ARRANGEMENT OF SECTIONS

Section

1. Application to statutory instrument.
2. Procedure of scrutiny.
3. Effect of non-compliance with the Act.
4. Commencement *of* instrument.
5. Disciplinary action for gross misconduct.
6. Amendment and revocation.
7. Power to make instruments for purposes of this Act.
8. Interpretation.
9. Short Title.

C3111

A BILL

FOR

AN ACT TO MAKE IT MANDATORY FOR THE NATIONAL ASSEMBLY TO SCRUTINISE AND APPROVE STATUTORY INSTRUMENT BEFORE IT BECOMES ENFORCEABLE ; AND TO PROVIDE FOR MATTERS INCIDENTAL THERETO

Sponsored by Hon. AGORO LANRE ADENIRAN

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Commence-ment.

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

Application to statutory instrument.

1. Except otherwise provided in the Constitution, where by an Act of the National Assembly, power, on any matter within the legislative competence of the National Assembly is conferred on a person to make statutory instrument, the provision of this Act shall apply notwithstanding any contrary provision in the Act or any other law.

Procedure of scrutiny.

2.—(1) A statutory instrument made by a person under a power conferred by an Act of the National Assembly shall be—

(a) laid before both Houses of the National Assembly;

(*b)* be published in the official Gazette or the National Assembly Journal; and

(c) come into force at the expiration of twenty-one sitting days after being so laid unless National Assembly; before expiration of the twenty-one days invalidates the instrument by a simple resolution.

(2) Subject to subsection.(1) where a statutory instrument provides or prescribes fee or salary or any pecuniary charge which is to be borne by a member of the public, the instrument in a draft form and a copy of a written approval of the approving authority shall be laid before both Houses of the National Assembly.

Effect of non-compliance with the Act.

3.—(1) A statutory instrument shall not be valid unless it is made in compliance with the provisions of this Act.

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(2) Failure to observe a requirement imposed by this or any other Act as to the publication of a statutory instrument or the laying before National Assembly shall invalidate the instrument,; but the National Assembly may resolve by a vote of two-thirds majority of each House that an instrument in respect of which requirement has not been observed shall come into operation or shall be deemed to have come into operation on a specified date.

Commencement of instrument.

4.—(1) A statutory instrument shall come into operation on the date specified in that behalf in the instrument or, if a date is not so specified, then

(a) on the date of the publication in the official Gazette or National Assembly Journal;

(b) in any other case, on the date on which the instrument is made.

(2) Where an instrument is made after the passing but before the coming into operation of the enactment under which it is made, the instrument, whether or not it is previously published, shall not come into operation before the date on which the said enactment conies into operation.

(3) A statutory instrument may provide that it shall come into operation on a date earlier than the making thereof, not being a date earlier than the coming into operation of the enactment under which it is made.

Disciplinary action for gross misconduct.

5.—(1) A person who contravenes a provision of this Act is liable to gross misconduct in service and on the recommendation of both Houses of the National Assembly disciplinary action shall be commenced, according to the law or the rule of service, which is applicable, against him or her.

(2) Nothing in this section shall prejudice the prosecution of a person undergoing disciplinary action or preclude such person from being prosecuted or punished for an offence in a court of law.

(3) Where a person who is a public officer is liable under this Act, unless he shows reasonable cause which is sufficient for his or her pardon, he or she shall be personally liable.

Amendment and revocation.

6.—(1) Where an Act confers power to make a statutory instrument, the Act shall, unless the context otherwise requires, be deemed also to confer power, exercisable by the like authority and in the like manner, to amend or

revoke the instrument.

(2) Where a statutory instrument is amended by an Act or further statutory instrument the Attorney-General may authorise the reprinting of the whole or a part of the instrument in a form which gives effect to the amendments; and when published by authority the instrument or the part as so reprinted shall be conclusive evidence of the provisions of the amended instrument or part.

Power to make instruments for purposes of this Act.

7.—(1) The Attorney-General may, by legislative instrument—

(a) recommend the amendment of the provisions of an Act;

(b) conferring power to make statutory instruments, being an Act passed before the coming into operation of this section, so as to bring those provision into conformity with this Act or otherwise for the purposes of this Act; and

(c) make any other provision as appears expedient for the purposes of this Act.

(2) An instrument made under this section is subject to approval of the National Assembly.

Interpretation.

8. In this Act unless the context otherwise requires —

"Act" or "Act of the National Assembly" means any law made by the National Assembly and includes any law which takes effect under the provision of the Constitution as an Act of the National Assembly;

"approving authority" means a person authorized by law to recommend, determine, fix or approve fee or salary;

"Attorney General" means Attorney-General of the Federation;

"National Assembly" means the Senate and the House of Representatives established by the Constitution;

"person" includes corporate body;

"power" includes function and duty;

"public officer" means a member of staff of the public service as defined by the Constitution;

"statutory instrument" means an instrument made, whether directly or indirectly, under a power conferred by an enactment.

Short Title.

9. This Act may be cited as the Statutory Instrument (Legislative Scrutiny) Bill. 2008.

EXPLANATORY MEMORANDUM

This Act seeks to make it mandatory for the National Assembly to scrutinise and approve statutory instrument before it becomes enforceable; and to provide for matters incidental thereto.