



SENATE OF THE FEDERAL REPUBLIC OF NIGERIA

VOTES AND PROCEEDINGS

Thursday, 9th November, 2006

1. The Senate met at 10:25 a.m. The Senate President read Prayers.
2. Votes and Proceedings:
The Senate President announced that he had examined the Votes and Proceedings of Wednesday, 8th November, 2006 and approved same.

By unanimous consent, the Votes and Proceedings were adopted.

3. Announcements:

(A) *Conference Committee on the National Information Technology Agency Bill 2006:*

The Senate President named the underlisted as Conferees:		Chairman	(North West)
(i)	Senator Saidu Dansadau	Member	(North Central)
(ii)	Senator Emmanuel Okpede	Member	(South South)
(iii)	Senator Oserheimen A. Osunbor	Member	(South West)
(iii)	Senator Abiola Ajimobi	Member	(North Central)
(iv)	Senator Abubakar D. Sodangi	Member	(South East)
(v)	Senator Chris Adighije	Member	(North East)
(vi)	Senator Haruna Garba		

- (B) The Senate President read a letter from Senator Emmanuel Agboti as follows:



THE SENATE
SENATOR EMMANUEL AZU AGBOTI

4th November, 2006.

The President of the Senate,
National Assembly Complex,
Abuja.

Dear Mr President,

RE: 2007 GUBERNATORIAL ELECTION

In my previous letter to you and my Distinguished Colleagues, I informed you of my intention to vie for the nomination of my Party, the Peoples Democratic Party (PDF) to contest for the Office of the Governor of Ebonyi State in the forthcoming 2007 General Election; and also invited you to the flag off, scheduled to hold on Saturday, 11th November 2006 at Abakaliki, Ebonyi State.

However, the above mentioned letter had gone to press before the unfortunate incident of the ADC Plane crash in which we unfortunately lost two of our Colleagues.

To that end, and as a mark of respect for our departed Colleagues, I have decided to postpone the event till further notice. A new date shall be communicated to you in due course.

Please accept my best wishes.

Believe me to be, Yours

sincerely,

Signed:

Senator Azu Agboti

4. Confirmation of Nominations:

Motion made and Question Proposed: That the Senate do consider the request of Mr. President, Commander-in-Chief, for the confirmation of the nominations of the underlisted as Chairman/Chief Executive and Members of the Police Service Commission, in accordance with Section 154 (1) of the 1999 Constitution of the Federal Republic of Nigeria:

(i)	Mr. Parry B.O Osayande (<i>DIG</i>) (<i>Rid</i>)	—	Chairman /Chief Executive
(ii)	Hon. Justice Akintola Olufemi Ejiwunmi (<i>Rtd</i>)	—	Full-Time Member
	JSC, CON		
(iii)	Alhaji Shehu Sard	—	Full-time Member
(iv)	Mrs. Fatima Abba Kyari Kura	—	Member
(v)	Chief J. A. Odeyemi	—	Member
(vi)	Ms. Comfort Obi	—	Member
(vii)	Mr. Chinonye Obiagwu	—	Member (<i>Senate Majority Leader</i>).

Question put and agreed to.

Request for confirmation accordingly referred to the Committee on Police Service Commission to report within two weeks.

4. Confirmation of Nominations:

Motion made and Question Proposed: That the Senate do consider the request of Mr. President, Commander-in-Chief, for the confirmation of the nominations of underslisted as Members in the Revenue Mobilization, Allocation and Fiscal Commission, in accordance with Section 153 (1) of the 1999 Constitution of the Federal Republic of Nigeria.

- (i) Rev. Fagboyegun Ajibola Edward (*Ondo State*) — Member
- (ii) Alliaji A. O. Anjorin (Re-nominated) (*Lagos State*) — Member
- (iii) Alhaji Salihu Jega (Re-nominated) (*Kebbi State*) — Member
- (iv) Alhaji Ahmed Iliyasu (Re-nominated) (*Bauchi State*) — Member (*Senate Majority Leader*).

Question put and agreed to.

Request for confirmation accordingly referred to the Committee on National Planning and Poverty Alleviation to report within two weeks.

6. Conference Report on the Civil Aviation Act (Amendments) Bill 2006:

Motion made and Question Proposed: That the Senate do receive and adopt the Conference Report on the Civil Aviation Act (Amendment) Bill 2006 (*Senator Ibrahim Mohammad*).

Question put and agreed to.

Report presented and Laid.

Debate:

Question, that the Report be adopted — Resolved in the Affirmative.

7. Committee on Health:

Report of the Committee on Health on National Agency for the Control of HIV/AIDS Bill 2006 (SB.260):

Motion made and Question Proposed: That the Senate do consider the report of the Committee on Health on the National Agency for the **Control of HIV/AIDS Bill 2006** (*Senator I. S. Martyns-Yellowe*).

Question put and agreed to.

Motion made and Question Proposed: That the Senate do resolve into the Committee of the Whole to consider the Report (*Senate Majority Leader*).

Question put and agreed to.

(SENATE IN THE COMMITTEE OF THE WHOLE)

A BILL FOR AN ACT TO ESTABLISH THE NATIONAL AGENCY FOR THE CONTROL OF HIV AND AIDS, AND OTHER MATTERS CONNECTED THEREWITH 2006

PART I — ESTABLISHMENT, COMPOSITION, ETC. OF THE NATIONAL AGENCY FOR THE PREVENTION AND CONTROL OF HIV AND AIDS AFFLICTIONS.

Committee's Recommendation:

Leave out the Heading and insert the following instead thereof:

"ESTABLISHMENT, COMPOSITION, ETC. OF THE NATIONAL AGENCY FOR THE CONTROL OF HIV AND AIDS" (*Senator L. S. Martyns-Yellowe*) - *Agreed to.*

Establishment of the National Agency for the Prevention and Control of HIV and AIDS Afflictions.

Committee's Recommendation:

Leave out the Subhead and insert the following instead thereof:

"Establishment of the National Agency for the Control of HIV and AIDS" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Clause 1: Establishment of the National Agency for the Prevention and Control of HIV and AIDS Afflictions:

- (1) There is hereby established an agency to be known as the National Agency for the Prevention and Control of HIV and AIDS Afflictions (in this Act referred

to as "the Agency") which shall under that name be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name.

Committee's Recommendation:

Leave out the provision in Subclause 1(1) and *insert* the following instead thereof: "(1) There is hereby established an agency to be known as the National Agency for the Control of HIV and AIDS (in this Act referred to as "the Agency") which shall under that name be a body corporate with perpetual succession and a common seal, and may sue or be sued in its corporate name" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (2) The Agency established pursuant to subsection (1) of this section shall have its principal office located at the Federal Capital Territory, Abuja, and such other liaison, operations and coordinating branch offices, units and research or observation centres as the Agency may require or determine for the proper discharge or performance of its functions under this Act, within and outside Nigeria.
- (3) Subject to this Act, the Agency may be structured into any number of activity departments and divisions as the Board may deem appropriate for the effective administration of the Agency and proper discharge of its functions.
- (4) Without prejudice or derogation to the provisions of any existing law, direction, order or rule with regard to the right, privilege or prerogative of a Federal Ministry to supervise or oversee the activities and operations of a government body relevant to its functions, the Agency established in terms of this Act shall be supervised and controlled by the Presidency.

Committee's Recommendation:

Leave out the provision in Subclause 1(4) and *insert* the following instead thereof: "(4) Without prejudice or derogation to the provisions of any existing law, the Agency established under this Act shall be supervised and controlled by the Presidency" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Committee's Recommendation:

That the provisions in Clause 1 be retained (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 1 do stand part of the Bill, put and agreed to.

