

(9) promote and safeguard national interests, safety and security of citizens and foreigners in the use of information technology and digital services.

Section 2 - Application

This Act applies to the provision, deployment and use of information technology systems, practices, and digital services within Nigeria, or on a ship or aircraft registered in Nigeria.

Section 3 - Savings and Transitional Provisions

(1) The powers, duties and functions of the National Information Technology Development Agency established under the National Information Technology Development Agency Act No. 28 of 2007 ("the repealed Act") is transferred to the National Information Technology Development Agency established under this Act.

(2) Anything made or done or having effect under the repealed Act and having any resulting or continuing effect shall be treated, from the commencement of this Act, as if it were made or done by the Agency established under this Act.

(3) Any person who, before the commencement of this Act, was appointed or employed by the Agency established under the National Information Technology Development Agency Act No. 28 of 2007, shall continue in office and be deemed to have been appointed or employed by the Agency established under this Act.

(4) All assets, rights, liabilities and obligations of the Agency under the repealed Act shall, by virtue of this Act, be deemed to be that of the Agency established under this Act.

PART II

ESTABLISHMENT OF THE NATIONAL INFORMATION TECHNOLOGY DEVELOPMENT AGENCY AND ITS GOVERNING BOARD

Section 4 - Establishment of the National Information Technology Development Agency

(1) There is established a body known as the National Information Technology Development Agency (in this Act referred to as "the Agency").

(2) The Agency-

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue or be sued in its corporate name; and

- (c) may acquire, hold or dispose of any property, movable or immovable, for the purpose of its functions and powers under this Act.

Section 5 - Functions of the Agency

The Agency shall -

(1) regulate the use, development, standardisation, research, and application of information technology, emerging technology and digital services practices, activities and systems in Nigeria;

(2) regulate the use of data for business and security analytics and intelligence, subject to any other law on the subject;

(3) regulate the acquisition and use of digital systems and services in Government establishments and create a framework for the auditing of Government information technology systems and digital services platforms;

(4) regulate the use of digital signatures, digital contracts and other forms of digital transactions or interactions that may require authentication;

(5) issue regulations, guidelines, frameworks, directives and standards to facilitate the establishment and maintenance of appropriate infrastructure, and information technology systems, to support the development of digital services application in Nigeria;

(6) create processes and keep appropriate data to ensure effective monitoring of information technology and digital devices to support national security objectives;

(7) create incentives to promote the use of information technology such as the setting up of Information Technology Parks, promotion of innovation, start-up initiatives, digital entrepreneurship, the promotion of digital commerce, digital government services, privacy and trust;

(8) coordinate, monitor and evaluate the use and adoption of digital services, products and platforms to promote the digital economy;

(9) coordinate and supervise the activities of any entity incorporated, owned or partly owned by the government to provide information technology infrastructure and digital services;

(10) develop, test, and certify information technology systems, services and practices to promote innovation and the use of emerging technologies to improve efficiency in service delivery including registration of devices and type approvals;

(11) implement and execute projects for the purpose of development of information technology and digital economy;

(12) promote universal access for information technology, digital services and systems penetration in urban, rural, under-served and unserved areas;

(13) promote the adoption of locally produced information technology goods and services offered by Nigerian entities to support national security, job creation and the well-being of citizens, having regard to international treaties and agreements on trade;

(14) promote incentives to encourage private sector investments in the digital economy;

(15) promote digital skills, job creation, government digital services, cybersecurity, digital inclusion and local content development;

(16) promote the adoption of the Nigeria Top Level Country Code internet domain (.ng), sound internet governance and giving effect to the Second Schedule to this Act;

(17) determine critical areas in information technology and digital economy, requiring research and development intervention and implement the research and development in those areas;

(18) collaborate with any local or state government, company, firm, or person in any activity, to facilitate the attainment of the purpose of this Act;

(19) support the development and promotion of technical specifications and standards for the use of information technology and digital services in Nigeria, including emerging technologies such as robotics, blockchain, cloud computing, and artificial intelligence;

(20) render advisory services in all information technology and digital services matters to the public and private sectors;

(21) advice Government and State Governments on ways of promoting information technology and digital services in Nigeria to enhance national security, information security, cybersecurity, privacy and trust;

(22) protect the interest and rights of consumers against unfair practices in collaboration with the consumer protection regulator;

(23) represent Nigeria at international proceedings and meetings of international organisations relating to information technology and digital economy; and

(24) perform such other duties, which in the opinion of the Agency are necessary or expedient to ensure the efficient performance of the functions of the Agency under this Act.

