

(2) The Agency shall submit the accounts annually for auditing by a qualified auditor from the list of auditors and in accordance with the guidelines supplied by the Auditor-General for the Federation.

42. The Agency shall, not later than 30th September in each year, submit to the President through the Minister, a report of its activities during the immediate preceding year and shall include in such report the audited accounts of the Agency.

Annual
Report.

PART VII—SEARCH, ARREST AND SEIZURE

43.—(1) An officer of the Agency or a duly authorized law enforcement officer may apply ex-parte to the Court for the issuance of a warrant for the purposes of conducting an investigation under this Act.

Issuance of
warrant for
Investigation.

(2) The Court may issue a warrant authorizing an officer of the Agency or any law enforcement officer to—

(a) enter the premises or conveyance specified or described in the warrant ;

(b) search the premises or conveyance and any person found therein; and

(c) seize and retain any relevant material found therein.

(3) The Court shall not issue a warrant under subsection (2) of this Section unless the Court is satisfied that—

(a) the warrant is sought to prevent the commission of an offence under this Act or to prevent the interference in an investigation under this Act, or for the purpose of a trafficking in persons investigation ;

(b) there are reasonable grounds for believing that there is a person or material on the premises or conveyance which may be relevant to the investigation ; or

(c) the person being sought is preparing to commit an offence under this Act.

44.—(1) Where in a case of verifiable urgency, or a life is threatened, or to prevent the commission of an offence provided under this Act, an application to the Court or to a Judge in Chambers to obtain a warrant would cause delay that may be prejudicial to the maintenance of public safety or order, an officer of the Agency or a law enforcement officer may, without prejudice to the provisions of section 43 of this Act or any other law with the assistance of such other officers as may be necessary and while search warrant is being sought for—

Investigation
or search
without
Warrant.

(a) enter and search any premises or place if he has reason to suspect that, within those premises, place or conveyance—

(i) an offence under this Act is being committed or likely to be committed ;

(ii) there is evidence of the commission of an offence under this Act ; or

(iii) there is an urgent need to prevent the commission of an offence under this Act ;

(b) search any person or conveyance found on any premises or place which such officer is empowered to enter and search under paragraph (a) of this subsection ;

(c) require information from and attendance of any person, beneficiary or any person connected in any way in a matter under investigation ;

(d) inspect computer systems, recorded information, electronic devices or accessories or any such device found on the premises ;

(e) observe the carrying on of business or professional activities by any person ;

(f) stop, board and search any conveyance where the Agency or its authorised officer has reasons to suspect that there is evidence of the commission or likelihood of the commission of an offence under this Act ;

(g) seize, remove and detain anything which is, or contains or appears to him to be or to contain or to be likely to contain, evidence of the commission of an offence under this Act ; or

(h) arrest, search and detain any person whom the officer reasonably suspects of having committed or likely to commit an offence under this Act.

(2) Where a seizure is effected in the course of search or investigation under this Act, a copy of the list of all the articles, documents and other materials seized shall be made, duly endorsed and handed to the—

(a) person on whom the search is made; or

(b) owner of the premises, place or conveyance seized.

(3) Notwithstanding the provisions of subsection (1) of this Section, a woman shall only be searched by a woman.

(4) Nothing in this section shall be construed as derogating from the lawful right of any person in defence of his person or property.

(5) Any officer of the Agency or a duly authorized law enforcement officer who uses such force as may be reasonably necessary for any

purpose in accordance with this Act, shall not be liable in any criminal or civil proceeding, for having, by the use of reasonable force, caused injury or death to any person or damage to or loss of any property.

45.—(1) A video or other audio-visual recording may be made and kept in respect of any person, conveyance or property detained under any provision of this Act as may be required by the Agency.

Video recording and custody of records.

(2) Records in respect of any person, conveyance or property detained under any provision of this Act shall be kept in the custody of the Agency.

(3) Subject to the provisions of the Evidence Act, a video recording and other forms of electronic evidence shall be admissible in evidence before any Court of competent jurisdiction in Nigeria for offences under this Act.

(4) In a trial for any offence under this Act, the Court may receive testimony by video-link or such electronic medium, provided the witness testifying by such means may be cross-examined.

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

Protection of informants and information.

47.—(1) The Court may, on a motion by or on behalf of the Minister, Agency or a law enforcement agency, protect a witness or other persons in any proceeding before it.