Clause 2:

Establishment, composition, etc. of the Governing Board of the Agency:

- (1) There shall be established for the Agency a Governing Board (in this Act referred to as "the Board") which shall consist of -
 - (a) a Chairman, who shall be suitably qualified by reason of professional or academic or administrative qualification relevant to the purposes of the Agency or by his attainment in any field of human endeavour;

Committee's Recommendation:

Leave out the provision in Subclause 2(1) (a) and *insert* the following instead thereof:

- * (a) a Chairman who shall be suitably qualified for the purpose of the Agency" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*
- (b) six persons to represent each of the six geopolitical zones into which Nigeria is, for the time being, divided, two of whom shall be women, to include -

Committee's Recommendation:

Leave out the provision in Subclause 2(1)(b) and *insert* the following instead thereof:

- "(b) six persons (reflecting the Federal character), two of whom shall be women, to include" (*Senator I. S. Martyns-Yellowe*) - *Agreed to.*

- (i) a legal practitioner with experience in matters relating to the rights of children, women and persons living with HIV and AIDS,
 - (ii) a person who is qualified and experienced in matters relating to public health,
 - (iii) a medical scientist involved in the formulation and development of vaccines, and in its testing and application on **the** human kind,
 - (iv) a journalist with experience in mass communication techniques,
 - (v) a social scientist with experience in the mobilization and counseling of communities on responses to afflictions, scourges and other catastrophes of epidemic proportion,
 - (vi) an accountant with appreciable experience in financial management skills;
- (c) one person each, not below the rank of a Director, to represent -
- (i) the Federal Ministry of Health,
 - (ii) the Secretary to the Government of the Federation, (iii) the Federal Ministry of Women Affairs;
- (d) **one** person to represent the non-governmental organisations or associations in Nigeria involved in the dissemination of information relating to the prevention, control, treatment and care of persons living with HIV and AIDS afflictions; and

Committee's Recommendation:

Leave out the provision in Subclause 2(1) (d) and insert the following instead thereof:

- "(d) two persons to represent the NGOs involved in HIV/AIDS activities
 - (e) one person representing people living with HIV/AIDS
 - one person representing women
 - (g) one person representing the Youth
 - (h) the Director-General of the Agency" (*Senator I. S. Martyns-Yellowe*)
— *Agreed to.*
- (2) The Chairman and members of the Board specified in subsection (1) of this section shall be appointed by the President.

Committee's Recommendation:

Leave out the provision in Subclause 2(2) and insert the following instead thereof:

"(2) The Chairman and members of the Board of the Agency shall be appointed by the President" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (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 contained therein.

Committee's Recommendation: Insert a new Subclause 2(4) as follows:

"(4) The office of the Director-General shall provide the Secretariat for the Board" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Committee's Recommendation:

That the provisions in Clause 2 be retained (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 2 do stand part of the Bill, put and agreed to.

Committee's Recommendation:

Insert a new Section 3 as follows:

"New Section 3: Functions of the Board:

The Board shall:-

- (a) provide leadership and advocacy for the prevention and control of the HIV and AIDS scourge in the Federation; and provide intergovernmental and multisectoral coordination.
- (b) facilitate the formation and development of national and international partnerships and collaboration for the purpose of enhancing Nigeria's control initiatives on the HIV and AIDS pandemic;
- (c) facilitate funding for effective dissemination of information and counseling against HIV and AIDS infections and care and support for people living with HIV and AIDS through out the Federation;
- (d) review, from time to time, the extent of the implementation of the national strategic framework on the prevention and control of the HIV and AIDS by the Agency;
- (f) determine the overall policies and guideline of the agency, including its financial and operating procedures and ensure their effective implementation;
- (g) make rules for the appointment, promotion and discipline of employees of the Agency;
- (h) Subject to such conditions as it may impose, the Board may delegate any of its functions under this Act to any of its committees or to the Director General.
- (i) Nothing in this section shall prevent the Board from performing or exercising any of the functions and powers so delegated;
- (j) The Board shall be responsible for the appointment, promotion and discipline of the Senior staff" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 3 do stand part of the Bill, put and agreed to.

Clause 4:**Tenure of Office:**

- (1) Subject to the provisions of section 4 of this Act, a member of the Board, other than an ex-officio member -
 - (a) shall hold office for a period of four years in the first instance and shall be eligible for reappointment for a further period of four years, and no more;
 - (b) may resign his appointment by writing under his hand a letter addressed to the President, and his membership shall terminate on the date of receipt of the letter of resignation; and
 - (c) shall be paid such remuneration and allowances as the Revenue Mobilization, Allocation and Fiscal Commission may, from time to time determine.
- (2) Subject to this Act, a member of the Board, other than an ex-officio member, shall not while holding office on the Board hold any other office of emolument in any of the public service of the Government of the Federation or of a State.

Committee's Recommendation:

That the provisions in Clause 4 be retained (*Senator I. S. Manyns-Yellowe*) — *Agreed to.*

Question that Clause 4 do stand part of the Bill, put and agreed to.

Clause 5:

Removal of a Member and Cessation of Membership:

- (1) The Chairman or any member of the Board of the Agency may be removed from office by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.
- (2) Without prejudice to subsection (1) of this section -
 - (a) any member who is absent from three consecutive ordinary meetings of the Board of the Agency shall file an explanation to the Chairman for consideration by the other members, and if the explanation to the Chairman is not accepted by the members of the Board; or

Committee's Recommendation:

Leave out the provision in Subclause 5(2)(a) and *insert* the following instead thereof:

- "(a) No member shall absent himself from meetings for three consecutive times without good reason" (*Senator. S. Martyns-Yellowe*) — *Agreed to.*
- (b) where the members of the Board are satisfied that the continued presence on the Board of the Agency of the member is not in the interest of the overall object and functions of the Agency, the Chairman of the Board of the Agency may recommend accordingly to the President that the member be removed and declare the office of that member vacant.
- (3) Any vacancy in the Board occurring as a result of any of the circumstances described under this section of this Act shall be filled by appointing a person who shall represent the same interest which the predecessor represented, and shall hold office for the unexpired term of office of the last holder of the office.

Committee's Recommendation:

That the provisions in Clause 5 be retained (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 5:

Functions of the Agency:

- (1) Subject to this Act, the Board of the Agency shall have the general responsibility for putting into effect the varied response strategies, programmes and other activities designed for the prevention and control of the prevalence of the HIV and AIDS Afflictions in the Federation.
- (2) Without prejudice to the generality of subsection (1) of this section, the Agency shall perform the following functions, that is to say -
 - (a) coordinate the various national response strategies and measures formulated for combating the widespread nature of afflictions of the HIV and AIDS in the Federation, and do anything to ensure that stakeholders are brought into the picture to participate in any such national response strategies and measures set up in terms of this Act;
 - (b) actively work with the varied sectors of the Nigerian economy to promote awareness and attitudinal change for mitigating the impact of the scourge of the HIV and AIDS afflictions in the Federation and any part thereof;

- (c) mobilise and harmonise the various concerned groups, networks and organisations for the purpose of bringing about massive comprehension and mindfulness of the problems, issues and jeopardies associated and connected with the HIV and AIDS contagion;
- (d) promote preventional measures through the regular conduct of person to person counseling programmes and other interactive activities, and carry on sympathy visits and care for the infected and affected members of the society with a view to soothing the pains and agonies suffered by persons living with HIV and AIDS;
- (e) provide leadership in the formulation of policies and other approaches necessary for articulating the concept of the framework of the national response strategy contemplated for combating the prevalence of HIV and AIDS, in concert with the Presidential and National Councils on HIV and AIDS Afflictions;
- (f) carry on liaison, cultivate and establish linkages, with the international community on matters appertaining to HIV and AIDS afflictions;
- (g) carry on the regular monitoring and evaluation of all activities relating to the processes and response strategies and measures put to effect for the prevention and control of the HIV and AIDS contagion;
- (h) organise the conduct, from time to time, of sensitization and educational workshops, seminars and conferences on HIV and AIDS afflictions in Nigeria and any part thereof, and participate in international conferences pertaining to the affliction thereof and other sexually transmitted infections;
- (i) identify and accord special attention to certain parts of Nigeria with recorded high levels and rates of HIV infections and full-blown AIDS epidemic;
- (j) monitor and supervise the equitable distribution of life sustaining and prolongation drugs and medicaments to persons afflicted by HIV and provide succour and solace for person with full-blown AIDS infliction;
- (k) carry on research work, analysis, experimentations and investigations on the nature, anatomy, processes, system, pattern or mode of transmission, transference, conveyance and transportation of HIV afflictions from person to person, or from other sources, for the purposes of developing potent vaccines and other medicaments for the prevention, control and ultimate eradication of the pestilence thereof;
- (l) facilitate the development and management of the policies and strategies formulated in terms of its responsibilities in order to bring about the human, financial and organisational support and goodwill necessary for the successful execution of the national response programmes set forth for preventing and controlling the HIV and AIDS afflictions;
- * (m) perform such duties as may, from time to time be assigned to it by the Presidential Council on HIV and AIDS Afflictions; and
- (n) facilitate collaboration with relevant governmental bodies at all levels on matters relating to tuberculosis and HIV infections.