Section 6 - Powers of the Agency

The Agency shall have powers to -

(1) implement all Government policies on information technology and digital economy;

(2) test, and approve the use of information technology infrastructure and services before adoption in Nigeria;

(3) develop regulations, guidelines and directives on the use of information technology and digital services in every sector of the economy to attain the purpose of the Agency;

(4) collaborate with the Standards Organization of Nigeria (SON) to develop and enforce the standards relating to this Act and make inputs to international standards on information technology and digital economy;

(5) fix licensing and authorisation charges, collect fees and penalties as may be necessary for the exercise of its functions under this Act;

(6) issue notices of contravention and non-compliance with this Act, regulations, standards and guidelines made under this Act;

(7) enter premises, inspect, seize, seal, detain and impose administrative sanctions on erring persons and entities who contravene any provision of this Act subject to the order of a court of competent jurisdiction;

(8) demand and monitor compliance with regulations, standards, guidelines and directives issued under this Act;

(9) create, and incorporate subsidiary offices and provide subventions for such offices to implement any of its mandate which may require dedicated institutional, legal and financing framework;

(10) enforce, in collaboration with law enforcement agencies, the provisions of this Act;

(11) issue certificate of clearance for such information technology and digital projects proposed by Ministries, Departments, Agencies and other public institutions of the Government, which has met its evaluation criteria for implementation of such projects;

(12) issue and renew licenses and authorisations for the provision of information technology and digital services;

(13) review administrative sanctions issued under this Act; and

(14) carry out other activities, which in the Agency's opinion are necessary to ensure the efficient performance of the purpose and functions of the Agency under this Act, including implementation of the functions under Section 5 of the Act.

PART III GOVERNING BOARD AND STRUCTURE OF THE AGENCY

Section 7 – Establishment of Governing Board

(1) There is established for the Agency, a governing board, known as the National Information Technology Development Agency Governing Board, in this Act referred to as "the Board".

(2) The Board shall consist of –

- (a) a part-time Chair;
- (b) a representative each of the-
 - (i) Federal Ministry responsible for information technology and digital economy,
 - (ii) Federal Ministry responsible for Education,
 - (iii) Standards Organization of Nigeria,
 - (iv) Council for the Regulation of Engineering in Nigeria, and
 - (v) Computer Professionals Registration Council of Nigeria;
- (c) four other members, one each from a geopolitical zone, other than the geopolitical zone which the Chair and the Director-General originate, who shall be persons of integrity; and
- (d) the Director-General of the Agency, who shall also be the Secretary to the Board.

(3) The supplementary provisions set out in the First Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters mentioned therein.

Section 8 - Appointment and Tenure of Members

(1) The Chair and members of the Board other than members representing statutory institutions shall be appointed by the President on the recommendation of the Minister.

(2) The Chair and members of the Board shall each hold office-

- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
- (b) on such terms and conditions as may be specified by law.

(3) Notwithstanding Section 8 (2) of this Act, a member of the Board shall cease to hold office as a member where such member:

- (a) resigns his or her appointment by notice, addressed to the President;
- (b) becomes of unsound mind;
- (c) becomes bankrupt or makes a compromise with his or her creditors;
- (d) is convicted of a felony or any offence involving dishonesty or corruption; or
- (e) becomes incapable of carrying out the functions of his or her office either arising from infirmity of mind or body.

(4) Where the President is satisfied that it is not in the interest of the Agency or the public for a member to continue in office, the President may, in writing, remove such member.

(5) Where a vacancy occurs in the membership of the Board, it shall be filled by the appointment of a successor representing the same interest to hold office for the remainder of the term of office of his or her predecessor.

