes of the Authority;

Ensure the implementation of such policies and programmes; and

Source funds for housing development in Nigeria.

### **Summary of the Bill**

The Bill consists of six (6) parts, twenty four (24) clauses and one schedule. Part I which consists of clauses 1 to 5 provides for the establishment of the Federal Housing Authority, composition of the board of directors of the authority, members of the board, allowances of members, and cessation of membership. Part II on the board and the Authority consists of clauses 6 to 8, and provides for powers of the board, functions of the Authority, and powers of the Authority. Part III on staff of the Authority consists of clauses 9 to 15 and provide for appointment of the Managing Director, duties of the

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\* LL.B, LL.M, BL, Research Fellow, National Institute for Legislative and Democratic Studies (National Assembly) Abuja, Nigeria. [sonjulad@gmail.com](mailto:sonjulad@gmail.com)

Managing Director/Chief Executive, appointment of Executive Directors, secretary to the board, staff of the Authority, staff regulations and pension respectively.

Part IV on financial provisions consists of clauses 16 and 17 which provide for fund of the Authority, annual report, accounts and audit of the Authority. Part V consists of clauses 18 and 19 which provide for compulsory acquisition of land and protection of land vested in the Authority. Part VI on miscellaneous provisions consists of clauses 20 to 24 which provide for power of Minister to give directives, protection of employees of the Authority, regulations, interpretation and citation. i.e. the short title for the Bill, which is the Federal Housing Authority Bill, 2019.

### **Background**

The Federal Housing Authority was established by Decree No. 40 of 1973 which was later revised as Cap 136, Laws of the Federation 1990, and now Federal Housing Authority Act, Cap. F14, Laws of the Federation of Nigeria, 2004. The Authority was mandated through its establishing Act to among others, prepare and submit proposals for National Housing Programme to the Federal Government from time to time; make recommendations to the Government on such aspects of urban and regional planning, transportation, communication, electric power, sewage and water supply development as may be relevant to the successful execution of housing programme approved by the Government; and execute such housing programmes as may be approved by the Government.<sup>1</sup> Also, the Authority has the mandate to acquire, construct and maintain dwelling houses, schools, communal and commercial buildings, and other structures; undertake or sponsor the undertaking or such research as may be necessary for the performance of its functions; and train its staff for the purpose of running the Authority's operation.<sup>2</sup>

Pursuant to the powers of the Minister to make regulations for the Authority, the National Housing Policy 2012 was made which further expanded the role of the Authority to include the power to: develop and manage real estate on commercial basis in all states of the Federation and the Federal Capital Tertiary (FCT); provide sites and services for all income groups with special emphasis on the no income and low-income groups, funded by the Federal

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<sup>1</sup> Section 3 of the Federal Housing Authority Act, Cap. F14, LFN, 2004.

<sup>2</sup> Section 4 of the Federal Housing Authority Act, Cap. F14, LFN, 2004.

Government and other sources; provide no income and low-income, cooperative, and rural housing in all states of the Federation and the Capital Territory from funds provided by Government and other sources; execute such housing programmes in the public interest as may be approved by the Federal Government; and mobilize off-shore funding for housing development.<sup>3</sup>

In order to reposition the Authority for sustainable growth within the building industry, its role was redefined under the 1991 National Housing Policy and subsequently under the 2006 and 2012 National Housing policies. Accordingly, in line with the redefined roles and the need to identify and specify the business strategies to achieve its mission, the Federal Government through the former Technical Committee on Privatization and Commercialization (TCPC) now Bureau of Public Enterprises (BPE), partially commercialized the Authority in 1992 and entered into a Performance Agreement with the Authority. The aim of the agreement was to reduce the amount and scope of financial support of the Federal Government and enable the Authority to meet changing business requirements. Further, the Agreement approved a restructured package commercializing the activities of the Authority with a view to repositioning it. This includes determination of rents, rates and charges for goods or services produced or rendered by the Authority subject to consultation with the supervising ministry.<sup>4</sup>

Following these numerous reforms and repositioning over the years, the objectives and mandate of the Authority have changed. These include the new objectives and mandates introduced by the policies for and Agreement by the Authority. However, there has not been any legislative framework backing all these changes. Thus, the need for this Bill under review to provide legislative backing for the above changes and consolidate same.

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<sup>3</sup> Historical Background, Federal Housing Authority  
<https://www.fha.gov.ng/about?id=about1> Accessed 4 November 2019

<sup>4</sup> Performance Agreement with the Federal Government, Historical Background, Federal Housing Authority <https://www.fha.gov.ng/about?id=about1> Accessed 4 November 2019.

## **COMMENTS**

### **Existing Legal Order**

The Federal Housing Authority Act, Cap. F14, Laws of the Federation of Nigeria, 2004

The Federal Housing Authority Act, Cap. F14, Laws of the Federation of Nigeria, 2004 Established the Federal Housing Authority to among others- Prepare and submit from time to time to the Government, proposals for national housing Programmes;

make recommendations to the Government on such aspects of urban and regional planning, transportation, communications, electric power, sewerage, and water supply development as may be relevant to the successful execution of housing programmes approved by the Government; and

Execute such housing programmes as may be approved by the Government. This is the Act that the Bill seeks to repeal.

### **Content Structure of the Bill**

Although the purpose of the Bill is commendable, the provisions has some drafting errors and technical defects. The following are the technical and content defects discovered in the Bill-

Clause 12 which provides for the secretary to the board of the Authority, further stated that the Secretary shall not be a member of the Board.

This provision contradicts itself and should be redrafted for clarity.

In clause 24, the citation of the Bill omitted the words “repeal and enactment”, thereby making a wrong representation of the purpose of the bill.

The short title should read “This bill is cited as the Federal Housing Authority (Repeal and Enactment) Bill, 2019.

The bill does not have a “repeal and savings” provisions.

The Bill seeks to repeal the existing Federal Housing Authority Cap. F14, Laws of the Federation of Nigeria, 2004 and enact a new Federal Housing Authority Act, so there is need for a clause providing for the repeal of the existing one and the saving of the rights and responsibilities under the Act to be repealed.

The Bill does not have an “Arrangement of Clauses”.

There is need for this in a bill as it is part of the Bill and aids in ease of reading the Bill.



**Cost-Benefit Analysis**

The purpose of the Bill will not affect the cost of governance of the country as the sources of fund provided under clause 16 of the Bill is the same as already provided for under section 8 of the Act that is sought to be repealed by this Bill.

**Conclusion and Recommendation**

Since the establishment of the Federal Housing Authority in 1973, the legislative framework has undergone minimal review compared to the numerous changes and improvements that the Authority has experienced. It is therefore imperative to review its principal establishing Act to reflect these changes. Accordingly, the passage of the Bill will help in the furtherance of the improvements that the Authority has undergone over the years.

However, there is a need to re-draft the Bill to reflect the abovementioned observations and recommendations in order to achieve the purpose of the Bill.