(3) In order to give full effect to the functions of the Agency specified under this section, any Federal Minister may, if required by the Presidential Council on HIV and AIDS Afflictions to do so, as expressly advised by the Agency, make regulations for the standardization and harmonization of protocols on matters within the purview of the Ministry construed thereof.

- (4) **In this section "concerned groups, networks and organizations" refers to -**
- (a) the Network of People Living with HIV or AIDS in Nigeria, Nigerian AIDS Research Network, the Civil Society Network on HIV and AIDS in Nigeria;
 - (b) the Nigerian Faith Based Coalition Against AIDS;
 - (c) the Nigerian Business Coalition Against AIDS;
 - (d) States Action Committee on AIDS;
 - (e) Local Government Action Committee on AIDS;
 - (f) the National Youth Network on HIV and AIDS;
 - (g) Project Advisory Committee on U.S. Presidential Emergency Plan for AIDS Relief; and
 - (h) the United Nations Expanded Theme Group.

PART II - FUNCTIONS AND POWERS OF THE AGENCY

Clause 5: Functions of the Agency:

- (1) Subject to this Act, the Board of the Agency shall have the general responsibility for putting into effect the varied response strategies, programmes and other activities designed for the prevention and control of the prevalence of the HIV and AIDS Afflictions in the Federation.

Committee's Recommendation:

Leave out the entire provision in Clause 5 and *insert* a new Section and renumber accordingly as follows:

Section 5 now changed to SECTION 6:

- (1) Subject to this Act the Agency shall perform the following functions:-
- (a) Plan and coordinate activities of the various sectors in the National Response Strategic Framework.
 - (b) facilitate the engagement of all tiers of government and all sectors on issues of HIV/AIDS prevention, care and support.
 - (c) advocate for the mainstreaming of HIV/AIDS interventions into all sectors of the society;
 - (d) formulate policies and guidelines on HIV/AIDS
 - (e) support HIV/AIDS research in the country;
 - (f) mobilize resources (local and foreign) and coordinate equitable application for HIV/AIDS activities;
 - (g) provide and coordinate linkages with the global community on **HIV/AIDS**;
 - * (h) monitor and evaluate all HIV/AIDS activities in the country;
 - (i) facilitate the development and management of the policies and strategies of all sectors to ensure the human, financial and organizational resources to support the successful execution of the national HIV/AIDS response programme;
 - (j) establish, encourage and promote training programmes for the employees of the Agency and other appropriate persons from public or private organisations.

- (k) perform such functions as may, from time to time be assigned to it by the Government; and
 - (l) Facilitate collaboration for the management of HIV and opportunistic infections.
- (2) Without prejudice to the generality of subsection (1) of this section, the Agency shall perform the following functions, that is to say -

Committee's Recommendation:

Leave out the entire provision in Subclause 5(2) and *insert* a new one as follows: "(2) In addition to the functions of the Agency as provided in sub-section (1) of this section, the Agency shall have power to-

- (a) co-operate with persons and institutions undertaking research in the Nigeria and in other countries;
- (b) enter into contracts within or outside Nigeria, with any person, government, or institution, and execute any contract, deed or any other document within or outside the Federal Republic or any foreign country for the purpose of combating HIV/AIDS;
- (c) open and operate ordinary and domiciliary accounts for the Agency in recognized banking institutions;
- (d) appoint officers and employees at such remuneration and on such conditions subject to the relevant provisions of this Act;
- (e) pay gratuities and pensions to its officers and employees;
- (f) develop and maintain an appropriate organizational structure; and
- (g) . generally, enter into any contract or perform any act, whether within the Federal Republic of Nigeria or outside, as will in the opinion of the Board contribute towards the attainment of the Agency's objectives.
- (h) Establish Zonal Offices to coordinate the Agency's functions in the states under the zone" (*Senator I. S. Martyns-Yellowe*).

Amendment Proposed:

Leave out the provision in Subclause 6(4)(h) and *insert* the following instead thereof:

"Establish State and Zonal Offices to coordinate the Agency's functions"¹

(*Senator Daniel Saror*).

Question that the amendment be made put and agreed to.

Question that Clause 5 do stand part of the Bill, put and agreed to.

Clause 6:

Powers of the Agency:

- (1) In order to achieve its objects and to perform the functions specified and authorised under section 5 of this Act, the Agency shall have powers to -
 - (a) establish prototype laboratories and clinics in any part of the Federation for the purposes of undertaking research work, analysis, experimentations and examinations on the nature and anatomy of the HIV and its pattern or mode of transmission amongst humans in collaboration with relevant national institutions and bodies for the purposes of developing and controlling the virus;
 - (b) cooperate with and enter into memorandum of understanding or specific arrangements with individuals and institutions engaged in carrying on basic research work and analysis on the HIV epidemic within or outside Nigeria for the purposes of exchanging and sharing scientific knowledge and findings on the characteristics and complexities of the said HIV pestilence;

- (c) enter into contracts or arrangements with any individual, government or institution within and outside Nigeria, and execute any contract, deed or any other document, within the purview of the laws of the Federation, for the purpose of combating HIV and AIDS afflictions;
 - (d) open and operate ordinary and domiciliary accounts in recognized banking institutions in the Federation for the purposes of the Agency;
 - (e) enter into any agreements to facilitate or secure the redemption of any commitments or pledges to the Agency, and for that purpose **indemnify** any person authorised in that behalf or cede, exchange or cancel any such agreements;
 - (f) promote and, where practicable, enforce the provisions of any law on the non-discrimination of persons living with HIV affliction;
 - (g) refer specific or general matters to, give guidance to, or review recommendations of any of its branch, liaison or unit offices authorised under this Act, or the National Council on HIV and AIDS established in terms of this Act, with regard to its functions and the carrying out of its duties, and the working procedure which should be followed in order to deal effectively with the responsibilities expressly conferred on the Agency under and pursuant to this Act;
 - (h) carry on the administrative and individual work connected with the exercise of its powers, the execution of its duties and the performance of its functions through persons employed or appointed to the Agency or seconded to its service; and
 - (i) do anything which in its opinion is calculated to facilitate the discharge, implementation or performance of its responsibilities under and pursuant to this Act.
- (2) The President may give to the Agency such directions of a general nature or relating generally to matters of policy with regard to the performance by the Agency of its functions and the exercise of its powers under this Act, and it shall be the duty of the Board of the Agency to comply with the directions or cause them to be complied with.

Committee's Recommendation:

Leave out the entire provision in Clause 6 (Senator I. S. Martyns-Yellowe) —Agreed to.

Committee's Recommendation:

Insert a new Part III as follows:

New PART III - STRUCTURE OF THE AGENCY

New SECTION 7

- (1) There shall be created for the Agency a Management Committee, which shall consist of
 - (a) the Director General who shall be the Chief Executive Officer (CEO), and
 - (b) the heads of the departments of the Agency.
 - (c) any other person that may be co-opted by the Director-General.
- (2) The Management Committee shall be responsible for the management of the Agency in accordance with the policies of the Agency.
- (3) The Management shall be responsible for the appointment, promotion and discipline of the Junior staff of the Agency" *(Senator I. S. Martyns-Yellowe) — Agreed to.*

Question that Clause 7 do stand part of the Bill, put and agreed to.