(6) Subject to subsection (5) above, where a member fills a vacancy to complete the term of his or her predecessor, such term which the member completes shall be considered as a full term of office within the provision of subsection (2)(a) above for the member replacing another member.

(7) Notwithstanding the foregoing, the tenure of a member of the Board shall be terminated, where the president dissolves the Board.

Section 9 – Emoluments of Members

The Chair and members of the Board shall be paid such emoluments, allowances, and benefits as the Government may, from time to time, direct.

Section 10 - The Director-General

(1) The Agency shall have a Director-General who shall be:

- (a) appointed by the President;
- (b) the Chief Executive and Accounting Officer of the Agency; and
- (c) responsible for the day-to-day administration of the Agency.

(2) A candidate for the post of Director-General must possess academic qualification and cognate experience of not less than ten (10) years, in the following fields:

- (a) Administration;
- (b) Engineering;
- (c) Finance Management;
- (d) Information Technology; or
- (e) Law.

(3) The Director-General shall hold office:

- (a) for a term of 4 years in the first instance and may be re-appointed for a further term of 4 years and no more; and
- (b) on such terms and conditions as may be specified in his or her letter of appointment.

(4) Notwithstanding the provision of subsection (3) of this Section, the Director-General may:

- (a) resign his or her appointment by notice in writing under his or her hand, addressed to the President through the Minister; or
- (b) be removed by the President for –
 - (i) inability to discharge the functions of his or her office (whether arising from infirmity of mind or body); or
 - (ii) misconduct;

- (iii) abuse of office;
- (iv) corruption;
- (v) incompetence;
- (vi) physical or mental incapacity that renders the Director-General incapable of performing the duties of that office;
- (vii) conviction for an offence involving moral turpitude;
- (viii) being adjudged bankrupt by a court of law; and
- (ix) any other reasonable ground recommended by the Board to the Minister and approved by the President.

Section 11 – Staff

(1) The Agency may, subject to the approval of the Board, with recourse to the relevant government body, appoint such staff as it deems necessary and expedient, from time to time;

- (a) for the proper and efficient performance of its functions; and
- (b) on such terms and conditions, with remunerations, allowances and benefits as may be determined, from time to time, by the Board, in consultation with the National Salaries Incomes and Wages Commission.

(2) The Board and the National Salaries, Incomes and Wages Commission, in determining the terms and conditions, remunerations, allowances and benefits of staff, shall have regard to:

- (a) the need to attract and retain quality and high calibre human resources for the Agency;
- (b) specialised nature of work to be performed by the Agency; and
- (c) the salaries paid in similar government agencies to persons with equivalent responsibilities, expertise, and skills.

Section 12 - Conditions of Service

(1) Service in the Agency shall be approved service for the purposes of the Pension Reform Act, and staff of the Agency shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.

(2) Without prejudice to the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on conditions which preclude the grant of a pension, gratuity or other retirement benefits regarding that office.

(3) For the application of the provisions of the Pension Reform Act, any power exercisable by a Minister or other authority of the Federal Government of Nigeria, other than the power to make regulations under the Pension Reform Act is vested in and shall be exercised by the Board.

(4) Subject to the provisions of this Act, the Agency may make staff regulations relating to the conditions of service of the staff, and without prejudice to the generality of the foregoing, such regulations may provide for:

- (a) the appointment, promotion, and disciplinary control of staff of the Agency;
- (b) appeals by staff against dismissal or other disciplinary measures;
- (c) in any circumstance where the Conditions of Service of the Agency does not clearly make provision, the Public Service Rules of the Federation shall be applicable, with such modifications as may be necessary to the staff of the Agency.

(5) The staff regulations made under subsection (4) of this section shall not have effect until approved by the Board, and when so approved, the Agency shall cause a notice of the staff regulations to be issued to all affected staff in such manner as it may, from time to time, determine.

PART IV FINANCIAL PROVISIONS

Section 13 – Establishment of The National Information Technology Development Fund

(1) There is established a Fund, which shall be known as the National Information Technology Development Fund (in this Act referred to as “the Fund”) and shall be used for the advancement of the country’s digital economy objectives and related purposes.