Witness protection.

(2) Where the Court is satisfied that the life of the witness or any other person is in danger, the Court may on its own, take such measures as it deems necessary and expedient to keep the identity and address of the witness secret.

(3) The measures which the court may take under subsection (1) of this section may include the—

(a) holding of the proceeding at a place to be decided by the Court ;

(b) avoidance of the mention of the *real* name and address of the witness in its orders, judgments or records of the case, which are accessible to the public ; or

(c) issuing of a direction for ensuring that the identity and address of the witness are not disclosed.

(4) The Court may also decide, in the public interest, that all or any of the proceedings pending before the Court shall not be published in any manner.

(5) The Court may in the interest of public safety or order, exclude from proceedings for any offence under this Act, any person other than the parties and their legal representatives.

(6) A person who contravenes an order or direction made under this section, commits an offence and is liable on conviction to imprisonment for a term of not less than 5 years.

PART VIII—ATTACHMENT AND FORFEITURE OF ASSETS

Forfeiture
of Passport.

48. The passport of any Nigerian convicted of an offence under this Act shall be forfeited to the Federal Government, and such forfeited passport shall be handed over to the Nigeria Immigration Service for appropriate action, and shall not be returned to that person unless the President directs otherwise, after the grant of a pardon on the exercise of prerogative of mercy under the Constitution of the Federal Republic of Nigeria.

Forfeiture
of assets
after
Conviction.

49.—(1) A person convicted of an offence under this Act shall forfeit to the Victims of Trafficking Trust Fund—

(a) all the asset and property which are the subject of an interim attachment order of the Court after an attachment by the Agency as specified in Section 55 of this Act ;

Second
Schedule.

(b) any asset or property derived from any proceeds obtained, directly or indirectly not already disclosed in the Declaration of Assets Form specified in Form I of the Second Schedule to this Act or not subject of an interim attachment order ; and

(c) any property or instrumentality used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Declaration of Assets Form or not subject of an Interim attachment order.

(2) The court, in imposing a sentence on any person under this Act shall in addition to any other sentence imposed under this Act, order that the person forfeits to the Victims of Trafficking Trust Fund all properties described in subsection (1) of this Section.

(3) In this section, “*proceeds*” means any property derived or obtained, directly or indirectly, through the commission of an offence under this Act.

50.—(1) Where it is established that any convicted person has assets or properties in a foreign country, acquired as a result of any of the offences under this Act, such assets or properties subject to any treaty or arrangement with such foreign country, shall be forfeited to the Victims of Trafficking Trust Fund.

Foreign
assets.

(2) The Agency shall, through the Office of the Minister, ensure that the forfeited assets or properties are effectively transferred and vested in the Victims of Trafficking Trust Fund.

51.—(1) Any property—

Property
subject to
forfeiture.

(a) whether real or personal, which represents the gross receipts which a person obtains directly or indirectly as a result of the violation of this Act or which is traceable to such gross receipts ; and

(b) within Nigeria which represents the proceeds of an offence under the laws of a foreign country within whose jurisdiction such offence or activity would be punishable by imprisonment for a term exceeding 1 year and which would be punishable by imprisonment under this Act if such act or activity had occurred within Nigeria.

(2) Without prejudice to the provisions of any other law permitting the forfeiture of property, the following shall also be subject to forfeiture under this Act and no proprietary right shall exist in them—

(a) all means of conveyance, including vehicles or vessels which are used or are intended for use to transport or, in any manner, facilitate trafficking of any person provided that a means of conveyance—

(i) used by any person in the transaction of business as a common carrier shall not be forfeited under this section unless it appears that the owner or other person in charge of such means of conveyance was a consenting party or privy to a violation of this Act ;

(ii) shall not be forfeited under this section by reason of any act established by the owner to have been committed by any person other than that owner while such means of conveyance was unlawfully in the possession of a person other than the owner in violation of the criminal laws of Nigeria or any part thereof ; and

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

(b) all monies, negotiable instruments, securities or other things of value furnished or intended to be furnished by any person in exchange

for any violation of this Act or all proceeds traceable to such an exchange, and all monies, negotiable instruments and securities used or intended to be used to facilitate any violation of this Act ; and

(c) all real property, including any right, title and interest (including any leasehold interest) in the whole or any piece or parcel of land and any improvements or appurtenances which are used or intended to be used, in any manner or part to commit or facilitate the commission of an offence under this Act.