*Committee's Recommendation:**Insert a new Part IV as follows:***New PART IV — STAFF OF THE AGENCY****New SECTION 8**

- (1) The Director-General shall:
- (a) be appointed by the President;
 - (b) be answerable to the Board;
 - (c) be a person qualified as a medical scientist for not less than fifteen years;
 - (d) be experienced in matters concerning HIV/AIDS.
- (2) The Director General shall be the Chief Executive Officer of the Agency who shall be responsible for the day-to-day running of the Agency.
- (3) The Director-General shall be the Chairman of the National Council on AIDS.
- (4) The Director General shall hold office for a period of 4 years in the first instance and may be re-appointed for a further period of 4 years and no more, on such terms and conditions as may be determined, from time to time, by the President (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

*Question that Clause 8 do stand part of the Bill, put and agreed to.**Committee's Recommendation:**Insert a new Section as follows:***New Section 9: Terms and Conditions of Service:**

- (1) The Terms and Conditions of service including remuneration, allowances, benefits and pensions of officers and employees of the Agency shall be determined by the Board.
- (2) Service in the Agency shall be approved service for the purpose of the Pensions Act and accordingly officers and other persons employed in the Agency shall, in respect of their services in the Agency, be entitled to pension, gratuities and other retirement benefits as are prescribed thereunder;
- (3) Notwithstanding subsection (1) of this section, the agency may appoint a person to any office on the terms, which preclude the grant of a pension, gratuity or retirement benefits, and;
- (4) For the purpose of the application of the Pensions Act, any powers exercisable thereunder by the Minister of Finance or other regulations under section 23 thereof, is hereby vested and shall be exercisable by the Board and not any other person or authority" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

*Question that Clause 9 do stand part of the Bill, put and agreed to.***PART III - FINANCIAL PROVISIONS**

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Clause 7: Funds and expenditure of the Agency;

- (1) The Agency shall establish a fund into which shall be credited the following sums of money, that is -
- (a) the take-off grant for the Agency;
 - (b) such sums of money as may be allocated from time to time by the Government of the Federation or any State, or local government in Nigeria or by any statutory body (corporate or incorporate) set up by any such Government;

- (c) subject to subsection (2) of this section, all sums accruing to the Agency by way of gifts, testamentary disposition, contributions and donations from persons, philanthropic organisation, non-governmental organisations within or outside Nigeria or otherwise howsoever;
 - (d) such sums as may from time to time be lent to the Agency; and
 - (e) interest on investments made by the Agency.
- (2) The Agency may accept gifts of property (including interests in land), money or other assets upon such trusts and conditions (if any) as may be specified by the person or organisation making the gift but the Agency shall not accept any gift if, the conditions attached by the person or organisation making the gift to the acceptance thereof are inconsistent with the objects of this Act.
- (3) For the purposes of the Companies Income Tax Act, any donation made by any company in Nigeria to the Agency under this section shall be a deductible donation within the meaning of that Act.
- (4) The Board of the Agency shall, from time to time, apply the proceeds of the fund established pursuant to subsection (1) of this section to -
 - (a) the funding of the various national response strategies, programmes and other activities and programmes contemplated under this Act, including the administrative and incidental costs accruing thereof;
 - (b) the salaries, fees or other remuneration or allowances and pensions, superannuation allowances and gratuities payable to the members, officers and staff of the Agency;
 - (c) expenditure on the maintenance of properties vested in the Agency;
 - (d) the training and education of personnel of the Agency within and outside Nigeria on matters relating to the responsibilities of the Agency under this Act;
 - (e) interest due on any debenture stock or other stock issued or any temporary loan raised by the Board of the Agency;
 - (f) the sums required to be transferred to a sinking fund or otherwise set aside for the repayment of debenture stock or the repayment of other borrowed moneys;
 - (g) such allocation to the general reserve fund established under section 8 of this Act, and to contingencies or any other reserve as may in the opinion of the Board of the Agency be appropriate; and
 - (h) the payment of such other charges as may be reasonably incurred in the performance of the functions of the Agency under this Act.

Committee's Recommendation:

Leave out the provision in Part III Clause 7 and insert the following instead » thereof:

PART V - FINANCIAL PROVISIONS

Section 7 now changed to SECTION 10

- (1) The Agency shall establish and maintain a fund from which shall be defrayed all expenditure incurred by the Agency.
- (2) There shall be credited to the fund established in pursuance of subsection (1) of this section such payments as may be made to it by the Federal Government for the running expenses of the Agency and all other assets accruing from time to time to the Agency.

"New SECTION 13 Preparation of yearly Budget:

The Director General shall cause to be prepared and submitted to the Board, not later than 30th September of each year, an estimate of the expenditure and income of the Agency for the following year" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 13 do stand part of the Bill, put and agreed to.

Committee's Recommendation:

Insert a new Section as 14 as follows:

"New SECTION 14

Keeping of proper Accounts and Records:

The Board shall cause to be kept proper accounts of the Agency in respect of each year and proper records in relation thereto and shall cause the accounts to be audited not later than 6 months after the end of the year by auditors appointed by the Board and in accordance with the guidelines supplied by the Auditor-General of the Federation" (*Senator Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 14 do stand part of the Bill, put and agreed to.

Committee's Recommendation: Insert a new Section as 15 as follows: **"New SECTION 15 Submission of Annual Administrative report and Audit report to the Board:**

The Director General shall, not later than 30th March in each year, prepare and submit to the Board a report on the activities and administration of the Agency during the immediately preceding year and shall include in the report a copy of the audited accounts of the Agency for the year and the auditor's report thereon" (*Senator Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 15 do stand part of the Bill, put and agreed to.

Committee's Recommendation:

Insert a new Section as 16 as follows:

New SECTION 16 Exemption from

Taxes:

- (1) The Agency shall be exempted from the payment of income tax on any income derived by it under this Act or accruing to it from any investment.
- (2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Agency" (*Senator Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 16 do stand part of the Bill, put and agreed to.

Clause 8: General Reserve Fund:

- (1) Without prejudice to the power of the Board of the Agency to set aside from revenue appropriated, amounts for replacements, contingencies or other purposes, the Board of the Agency may establish and maintain a general reserve fund.
- (2) The control and management of the general reserve fund, the sums to be credited from time to time to the general reserve fund, the charges to be made against the general reserve fund, and any other applications of the moneys comprised therein shall be as the Board of the Agency may, with the approval of the President, determine:

Provided that no part of the moneys comprised in the general reserve fund shall be applied otherwise than for the purposes of the Agency under this Act.

Committee's Recommendation:

Leave out the provision in Clause 8 (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Clause 9: Borrowing and Investment Power:

- (1) The Board of the Agency may, with the consent of the Presidential Council, or in accordance with the general guidelines or authority given by the Government of the Federation, borrow by way of loan or overdraft from any source, **any** moneys required by the Agency to meet its obligations and responsibilities under this Act, so however, that such consent or authority shall be required where the sum or aggregate of the sums involved at any time does not exceed such amount as is for the time being specified in relation to the proceeds of the Agency by the Government of the Federation.
- (2) The Board of the Agency may, subject to the provisions of this Act and conditions of trust in respect of the funds of the Agency or any property owned, invest any part but not all of its funds with the same consent or authority.

Committee's Recommendation:

Leave out the provision in Clause 9 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 10: Annual Estimates, Accounts and Audit:

- (1) The Director-General of the Agency shall cause to be prepared not later than six months before the end of the year, estimates of the recurrent and capital expenditure of the Agency and income of the Agency during the next succeeding financial year which shall be acceded to by members of the Board and presented to the President for onward transmission to **the** National Assembly for appropriation.
- (2) **The** Agency shall keep proper accounts and records in relation thereto, and shall prepare in respect of each financial year, a statement of account in such form as the Director-General may direct.
- (3) The Agency shall as soon as may be after the end of a financial year, cause its accounts to be audited by qualified auditors appointed from the list of auditors and in accordance with the guidelines laid down by the Auditor-General of the Federation.
- (4) The auditors appointed pursuant to subsection (3) of this section shall, on completion of the audit of the accounts of the Agency for each financial year, prepare and submit to the Board of the Agency two reports, that is to say -
 - (a) a general report setting out the observations and recommendations of **the** said auditors on the financial affairs of the Agency for that year, and on any important **matters** which the auditors may consider necessary to bring to the notice of the Board of the Agency; and
 - (b) a detailed report containing the observations and recommendations of the said auditors on all aspects of the operations of the Agency for that year.

Committee's Recommendation:

Leave out the provision in Clause 10 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 11: Annual Report:

In addition to any other report prescribed to be made under this Act, the Board of the Agency shall prepare and submit to the President and the National Assembly, through the Presidential Council, not later than the last day of June of each financial year, a report on all aspects of operations of **the** Agency during **the** immediately preceding financial year, and shall include in that report, a copy of the audited accounts of the Agency for that year and the auditor's report thereon.

Committee's Recommendation:

Leave out the provision in Clause 11 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 12: Appointment and duties of the Director-General:

- (1) The Director-General appointed pursuant to Section 2(1) of this Act shall be a person qualified and experienced as a medical scientist for not less than fifteen years, and shall have and perform the following duties, that is -
- (a) organize and manage the affairs of the Agency;
 - (b) enforce the provisions of this Act, and in particular direct the activities of the members, officers and staff of the Agency;
 - (c) exercise disciplinary control over the officers and staff of the Agency, with the approval of the Board;
 - (d) manage and account for the funds allocated, from time to time, to the Agency; and
 - (e) be paid such salary and other remuneration as may be contained in his letter of appointment as approved by the President.
- (2) Without prejudice to subsection (1) of this section, the Director-General shall be free to manage the affairs and day-to-day activities of the Agency as he thinks fit in accordance with the provisions of this Act, and in this regard other members of the Agency shall not interfere with his methods or with the manner in which he deploys the material and human resources of the Agency in order to achieve results in terms of this Act.