(2) There shall be paid and credited into the Fund:

- (a) a levy of one per cent of the profit before tax of companies and enterprises enumerated in the Third Schedule to this Act with an annual turnover of N100, 000,000 and above;
- (b) grants-in-aid and assistance from bilateral and multilateral agencies;

- (c) fees charged by the Agency under this Act or its subsidiary legislation or under any licence issued pursuant to this Act;
- (d) moneys accruing under payments for administrative sanctions and processes;
- (e) all other sums accruing to the Fund by gifts, endowments, bequest or other voluntary contributions by persons and organisations, provided that the terms and conditions attached to such gifts, endowments, bequest or contributions will not jeopardise the functions of the Agency; and
- (f) all other monies or assets that may accrue to the Fund.

Section 14-Exemption from Tax

All monies accruing to the Fund from the sources specified in Section 13 of this Act shall be exempted from income tax and all contributions to the Fund shall be tax-deductible.

Section 15-Accounts and Report of the Fund

The Director-General of the Agency shall keep proper records of the sources and use of the monies and assets of the Fund and shall render accounts to the Minister, at least once in a fiscal year.

Section 16-Federal Inland Revenue Service (FIRS) to collect levy and pay into the Fund

(1) The FIRS shall assess and collect the levy imposed under Section 13 of this Act.

(2) The FIRS shall while assessing any company for any applicable federal taxes, also assess such company for the levy due under this Act.

(3) The Agency may by regulations determine from time to time the companies liable to contribute to the one per cent levy provided for in Section 13 (2) (a) of this Act and provide same to the FIRS subject to the provisions of this Act.

(4) The levy imposed under Section 13 of this Act shall be due and payable within 60 days after the FIRS has served notice of assessment on a company in such form as the FIRS may, determine and records of such assessments shall be provided to the Agency annually.

(5) Where a levy due under Section 13 of this Act is not paid within the time specified in subsection (4) of this section, the FIRS shall serve on

the company a demand note for the unpaid levy plus a sum, which is equal to two per cent of the levy.

(6) The institution of proceedings or imposition of a penalty under this Act shall not relieve a company or organisation from liability to pay such levy or levies that may become due under this Act.

Section 17-Budget and Expenditure

(1) The Agency shall not later than 30th September in each financial year prepare and present to the Minister for approval, a statement of estimated income and expenditure for the following financial year.

(2) Notwithstanding subsection (1), the Agency may also, in any financial year, submit supplementary or adjusted statements of estimated income and expenditure to the National Assembly through the Minister, for approval.

(3) The Agency may, without prejudice to the provision of Section 13 (1) of this Act, apply the proceeds of the Fund established under Section 13 of this Act:

- (a) to the advancement of the purpose of this Act;
- (b) to the cost of administration and operation of the Agency;
- (c) for the development and maintenance of any property vested in or owned by the Agency;
- (d) for investments in initiatives to attain the objectives of the Agency; and
- (e) to any other expenditure in connection with any of its functions under this Act.

(4) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after each year by auditors appointed from the list following the guidelines supplied by the Auditor-General for the Federation.

Section 18-Annual Reports

The Agency shall prepare and submit to the Minister not later than 30th June in each year a report on the activities of the Agency during the preceding year, and shall include in the report a copy of the audited accounts of the Agency for that year and of the auditor's report thereon.

Section 19-Power to Borrow, Accept Gifts, etc.

(1) The Agency may, with the approval of the Minister, borrow by way of loan, overdraft or otherwise from any source, such sums as it may require for the performance of its functions and meeting its obligations under this Act or its subsidiary legislation.

(2) The Agency may accept gifts of land, money, or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(3) The Agency shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Agency under this Act.

PART V LICENSING AND AUTHORISATIONS

Section 20 - Requirement for Licences, registrations and authorisations

(1) The Agency shall by Regulation issue licenses and authorisations for operators in the information technology and digital economy sector, and such regulation shall provide for licensing and authorisation criteria including renewal, suspension, and revocation conditions to promote free-market operation and competition, among others.