Seizure of property.

52.—(1) Seizure of any property subject to forfeiture under this Act may be effected by the Agency where the—

(a) seizure is incidental to an arrest or search ; or

(b) property is liable to forfeiture upon process issued by the Court following an application made by the Agency in accordance with the prescribed rules.

(2) Whenever property is seized under any of the provisions of this Act, the Agency may—

(a) place the property under seal ; or

(b) remove the property to a place designated by the Agency.

(3) Property taken or detained under this section shall be deemed to be in the custody of the Agency subject only to the order of the Court.

Investigation of Assets and Properties of an arrested person.

53.—(1) Where a person is arrested or is under investigation for an offence under this Act, the Agency shall immediately trace and attach all the assets and properties of the person acquired as a result of the offence.

(2) Where an asset or property of any person arrested under this Act is to be attached, the Agency shall apply to the Court for an interim attachment order subject to the provisions of section 55 of this Act.

Disclosure of Assets and Property by an arrested person.

54.—(1) Where a person is arrested for committing an offence under this Act, it shall be obligatory for the person to make full disclosure of all his assets and properties by completing the Declaration of Assets Form as specified in Form 1 of the Second Schedule to this Act.

Second Schedule

(2) The disclosures made in the Declaration of Assets Form shall be investigated by the Agency.

(3) Any person who—

(a) knowingly fails to make full disclosure of his assets and liabilities ;

(b) knowingly makes a declaration that is false ; or

(c) fails, neglects or refuses to make a declaration or furnish any information required, in the Declaration of Assets Form, commits an offence and is liable on conviction to imprisonment for a term of 2 years.

55. Where any asset or property has been seized by the Agency under this Act, the Agency shall, cause an application to be made to the Court for an interim attachment order and the Court shall, if satisfied that there is a *prima facie* evidence that the property concerned is liable to forfeiture, make an interim attachment order.

Interim
attachment
order after
Seizure of
Property.

56. Where an arrested person is convicted of an offence under this Act, the Agency or any authorized officer shall apply to the Court for a final order of forfeiture of the convicted person's assets and properties which are—

Final Order
of
Forfeiture.

(a) already subject to an interim attachment order ;

(b) derived from any proceeds the person obtained, directly or indirectly, as a result of such offence not already disclosed in the Declaration of Assets Form and not subject to interim order ; and

(c) any property or instrumentality used in any manner to commit or to facilitate the commission of such offence not already disclosed in the Declaration of Assets Form.

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

Disposal of
Forfeited
Property.

(2) Upon receipt of the final court order under this section, the Director-General shall take steps to dispose of the property concerned by sale or otherwise and where the property is sold, the proceeds shall be paid into the Victims of Trafficking Trust Fund.

(3) Where any part of the property included in the final court order is money in a bank or any financial institution or in the possession of any person, the Agency shall cause a copy of the order to be produced and served on the manager or any person in control of the head office or branch of the bank concerned and that manager or person shall pay over the money to the Agency and the Agency shall pay the money received into the Victims of Trafficking Trust Fund.

(4) The Minister may make rules, guidelines or regulations for assets forfeiture, disposal and management under this Act.

Offences in
relation to
Forfeiture
Orders.

58.—(1) A person who, without due authorization by the Agency, deals with, sells or otherwise disposes of any property or asset which is the subject of attachment, seizure, interim attachment order or final forfeiture order; commits an offence and is liable on conviction to imprisonment for a term of 5 years without an option of fine.

(2) Any manager or person in control of the head office or branch of a bank or other financial institution who fails to pay over any money to the Agency upon the production of a final forfeiture order commits an offence under this Act and is liable on conviction to imprisonment for a term of not less than 1 year without an option of fine.

Consequences
of an
acquittal in
respect of
confiscated
Assets and
Property.

59.—(1) Where a person is discharged or acquitted by a Court of an offence under this Act, the Court may make an order of revocation or confirmation, as the case may be, of an interim attachment order made under this Act whichever order is considered just, appropriate or reasonable within the circumstances.

(2) The property may be attached where a discharge is merely given on technical grounds.

(3) Where an interim order is revoked by a Court under subsection (1) of this section, all assets and properties of the person concerned shall be released by the Agency.