Committee's Recommendation:

Leave out the provision in Clause 12 (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Clause 13: Other Staff of the Agency:

- (1) The Agency shall appoint such other category of officers and staff as it may deem necessary, from time to time, for the purpose of assisting the performance of its functions under this Act.
- (2) Without prejudice to subsection (1) of this section, the Agency may employ other persons for the Agency, either by way of transfer or secondment from any of the public services of the Federation or of a State or otherwise howsoever, as it considers necessary.

Committee's Recommendation:

Leave out the provision in Clause 13 (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Clause 14: Conditions of Service:

The Agency shall develop and submit for approval by the President appropriate conditions of service concerning remunerations, fringe benefits and such other measures which will enable it attract and retain high quality manpower.

Committee's Recommendation:

Leave out the provision in Clause 14 (*Senator L S. Martyns-Yellowe*) — *Agreed to.*

Clause 15: Application of Contributory Pensions Act:

Service in the Agency shall be approved service for the purposes of the Contributory Pensions Act, and accordingly, employees of the Agency shall be entitled to pension, and other retirement benefits in respect of that office.

Committee's Recommendation:

Leave out the provision in Clause 15 (*Senator I. S. Martyns-Yellowe*) ■ *Agreed to.*

Clause 16: Administrative Structure of the Agency:

- (1) Without prejudice to the prerogative of the Agency to set up offices, divisions and units for the proper coordination and implementation of its functions under this Act, the Agency shall have regard for setting up the following administrative structure, that is -

- (a) the office of the Chief Operations Officer;
- (b) **the** Governmental Affairs Coordination Support Division;
I the Civil Society Affairs Coordination Services Division;
- (d) the Strategic Planning, Research and Evaluation Division;
- (e) the **HIV** and AIDS Policy Formulation Division;
- (f) **the** Resources Mobilisation and Management Division;
- (g) the Partnerships and Collaboration Division;
- (h) **the** Finance and Administration Division;
- (i) the Legal Matters Unit;
- (j) the Internal Audit Unit;
- (k) the Corporate Affairs and Communications Unit; and
- (l) such other offices, divisions and units as the Agency may, from time to time, determine.

- (2) For the avoidance of any doubt, the office, divisions and units specified to be set up in terms of subsection (1) of this section, shall be headed by officers of the Agency not below the ranks of Director, Deputy Directors and Assistant Directors, respectively.

Committee's Recommendation:

Leave out the provision in Clause 16 (Senator I. S. Martyns-Yellowe) — Agreed to.

PARTV- ESTABLISHMENT, COMPOSITION, ETC. OF THE PRESIDENTIAL AND NATIONAL COUNCILS ON HIV AND AIDS AFFLICTIONS, ETC.

Committee's Recommendation:

Leave out Part "V" and insert Part "VI" instead thereof (Senator I. S. Martyns-Yellowe) — Agreed to.

Committee's Recommendation

Leave out the Subheading (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 17: Establishment, composition, etc. of the Presidential Council on HIV and AIDS Afflictions:

- (1) There is hereby established for the Agency the Presidential Council on HIV and AIDS Afflictions (in this Act referred to as "the Presidential Council").
- (2) The Council shall consist of the following members-
 - 2) **the** President who shall be the Chairman;
 - *
 - (b) the Vice-President who shall be the Deputy Chairman;
 - (c) **the** Minister of Health;
 - (d) the Minister of Women Affairs;
 - (e) the Minister of Inter-Governmental Affairs and Youth Development;
 - (f) the Minister of Information and National Orientation;

- (g) the Minister of Finance;
 - (h) the Minister of Defence;
 - (i) the Minister of Internal Affairs;
 - (j) the Minister of Employment, Labour and Productivity;
 - (k) the Minister of Culture and Tourism;
 - (l) the Minister of Sports and Social Development;
 - (m) the Chairman of the National Planning Commission;
 - (n) the Minister of Agriculture;
 - (o) the Minister of Justice; and
 - (p) such other persons as the President may in his discretion appoint.
- (2) The Secretary to the Government of the Federation shall act as the Secretary of the Presidential Council.

Committee's Recommendation:

Leave out the provisions in Clause 17 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 18: Functions of the Presidential Council:

- (1) The Presidential Council shall have the following functions, that is-
- (a) to provide political leadership and advocacy for the prevention and control of the HIV and AIDS scourge in the Federation;
 - (b) to facilitate the formation and development of national and international partnerships and collaboration for the purpose of enhancing Nigeria's control initiatives on the HIV and AIDS pandemic;
 - (c) to ensure sustenance of funding for carrying on effective dissemination of information and counseling against HIV and AIDS infections at all levels of government and the society at large;
 - (d) to review, from time to time, the extent of the implementation of the functions of the Agency under this Act in order to ascertain the level of its compliance with the national strategic framework on the prevention and control of the HIV and AIDS epidemic;
 - (e) offer advise on possible aspects of legislation with regard to the non-discrimination of persons living with HIV and AIDS and on the need to change or update any of the provisions of this Act; and
 - (f) to issue periodical reports to the nation on the progress being made on the national response initiatives on the HIV and AIDS contagion.
- (2) The Presidential Council shall have power to regulate its proceedings and shall be required to hold its meetings not less than two times in a year.

Committee's Recommendation:

Leave out the provisions in Clause 18 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 19: Establishment of the National Council on HIV and AIDS Afflictions:

Committee's Recommendation:

Leave out the provision in the Subheading and insert the following instead thereof:
"Establishment of the National Council on HIV and AIDS" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Section 19 now changes to SECTION 17

- (1) There is hereby established for **the** purposes of this Act the National Council on HIV and AIDS Afflictions (in this Act referred to as "the National Council").

Committee's Recommendation:

Leave out the provision in Subclause 17(1) and *insert* the following instead thereof: "(1) There is hereby established for the purposes of this Act the National Council on HIV and AIDS (in this Act referred to as "the National Council")¹ (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (2) The National Council shall comprise the following members -
- (a) *the* Director-General of the Agency;
 - (b) the Chairman of each of the State Action Committees on HIV and AIDS afflictions in the Federation;
 - (c) the Secretary of each of the State Action Committees in the Federation;
 - (d) two representatives of recognised civil society organisations and nongovernmental organisations involved in matters relating to the prevention and control of HIV and AIDS afflictions in Nigeria;
 - (e) two representatives of recognised umbrella organisations or associations of persons living with the HIV and AIDS afflictions;
 - (f) one representative of mass media organisations involved in the prevention and control of the HIV and AIDS afflictions;
 - (g) one representative of the youth organisations involved in the combat against the pestilence of HIV and AIDS in the Federation;
 - (h) one representative of women organisations involved in the fight against the HIV and AIDS scourge;
 - (i) two representatives of faith-based organisations in Nigerian involved in the prevention and control of the HIV and AIDS afflictions; and
 - (j) one representative of the Nigerian labour unions.

Committee's Recommendation:

Leave out the provision in Subclause 17(2) and *insert* the following instead thereof:

- "(2) The National Council shall comprise delegates from all States, the Federal Capital Territory (FCT) and representatives of other stakeholders on HIV/ AIDS matters as may be directed by the Board" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*
- (3) the National Council shall have power to regulate its proceedings and shall be required to hold its meetings not less than two times in a year, which shall be convened by the Director-General upon directions received from the Presidency.

Committee's Recommendation:

Leave out the provisions in Subclause 17(3) (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that the Clause 17 do stand part of the Bill, put and agreed to.

Clause 20: Responsibilities of the National Council:

Section 20 now changes to **Section 18**

- (1) The National Council shall have responsibility for:

- (a) coordinating all intervention programmes contemplated for the promotion, prevention, control and management of HIV and AIDS afflictions in the Federation and any part thereof;

Committee's Recommendation:

Leave out the provision in Subclause **18(1)** (a) and *insert* the following instead thereof:

"(a) coordinating all intervention programmes for the prevention, control and management of HIV and AIDS in the Federation or any part thereof" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (b) establishing minimum standards for the control and management of HIV and AIDS infections by providing technical direction;

- (c) maintaining unity of purpose and cooperation among all stakeholders involved and committed in the fight against the HIV and AIDS scourge;

Committee's Recommendation:

Leave out the provision in Subclause 18(1)(c) and *insert* the following instead thereof:

"(c) maintaining unity and cooperation among all stakeholders involved and in the fight against HIV and AIDS" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (d) assessing the extent of progress made at Federal, State and local councils levels of operation for the purposes of strengthening and propagating the programmes and activities set forth in the National Strategic Framework, on the fight against the **HIV** and AIDS catastrophe.