(2) The Agency shall determine and register operators in the information technology and digital economy sector. Such register shall be published.

(3) Any person or body corporate who operates an information technology or digital economy service, product, or platform contrary to the provisions of this Act, commits an offence.

Section 21 - Classes of Licences and Authorisations

The Agency shall classify its licenses and authorisations under any of the following:

- (1) Product License
- (2) Service Provider License
- (3) Platform Provider License

PART VI OFFENCES AND PENALTIES

Section 22-Offences and Penalties

(1) Non-payment upon expiration of a demand notice of an assessed levy within 2 months by a corporate body is an offence. The offending entity is liable on conviction to a fine of 0.5 per cent of the assessed sum for everyday of default.

(2) Where a person or body corporate fails to comply with the regulations, standards, guidelines, frameworks, circulars, directives or any subsidiary legislation issued by the Agency in the discharge of its duties under this Act, such person or body corporate commits an offence and is liable on conviction:

- (a) in the case of an individual, to a fine of not less than ~~N~~3,000,000.00 or imprisonment for a term of not less than 1 year or both; and
- (b) in the case of a body corporate, to a fine of not less than N30,000,000.00 or imprisonment for the principal officers for a term of not less than 2 years or both.

(3) Where a person or body corporate attempts to or denies any person authorised by the Agency or by law, entry into premises or access to records or data, in pursuance of the provisions of this Act, such a person or body corporate commits an offence and is liable on conviction:

- (a) in the case of an individual, to a fine of not less than ~~N~~3,000,000.00 or imprisonment for a term of not less than 1 year or both; and
- (b) in the case of a body corporate, to a fine of not less than ~~N~~30,000,000.00 and in addition, every director and principal officer of such body corporate shall individually be liable to not less than N3,000,000.00 or imprisonment for a term of not less than 2 years or both.

(4) Where a person or body corporate imports or deploys the usage of any information technology equipment that has been designated by the Agency as requiring approval before importation or deployment, without first obtaining such approval or complying with the conditions imposed by the Agency for the importation and usage of the equipment, the person or body corporate commits an offence and is liable on conviction:

- (a) in the case of individual, to a fine of not less than ₦3,000,000.00 or imprisonment for a term of not less than 1 year or both; and
- (b) in the case of a body corporate, to a fine of not less than ₦30,000,000.00 and in addition, every director and principal officer of such body corporate shall individually be liable of not less than ₦3,000,000,00 or imprisonment for a term of not less than 2 years or both.

(5) Where an offence under this Act is committed by a corporate body, firm or other association of individuals, the:

- (a) Chief Executive Officer of the corporate body or any officer acting in that capacity or on his/her behalf; and
- (b) person purporting to act in any capacity mentioned under paragraph (a) of this subsection, commits an offence unless he/she proves that the act or omission constituting the offence took place without his or her knowledge, consent, or connivance.

(6) Any corporate body who commits an offence under this Act where no specific penalty is provided, is liable on conviction, to a fine not exceeding ₦30,000,000.00.

(7) Any person who commits an offence under Section 20 (3) of this Act shall be liable on conviction, in addition to any administrative sanctions imposed by the Agency, to a fine not less than ₦30,000,000.00 or to imprisonment for a term of 2 years or both.

Section 23-General Penalties

Where no specific penalty is prescribed in this Act or its subsidiary legislation for any offence, a person found guilty of such offence shall:

(1) as a first offender, be liable to a fine not exceeding ₦3,000,000.00 or to imprisonment for a term not exceeding 1 year or to both such fine and imprisonment; and

(2) for a subsequent conviction, to a fine not exceeding ₦5,000,000.00 or to imprisonment for a term not exceeding 3 years or to both such fine and imprisonment.