Freezing
Order on
Banks or
other
Financial
Institutions.

60.—(1) Notwithstanding anything contained in any other enactment, where a person is arrested or under investigation for an offence under this Act, the Director-General may, if satisfied that the money in the account of an arrested person is made through the commission of an offence under this Act, apply to the High Court *ex parte* for an order authorizing the Agency to issue or instruct a bank examiner or such other appropriate regulatory authority to issue an order as specified in Form 2 of the Second Schedule to this Act, addressed to the authority of the bank or financial institution where the account is or believed to be domiciled or the head office of the bank or other financial institution, to freeze the account.

Second
Schedule.

(2) The Director-General or bank examiner may, by an order issued under subsection (1) of this section or by any subsequent order, direct the bank or other financial institution to supply any information and produce books and documents relating to the account and to stop all outward payments, operations or transactions (including any bill of exchange) in respect of the account of the arrested person or a person under investigation.

(3) The manager or any other person in control of the bank or a financial institution shall take necessary steps to comply with the requirements of the order made under subsections (1) and (2) of this section.

(4) In this section—

(a) “*bank*” has the meaning given to it in the Banks and Other Financial Institutions Act, CAP B3, Laws of the Federation of Nigeria, 2004 as amended ; and

(b) “*order*” refers to any order, direction or requirement addressed to the manager of a bank or any other officer of a bank which directs or purports to direct the manager or such officer to stop all outward payment, operations or transactions in respect of any account with that bank.

PART IX—TREATMENT OF TRAFFICKED PERSONS

61. The Agency shall ensure that—

(a) a trafficked person is not subjected to discriminatory treatment on account of race, colour, gender, sex, age, language, religion, political or other opinion, cultural beliefs or practices, national, ethnic or social origin, property, birth or other status, including his status as a victim of trafficking or having worked in the sex industry ;

(b) a trafficked person has access to adequate health and other social services during the period of temporary residence ;

(c) a trafficked person has access to the embassy or, consulate of the country of which he is a citizen or, where there is no embassy or consulate, has access to the diplomatic representative of the State that takes charge of the country’s interest or any national to protect him ;

(d) a trafficked person is able to return home safely, if he wishes and when he is able to do so ;

(e) a trafficked person is not denied temporary residence visas during the pendency of any criminal, civil or other legal action ;

(f) investigation, detection, gathering and interpretation of evidence are conducted in such a manner as to minimize intrusion into the personal history of a trafficked person ;

(g) the identity of a person trafficked is protected ;

(h) the use of any person’s history of being trafficked to discriminate or cause harm to such person, his family or his friends in any way whatsoever, particularly with regards to freedom of movement, marriage or search for gainful employment is prohibited ;

Treatment
of
Trafficked
Persons.

(i) it takes steps to maintain and rehabilitate facilities provided for trafficked persons ; and

(j) a trafficked person and his family are protected from intimidation, threats, and reprisals from traffickers and their associates including reprisals from persons in position of authority.

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

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

Rights of a
victim to
information.

63. A victim of trafficking in person shall be provided with—

(a) information on relevant Court and administrative proceedings ;

(b) assistance to enable the victim's views and concerns to be presented and considered at appropriate stages of criminal proceedings against the traffickers ; and

(c) counseling and information as regards victim's legal rights in a language that the victim can understand.

Establishment
of Transit
Shelter.

64.—(1) There shall be established for the Agency Transit Shelters which shall be managed and supervised as homes to cater for rescued trafficked persons particularly women and children.

(2) The Transit Shelters shall be run by staff of the Agency with the aim of providing protection, assistance, counseling, rehabilitation and training for the rescued victims to facilitate their reintegration into the society.

Right to
compensation
or
restitution.

65.—(1) A trafficked person, irrespective of his immigration status is entitled to compensation, restitution and recovery for economic, physical and psychological damages which shall be assessed and paid out of forfeited assets of the convicted trafficker.

(2) Where an offender is convicted of an offence under this Act, the Court may order the offender to pay compensation to the victim, in addition to any other punishment ordered by the Court.

(3) Notwithstanding any other provision of this Act, a trafficked person has the right to institute civil action against a trafficker and any other person including a public officer who may have exploited or abused his person provided that the amount awarded by the Criminal Court shall be taken into consideration in the determination of the amount of compensation to be awarded in the civil suit.