Committee's Recommendation: ,

Leave out the provision in Subclause **18(1)** (d) and *insert* the following instead thereof:

"(d) assessing the extent of progress made at Federal, State and local council levels" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (2) The Director-General of the Agency shall be the administrator of the affairs of the National Council, and in that regard shall provide the secretariat necessary to facilitate the activities and programmes of the National Council.

Committee's Recommendation:

Leave out the provision in Subclause 18(2) and *insert* the following instead thereof:

"(2) The Director-General of the Agency shall be the coordinator of the affairs of the National Council, and in that regard shall provide the secretariat to facilitate the activities and programmes of the National Council" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 20 do stand part of the Bill, put and agreed to.

Clause 21: Establishment of the States and Local Council Intervention Committees on HIV and AIDS Afflictions:

- (1) Subject to section 22 of this Act, the Government of each State and local or area council in the Federation shall be required to establish State and Local or Area Council Intervention Committees on HIV and AIDS Afflictions (in this Act respectively referred to as "the State Committee(s)" and "the Local Council Committee(s)") which shall promulgate laws and promote programmes and other activities for the prevention and control of the HIV and AIDS afflictions, in their respective jurisdictions.
- (2) Each of the State Committees and Local Council Committees authorised to be established in terms of subsection (1) of this section shall -

- (a) be multi-sectoral in composition;
- (b) be under the chairmanship of the Governor of the State and chairman of the local council, respectively, as the case may be;
- (c) coordinate, facilitate and monitor all the activities and programmes relating to the prevention and control of the HIV and AIDS afflictions carried on in their respective jurisdiction;
- (d) provide human, material and financial resources to combat the HIV and AIDS scourge;
- (e) be guided in their response to the HIV and AIDS affliction by the National Strategic Framework as articulated by the Agency;
- (f) carry on their monitoring and evaluation activities in line with the Nigeria National Response Information Management system;
- (g) have their yearly work plan approved by the Agency; and
- (h) have their performances, in terms of the requirements and duties imposed by the provisions of this section, assessed by the Agency and presented to the Presidential Council for its evaluation.

Committee's Recommendation:

Leave out the provisions in Clause 21 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 22:

Approval of a Governor for duties imposed under this Act, to be obtained:

- (1) The Agency shall in concert with the Presidential Council and the National Council established under this Act, seek the express approval of each of the Governors of the States of the Federation for the duties imposed on their respective States under section 21 of this Act.
- (2) Where the Government of a State refuses or withholds approval of the duties and responsibilities imposed in terms of section 21 of this Act, the Agency shall **file** a report on the matter to the President, who shall in turn present the matter for deliberation at any meeting of the Council of State.
- (3) The decision of the Council of State, with respect to the matter put forth to it for deliberation in terms of subsection (2) of this section, shall be final.
- (4) In this section, Local Councils Committee(s) includes the area councils of the Federal Capital Territory, Abuja.

Committee's Recommendation:

Leave out the provisions in Clause 22 (Senator I. S. Martyns-Yellowe) — Agreed to.

PART VI - LEGAL PROCEEDINGS AND MISCELLANEOUS.

Clause 23:

Legal proceedings, service of documents, etc:

- (1) No suit against the Agency, or any member, officer, or servant of the Agency » in his capacity as such, shall be instituted in any court unless it is commenced within the twelve months following the act, neglect or omission complained of, in the case of a continuance of damage or injury, within the twelve months following the cessation thereof.
- (2) No suit shall be commenced against the Agency or against any member, officer or servant of the Agency in his capacity as such until one month at least after there has been served on the agency a written notice of intention to commence **the** suit, stating -
 - (a) the cause of action;

- (b) the particulars of the claim; and
 - (c) the name and place of abode of the intending plaintiff and the relief claimed.
- (3) the notice referred to in subsection (2) of this section and any summons, notice or other document required or authorised to be served on the Agency may, except where there is express provisions to the contrary, be served by -
- (a) delivering it to the Chairman or Director-General; or
 - (b) sending it by registered post addressed to the Director-General in the principal office of the Agency.
- (4) In any suit, any member, officer or servant of the Agency who is duly authorised in writing by the Agency in that behalf may represent the Agency without prejudice to any other right of representation, at any stage of the proceedings.
- (5) In any suit against the Agency, no execution or attachment or process in the nature thereof shall be issued against the Agency, but any such sums of money which may by the judgment of the court be awarded against the Agency shall (subject to any directions given by the court where notice of appeal has been given by the Agency in respect of the judgment), be paid by the Agency from its fund.

Committee's Recommendation:

Leave out the provisions in Clause 23 (*Senator / S. Martyns-Yellowe*) — *Agreed to.*

Clause 24:

Powers of delegation and restrictions thereof;

- (1) The Board of the Agency may, subject to such conditions as it may think fit, delegate any of its powers under this Act to -
- (a) the Director-General with respect to -
 - (i) the appointment of persons to such offices in the Agency as specified under this Act or as may be specified from time to time, by the Board of the Agency,
 - (ii) the exercise of disciplinary control over persons holding any office in the Agency;
 - (b) any of its members; and
 - (c) a committee of the Agency consisting of such persons (one of whom shall be named chairman) as may be prescribed by the Board of the Agency.
- (2) Notwithstanding subsection (1) of this section, or any other provision of this Act, the Board of the Agency shall not delegate any of its powers aforesaid in respect of offices of the Director-General and the office of the Chief Operations Officer, and such other staff not below grade level 08.

Committee's Recommendation:

Leave out the provisions in Clause 24 (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Clause 25:

Ethics of the Agency:

No member of staff of the Agency shall-

- (a) by his membership of the Agency, conduct or in any manner jeopardize his duties or in any other manner harm the credibility, impartiality or integrity of the Agency;
- (b) make private use of or profit from any confidential information gained as a result of his membership of the Agency;

- (C) divulge any information to any person except in the course of the performance of his functions as such a member of staff of the Agency.

Committee's Recommendation:

Leave out the provision in Clause 25 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 26: Confidentiality on Matters and Information:

- (1) Every member, officer and staff of the Agency shall, with regard to any matter dealt with by him or information which comes to his knowledge in the exercise, performance or carrying out of his powers, functions or duties as such a member, officer or staff, preserve and assist in the preservation of those matters which are confidential in terms of the provisions of this Act, or which have been declared confidential by the Agency.
- (2) No member of the Agency shall, except for the purpose of the exercise of his power, the performance of his functions or the carrying out of his duties or when required by a court of law to do so, or under any law disclose to any person any information acquired by him as such a member.
- (3) Subject to the provisions of subsection (2) of this section, no person shall disclose or make known any information, which is confidential by virtue of any provision of this Act.
- (4) No person who is not authorised thereto by the Agency shall have access to any information which is confidential by virtue of any provision of this Act.

Committee's Recommendation:

Leave out the provisions in Clause 26 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 27: Consequences of violation of the prohibitions under this Act:

Any officer or employee of the Agency or any consultant, agent or person acting for or employed by the Agency, who does or causes to be done or permits to be done any act, matter or thing in this Act prohibited or declared to be unlawful, or shall omit to do any act, matter or thing in this Act required to be done, shall be guilty of an infraction of this Act, and shall upon conviction thereof in any court of competent jurisdiction located in the area of which such offence was committed be subject to a fine of an amount not exceeding 200,000 Naira for each of such offence.

Committee's Recommendation:

Leave out the provision in Clause 27 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 28: Access to Records, etc:

- (1) For the purpose of carrying out the functions of the Agency, the Chairman or any member or officer of the Agency, as the case may be, authorised in that behalf shall-
 - (a) have a right of access to the records of any Ministry or department of government in the Federation on matters relating to the prevention and control of the HIV and AIDS afflictions or any other matter to which this Act relates; and
 - (b) by notice in writing served on a person in charge of any Ministry or department of government to which the Agency has interest, supply information on such matters as may be specified in the notice.
- (2) it shall be the duty of any person or authority required to supply information pursuant to subsection (1) (b) of this section to comply with the notice within a reasonable period of time.