PART VII MISCELLANEOUS PROVISIONS

Section 24-Functions of the Minister

The Minister shall have the following responsibilities and functions pursuant to this Act:

(1) The formulation, determination and monitoring, of the government policy for the information technology and digital economy sector in Nigeria to ensure, among others, the utilisation of the sector as a platform for economic and social development of Nigeria;

(2) Contribute to the negotiation and execution of international information technology, digital economy and data transfer treaties and agreements, on behalf of Nigeria, between sovereign countries and international organisations and bodies;

(3) Represent Government, with the Agency, at international proceedings on matters relating to information technology and digital economy and collateral matters;

(4) Oversight and provide inputs through directives into any regulation, standard, guideline, or framework being proposed by the Agency; and

(5) The Minister shall at all times ensure that the independence of the Agency, regarding the discharge of its functions and operations under this Act, is protected and not compromised in any manner.

Section 25. Administrative Redress Process

(1) Except otherwise provided in any other law, the Agency shall by regulation prescribe an administrative redress process to address issues that may arise from the regulatory activities of the Agency.

(2) The Agency shall, where applicable, encourage the use of Online Dispute Resolution mechanisms in implementing its functions under this Section.

(3) A summary of the Agency's findings or conclusion in any administrative investigation or sanctions shall be published on its official website.

Section 26 - Rule-Making Process

(1) The Agency shall:

- (a) prior to issuance of any regulation, guideline or framework under this Act, conduct an enquiry on the subject in any manner it deems fit and take into consideration the findings of such enquiry in making the regulation;
 - (b) issue an instrument detailing the process of the issuance on its regulations and guidelines which shall be approved by the Minister and may be amended from time to time; and
 - (c) infuse online and other information technology platforms into the Rule-Making Process to promote inclusiveness and transparency.
- (2) The Director-General shall have the power to abridge the consultative timelines where such abridgment is necessary for national interest.

Section 27 - Establishment of a Digital Infrastructure and Service Provision Company

(1) There is established under the supervision of the Federal Ministry of Communications and Digital Economy, a Digital Infrastructure and Service Provision Company, Galaxy Backbone, or any other name the Ministry in charge of information technology may determine from time to time, in this Act referred to as "the Company" with membership and functions as set out in this Act.

- (2) The membership of the Company shall consist of:
- (a) A Chair, who shall be the Minister;
 - (b) A representative of the Agency;
 - (c) A representative of the Nigerian Communications Commission;
 - (d) A representative of the Jigawa State Government;
 - (e) A representative of the Secretary to the Government of the Federation, and
 - (f) The Managing Director of the Company

(3) The Managing Director of the Company shall be appointed by the Minister on the recommendations of the Agency after a competitive and transparent recruitment process open to all Nigerians.

(4) The Company shall engage the services of individuals as staff on such terms and conditions that may be approved by its Board from time to time.

(5) The Company shall perform the following functions:

- (a) provide digital infrastructure services to the Ministries, Departments, Agencies, and public service institutions of the Government in a non-exclusive manner;
- (b) conduct training for staff of the Ministries, Departments, Agencies and public service institutions of the Government to promote digital services,
- (c) promote Nigerian content and digital services;
- (d) provide quality services at competitive pricing to ensure customer satisfaction;
- (e) explore and engage in international business opportunities on approval of the Board of the company; and
- (f) Perform any other function that may be assigned to the company by the Agency.

(6) The Company shall be funded from:

- (a) profits and earnings from its services and products;
- (b) subventions and budgetary allocations from Federal Government of Nigeria for targeted projects and services; and
- (c) grants-in-aid from national, bilateral and multi-lateral agencies.

(7) The Company shall produce an annual report to be received by 30th June of the following year by the Director-General and forwarded to the Minister.

Section 28 - Limitation of suits against the Agency

(1) Subject to this Act, the Public Officers Protection Act shall apply in relation to any suit instituted against any member, officer, or employee of the Agency.

(2) Notwithstanding anything in any other law, no suit against the Agency, a member of the Board, the Director-General of the Agency or any other officer or employee of the Agency for any act done in pursuance or execution of this Act or any other law, or of any public duty or authority or regarding any alleged neglect or default in the execution of this Act or any other law, duty or authority, shall lie or be instituted in any court unless it is commenced:

- (a) within three months after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within six months after the ceasing of such damage or injury.

(3) No suit shall be commenced against the Agency, a member of the Board, the Director-General of the Agency, or any other employee of the Agency before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Agency by the intending plaintiff or his or her agent.

(4) The notice referred to in subsection (3) of this section shall clearly state the:

- (a) cause of action;
- (b) particulars of the claim;
- (c) name and address of the intending plaintiff; and
- (d) relief claimed.

Section 29 - Service of document

A notice, summons, or other document required or authorized to be served on the Agency under the provisions of this Act or any other law may be served by delivering it to the Director-General of the Agency or by sending it by registered post, addressed to the Director-General of the Agency at the principal office of the Agency.

Section 30 - Restriction on execution against property of the Agency

(1) In any action or suit against the Agency, no execution or process of attachment in the nature thereof shall be issued against the Agency unless not less than three months' notice of the intention to execute or attach has been given to the Agency.

(2) Any sum of money which by the judgment of any court has been awarded against the Agency shall, subject to any direction given by the court, where no notice of appeal against the judgment has been given, be paid from the Fund.

Section 31-Indemnity of officers

A member of the Board, the Director-General of the Agency or any other officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him or her in defending any proceeding, if the proceeding is brought against him or her in his or her capacity as such a member of the Board or, the Director-General of the Agency or as an officer or employee of the Agency.

Section 32 - Repeal

The National Information Technology Development Agency Act No. 28 of 2007 is repealed.

Section 33 - Interpretation

In this Act:

"Agency" means the National Information Technology Development Agency established under Section 4 of this Act.

"Board" means Governing Board of the Agency established under this Act;

"Computer" means an electronic, magnetic, optical, electrochemical, or other high speed data processing device performing logical, arithmetic, or storage functions and includes any data storage facility. All communication devices that can directly interface with a computer through communication protocols shall form part of this definition. This definition excludes the following: portable hand-held calculator typewriters and typesetters or other similar devices;

"Computer Network" means the interconnection of one or more computers;

"Computer system" means a device or collection of devices including input and output support devices and excluding calculators which are not programmable and capable of being used in conjunction with external files,

which contain computer programmes, electronic instructions, input data and output data, that performs logic arithmetic, data storage and retrieval, communication control and other functions;

"Data" means a representation of information, knowledge, facts, concepts, or instructions, which are being prepared or have been prepared in a formalised manner, and is intended to be processed, is being processed or has been processed in a computer system or computer network, and may be in any form (including computer printout, magnetic or optical storage media, punched cards, punched tapes) or stored internally in the memory of the computers;

"Digital Economy" means any aspect of the Nigerian economy that is based on or driven by digital technologies.

"Director-General" means the Director-General of the Agency appointed under Section 11 of this Act;

"Electronic form" means any information generated, sent, received or stored in media magnetic, optical, computer memory, microfilm, computer-generated, micro fiche or similar device;

"Electronic record" means data, record or data generated, image or sound stored, received or sent in an electronic form or microfilm or computer-generated microfilm;

"Equipment" means computer hardware, software application, storage system, cloud, website, or any other thing or gadget usable alone, or capable of being used in conjunction with other equipment to manipulate or transmit data;

"FIRS" means the Federal Inland Revenue Service, the Agency of the Government responsible for internal revenue generation and administration;

"Government" means the Federal Government of Nigeria;

"Information Technology" includes all forms of technology used to create, store, exchange and use information in its various forms (business data, voice, conversation, still images, motion pictures, multimedia presentations and other forms including those not yet conceived);

"Minister" means the Minister charged with the responsibility for matters relating to information technology, digital economy and matters related therewith;

“Platform” means any digitally enabled system used in the provision of service or product;

“President” means the President of the Federal Republic of Nigeria; and

“Software” includes any program, procedure and associated documentation concerned with the operation of a computer system.

Short title

This Act may be cited as the National Information Technology Development Agency Act, 2021.