Committee's Recommendation:

Leave out the provisions in Clause 28 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 29:**Regulations:**

- (1) Subject to approval by the President, the Board of the Agency may by regulations in its meetings prescribe anything falling to be prescribed for the purposes of giving full effect to the provisions of this Act.
- (2) Without prejudice to the generality of the foregoing provisions of this section, the Board of the Agency may make regulations for-
- (a) **the** procedure to be adopted for the distribution of any drug or potent medicaments to persons living with HIV and AIDS infections in the Federation or any part thereof;
 - (b) **the** strategy and methods for the dissemination of information on the character, nature and progression of HIV infection in the human kind;
 - (c) **the** procedure for implementing the contemplated National Strategic Framework and assessing its impact; and
 - (d) prescribing any other matter incidental or supplemental to the foregoing provisions of this subsection.

Committee's Recommendation:

Leave out the provisions in Clause 29 (Senator I. S. Martyns-Yellowe) — Agreed to.

Clause 30:**Interpretation, etc:**

Section 30 now changed to **Section 19**

- (1) In this Act, unless the context otherwise requires, the following words and expressions have the meanings respectively assigned to them, that is to say: -

- (a) "Agency" means the National Agency for the Control of HIV and
 ■ AIDS established pursuant to section 1 (1) of this Act;

Question, That the word "Agency" be as defined in the Interpretation to this Act, put and agreed to.

- (b) "Board" means the Governing Board of the Agency established pursuant to section 2(1) of this Act;

Question, That the word "Board" be as defined in the Interpretation to this Act, put and agreed to.

- (c) "Chairman" means the Chairman of the Governing Board of the Agency;

Question, That the word "Chairman" be as defined in the Interpretation to this Act, put and agreed to.

- (d) "Director-General" means the Director-General of the Agency

Question, That the words "Director-General" be as defined in the Interpretation to this Act, put and agreed to. »

- (e) "function" includes power and duty;

Question, That the word "Junction" be as defined in the Interpretation to this Act, put and agreed to.

- (f) "**HIV** and AIDS" means Human Immuno-deficiency Virus, and Acquired Immune Deficiency Syndrome, respectively.

Question, That the words "HIV and AIDS" be as defined in the Interpretation to this Act, put and agreed to.

- (g) "Local Council Committee(s)" means the Local or Area Council Intervention Committee(s) on HIV and AIDS Afflictions required to be established in terms of section 2 (1) of this Act by each of the governments of the local or area councils in the Federation;

Question, That the words "Local Council Committee (s)" be as defined in the Interpretation to this Act, put and agreed to.

- (h) "member" means a member of the National Agency for the Control of HIV and AIDS and includes the Chairman;

Question, That the word "Member" be as defined in the Interpretation to this Act, put and agreed to.

- (i) "National Council" means the National Council on HIV and AIDS established pursuant to section 17(1) of this Act;

Question, That the words "National Council" be as defined in the Interpretation to this Act, put and agreed to.

- (j) "National Strategic Framework" refers to the National Response strategies and measures formulated and put to effect for combating the widespread nature of the HIV and AIDS in the Federation and any part thereof, and as specified under this Act;

Question, That the words "National Strategic Framework" be as defined in the Interpretation to this Act, put and agreed to.

- (k) "President" means the President of the Federal Republic of Nigeria, and the "Presidency" shall be construed, accordingly;

Question, That the word "President" be as defined in the Interpretation to this Act, put and agreed to.

- (l) "Presidential Council" means the Presidential Council on HIV and AIDS Afflictions established pursuant to section 17(1) of this Act; and

Question, That the words "President Council" be as defined in the Interpretation to this Act, put and agreed to.

- (m) "State Committee(s)" means the State Intervention Committee(s) on HIV and AIDS Afflictions required to be established by each State of the Federation.

Question, That the words "State Committee(s)" be as defined in the Interpretation to this Act, put and agreed to.

- (n) "Senior Staff" means officers of the Agency on Salary Grade Level 07 and above in accordance with the Federal Government Public Service Salary Structure.

◆ *Question, That the words "Senior Staff" be as defined in the Interpretation to this Act, put and agreed to.*

- (o) "Junior Staff" means officers of the Agency on Salary Grade Level 01 to 06 in accordance with the Federal Government Public Service Salary Structure.

Question, That the words "Junior Staff" be as defined in the Interpretation to this Act, put and agreed to.

- (2) The Interpretation Act shall be applied for interpreting the provisions of this Act.

Committee's Recommendation:

That the provisions in Clause 19 be retained (*Senator I. S. Martyns-YeHowe*) —
Agreed to.

Question that Clause 19 do stand part of the Bill, put and agreed to.

Clause 31: Transitional provisions as to the transfer of property, Functions, etc. of the Agency:
Section 31 now changed to **Section 20**

- (1) On the commencement of this Act:
- (a) all property held immediately before that day by or on behalf of the former National Action Committee on AIDS (in **this** Act referred to as "the former Committee") shall, by virtue of this subsection and without further assurance, vest in the Agency and be held by it for the purposes of the Agency;
 - (b) the former Committee shall cease to exist; and
 - (c) subject to the next succeeding subsection, any act, matter or thing made or done by the former Committee shall continue to have effect.
- (2) The provisions of the Second Schedule to this Act shall have effect with respect to matters arising from the transfer by this section to the Agency of the property of the former Committee, and with respect to other matters therein mentioned.

Committee's Recommendation:

Leave out the provision in Subclause 20(2) and *insert* new Subclauses 20(2 - 6) as follows instead thereof:

- "(2) Every agreement to which the former Committee was a party immediately before the appointed day whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned by the former Committee shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this subparagraph, have effect from the appointed day, so far as it relates to property transferred by this Act to the Agency, as if the Agency had been a party to the agreement;
- (3) Without prejudice to the generality of the foregoing provisions of this Schedule, where, by the operations of this Act, any right, liability or obligation vests in the Agency, the Agency and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the making or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Agency.
- (4) If the law in force at the place where any property transferred by this Act is situated (whether by reference to an instrument of transfer or otherwise), the law shall, so far as it provides for alterations of a Register (but not for avoidance of transfer, the payment of fees or any other matter) apply with the necessary modifications to the transfer of the property aforesaid, and it shall be the duty of the Agency to furnish the necessary particulars of the transfer to **the** * proper officer of the registration authority, and of that officer to register the transfer accordingly.
- (5) The members of **the** former Committee shall, as from the appointed day, become members of the Agency, and without prejudice to the generality of the provisions of this Schedule relating to the transfer of property, any person who, immediately before the appointed day, was a member of the staff of the former Committee shall on that day become the holder of an appointment with the Agency with the status, designation and functions which correspond as nearly as may be to those which appertained to him in his capacity as a member of that staff.

- (6) All regulations, rules and similar instruments made for the purposes of the former Committee and in force immediately before the appointed day shall, except in so far as they are subsequently revoked or amended by any authority having power in that regard, have effect with any necessary modifications, as if duly made for the corresponding purposes of the Agency" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 20 do stand part of the Bill, put and agreed to.

Clause 32: Provisions of this Act Severable:

Section 32 now changed to **Section 21**

If any provision of this Act or the application thereof to any person, body corporate, statutory body or circumstances is held invalid, such invalidity shall not affect other provisions or applications of this Act which can be given effect without that invalid provision or application, and to this end, the provisions of this Act are severable.

Committee's Recommendation:

That the provisions in Clause 21 be retained (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 21 do stand part of the Bill, put and agreed to.

Clause 33: Citation, etc:

Section 33 now changed to **Section 22**

- (1) This Act may be cited as the National Agency for the Prevention and Control of HIV and AIDS Afflictions (Establishment, etc.) Act 2006.

Committee's Recommendation:

Leave out the provision in Subclause 22(1) and *insert* the following instead thereof:

"This Act may be cited as the National Agency for the Control of HIV and AIDS (Establishment, etc.) Act 2006" (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

- (2) The provisions of this Act are in addition to and not in derogation of the functions, duties and powers of the Federal or any State Ministry or any department of government or authority charged with matters relating to health, or any existing law, rule, regulation, order or direction on matters relating to afflictions or infections of epidemic proportions, and in particular, the HIV and AIDS pestilence in the Federation.