FIRST SCHEDULE

[Section 7(3)]

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC

1. **proceedings of the board**

- (1) Subject to this Act and Section 27 of the Interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.
- (2) At every meeting of the Board, the Chair shall preside and in his or her absence, the members present at the meeting shall appoint one of their numbers to preside at the meeting.
- (3) The quorum at a meeting of the Board shall be not less than one-third of the total number of the Board members present at the meeting.
- (4) The Board shall, for the purpose of this Act, meet not less than four times each year.
- (5) Subject to the provisions of subparagraph (4) of this paragraph, the Board shall meet –
 - (a) whenever it is summoned by the Chair; and
 - (b) if required to do so by notice given to him or her by not less than 1/3 of members, within fourteen days from the date in which the notice is given.
- (6) Where the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt such person to the board for such period as it thinks fit, but a person co-opted pursuant to this paragraph shall not be permitted to vote at any meeting of the Board and shall not count towards a quorum.

2. **Committees**

- (1) Subject to its standing orders, the Board may appoint such number of standing or ad hoc committees as it thinks fit to consider and report on any matter with which the Board is concerned.
- (2) A committee appointed under this paragraph shall-
 - (a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board) and a person other than a member of the Board,

shall hold office on the committee in accordance with the terms of his or her appointment; and

- (b) be presided over by a member of the Board.
- (3) The quorum of any committee set up by the Board shall be as provided under subparagraph (3) of this paragraph.
- (4) The decision of any committee of the Board shall constitute a recommendation to the Board.

3. Miscellaneous

- (1) Any document purporting to be a contract, instrument or document duly signed or sealed on behalf of the Agency shall be received in evidence and shall unless the contrary is proved, be presumed without further proof to have been signed or sealed.
- (2) Any vacancy in the membership of the Board, or committee shall not affect the validity of any proceedings of the Board or any of its committees.
- (4) A member of the Board or of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or committee shall disclose his or her interest to the Board or committee and shall not vote on any question relating to the contract or arrangement.
- (5) A member of the Board shall not be personally liable for any act or omission done or made in good faith while engaged in the business of the Board.

SECOND SCHEDULE

[Section 9 (q)]

SUPPLEMENTARY PROVISIONS RELATING TO THE SUPERVISION OF THE MANAGEMENT OF THE COUNTRY CODE TOP LEVEL DOMAIN (.ng) ON THE INTERNET

1. Subject to the provisions of this Act, the Agency shall advise the Government on matters and issues that are related to the management and administration of Nigeria's country code top-level domain (.ng).
2. The Agency shall have supervisory authority over any organisation incorporated under the laws of Nigeria to manage and administer Nigeria's country code top-level domain (.ng) including but not limited to the following -
 - (a) approve the constitution of the management of any such organisation created to carry out acts mentioned in paragraph 1 of this Schedule;
 - (b) issue standards which shall ensure that the membership of the organisation when viewed collectively represents the stakeholders of the information technology in the country; and
 - (c) outline an operational rule for the organisation which shall include but not limited to the following-
 - (i) the creation of departments in the organisation to perform specialised functions,
 - (ii) the establishment and functioning of committees, including a management board,
 - (iii) the preparation by the organisation of an annual business plan in terms of which the activities of the organisation are planned annually
 - (iv) the determination through arbitration of any dispute concerning the interpretation of the memorandum and articles of association of the organisation,
 - (v) the procedures and criteria for the establishment of second-level domains and for delegations to such domains,
 - vi. the domain name dispute resolution and related appeal mechanisms, and
 - vii. criteria for the qualification of an appointment of Domain Name Hosts.

3. The Agency shall ensure that the activities of the organisation comply with best practices in the administration of country code top-level domain.

THIRD SCHEDULE

[Section 15 (2) (a)]

COMPANIES AND ENTERPRISES TO PAY LEVY

The companies and enterprises to pay levy under section 15 (2) (a) of this Act includes -

- (a) mobile and fixed telecommunications companies;
- (b) information technology, e-commerce companies;
- (c) digital platform operators and providers;
- (d) foreign digital platforms targeting the Nigerian market.;
- (d) pensions managers and pension-related companies;
- (e) banks, financial institutions and companies providing financial services using information technology tools;
- (f) insurance companies; and
- (g) such other companies and enterprises as determined by regulations from time to time by the Agency.