Committee's Recommendation:

Leave out the provisions in Subclause 22(2) (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Clause 22 do stand part of the Bill, put and agreed to.

Clause 34: Explanatory Memorandum:

The Bill seeks to formally establish the National Agency for the prevention and control of the HIV and AIDS Afflictions, and to set up other high powered intervention bodies to assist in the fight against the HIV and AIDS scourge which has reached epidemic proportions, and consequently depleting the manpower resources of the Federation and causing sorrow and anguish to the generality of Nigerians.

Committee's Recommendation:

The Bill seeks to establish the National Agency for the Control of **HIV** and AIDS, (NACA) and to set up other high powered intervention bodies to coordinate the implementation of programmes for the control of the pandemic in Nigeria.

Committee's Recommendation:

That the provisions in Clause 23 be retained (*Senator I. S. Martyns-Yellowe*) *Agreed to.*

Question that Clause 23 do stand part of the Bill, put and agreed to.

FIRST SCHEDULE**Section 2 (3)****SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD OF THE AGENCY****Meetings of the Board**

1. (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 Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside.
- (3) The quorum at a meeting of the Board shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting) and 1/3rd other members.
- (4) The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to him by not less than 5 other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.
- (5) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co opt him to the Board for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.
- (6) A member of the Board who is directly or indirectly interested in any matter being deliberated on by the Board, or is interested in any contract made or proposed to be made by the Agency shall, as soon as possible after the relevant facts have come to his knowledge disclose the nature of his interest at a meeting of the Board.
- (7) A disclosure under this paragraph shall be recorded in the Minutes of Meetings of the Board and the member concerned **shall:-**
 - (a) not, after the disclosure, take part in any deliberation or decision of the Board; and
 - (b) be excluded for the purpose of constituting a quorum of any meeting of the Board for any deliberation or decision, with regard to the subject matter in respect of which his interest is so disclosed.

Committee's Recommendation:

Insert new Sections 8, 9 and 10 as follows:

- (8) A decision of the majority of the members of the Board present at any meeting constitutes a decision of the Board and, in the event of an equality of votes, the member presiding at the meeting shall have a casting vote in addition to his or her deliberative vote.
- (9) A decision taken by the Board or an act performed under the authority of the Board shall not be invalidated by reason only of a vacancy on the Board, or that a person who is not entitled to sit as a member of the Board sat as a member at the time when the decision was taken or the act was authorized, if the decision was taken or the act was authorized by the requisite majority of the members of the Board who were present at the time and entitled to sit as members.
- (10) Minutes of the proceedings of each meeting shall be submitted at the next meeting of the Board and, if passed as correct, shall be confirmed by the signature of the chairperson or other member presiding thereat and may, when so confirmed, be evidence in a court of law of the proceedings of the first-mentioned meeting (*Senator I. S. Martyns-Yellowe*) — *Agreed to.*

Question that Section 1, 2, 3, 4, 5, 6, 7, 8, 9 and 10 under the Head "Meetings of the Board" stand part of the Schedule to the Bill — Agreed to.

Committees of the Board

2. (1) Subject to its standing orders, the Board may appoint such number of standing and ad hoc committees as it thinks fit to consider and report on any matter with which the Agency is concerned.
- (2) A committee appointed under this paragraph shall 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 appointment and the committee shall be presided over by a member of the Board.
- (3) The quorum of any committee set up by the Board shall be as may be determined by the Board.
- (4) A decision of a committee of the Board shall be of no effect until it is ratified by the Board.

Question that Section 2 under the Head "Committees of the Board" stand part of the Schedule to the Bill — Agreed to.

Miscellaneous

3. (1) The fixing of the seal of the Institute shall be authenticated by the signature of the Chairman or any other person generally or specifically authorised by the Board, to act for that purpose, and that of the Director General.
- (2) Any contract or instrument which, if made by a person not being a body corporate, would not be required to be under seal may be made or executed on behalf of the Agency by the Director General or by any other person generally or specially authorised by the Board to act for that purpose.
- (3) Any document purporting to be a contract, instrument or other 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 so signed or sealed.
- (4) The validity of any proceedings of the Board or of any of its committees shall not be affected by—
- (a) any vacancy in the membership of the Board, or committee, or
 - (b) any defect in the appointment of a member of the Board or committee; or
 - (c) reason that any person not entitled to do so took part in the proceedings of the Board or committee.
- (5) A member of a committee who has a personal interest in any contract or arrangement entered into or proposed to be considered by the committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.
- (6) No member of the Board shall be personally liable for any act or omission done or made in good faith while engaged in the business of the Agency.

Committee's Recommendation:

Insert a new Section (7) as follows:

- (7) The Supplementary provisions set in the Schedule to this Act shall have effect with respect to the proceedings of the Board and other matters contained therein.

Question that Sub-sections 1, 2, 3, 4, 5, 6 and 7 under the Head "Miscellaneous " stand part of the First Schedule to the Bill — Agreed to.

SECOND SCHEDULE**Section 31 (2) TRANSITIONAL PROVISIONS AS TO
PROPERTY, ETC.**

1. (1) Every agreement to which the former Committee was a party immediately before the appointed day, whether in writing or not and whether or not of such a nature that the rights, liabilities and obligations thereunder could be assigned by the former Committee shall, unless its terms or subject matter make it impossible that it should have effect as modified in the manner provided by this subparagraph, have effect from the appointed day, so far as it relates to property transferred by this Act to the Agency, as if
 - (a) the Agency had been a party to the agreement;
 - (b) for any reference (however worded and whether expressed or implied) to the former Committee they were substituted, as respect anything falling to be done or after the appointed day, a reference to the Agency; and
 - (c) for any reference (however worded and whether expressed or implied) to a member or members of the Board of the former Committee or an officer of the former Committee they were substituted, as respects anything falling to be done on or after the appointed day, a reference to members of the Board under this Act or the officer of the former Committee who corresponds as nearly as may be to the member or officer in question of the former Committee.
- (2) Other documents which refer, whether specially or generally, to the former Committee shall be construed in accordance with subparagraph (1) of this paragraph so far as applicable.
- (3) Without prejudice to the generality of the foregoing provisions of this Schedule, where, by the operations of this Act, any right, liability or obligation vests in the Agency, the Agency and all other persons shall, as from the appointed day, have the same rights, powers and remedies (and, in particular, the same rights as to the making or resisting of legal proceedings or the making or resisting of applications to any authority) for ascertaining, perfecting or enforcing that right, liability or obligation as they would have had if it had at all times been a right, liability or obligation of the Agency.
- (4) Any legal proceedings or application to any authority pending on the appointed day by or against the former Committee and relating to property transferred by this Act to the Agency may be continued on or after that day by or against the Agency.
- (5) If the law in force at the place where any property transferred by this Act is situated (whether by reference to an instrument of transfer or otherwise), the law shall, so far as it provides for alterations of a Register (but not for avoidance of transfer, the payment of fees or any other matter) apply with the necessary modifications to the transfer of the property aforesaid, and it shall be the duty of the Agency to furnish the necessary particulars of the transfer to the proper officer of the registration authority, and of that officer to register the transfer accordingly.

*Question that Sections 1, 2, 3, 4 and 5 under the Head "Transitional Provisions as to Property, etc " of the Second Schedule to the Bill be deleted — Agreed to. **

Transfer of Functions, etc.

1. (a) The members of the former Committee shall, as from the appointed day, become members of the Agency, and without prejudice to the generality of the provisions of this Schedule relating to the transfer of property, any person who, immediately before the appointed day, was a member of the staff of the former Committee shall on that day become the holder of an appointment with the Agency with the status, designation and functions which correspond as nearly as may be to those which appertained to him in his capacity as a member of that staff.

- (b) Any person being an office holder on, or member of, the Board of the former Committee immediately before the appointed date and deemed under this paragraph to have been appointed to any like position in the Agency, or on the Board of the Agency, and thereafter ceasing to hold office otherwise by reason of his misconduct, shall be eligible for appointment to office in the Agency or to membership of the Board, as the case may be.
- (c) All regulations, rules and similar instruments made for the purposes of the former Committee and in force immediately before the appointed day shall, except in so far as they are subsequently revoked or amended by any authority having power in that regard, have effect with any necessary modifications, as if duly made for the corresponding purposes of the Agency.

Question that Sections 1 (a), (b), and (c) under the Head "Transfer of Functions, etc" of the Second Schedule to the Bill be deleted — Agreed to.

Chairman to Report **Bill**.

(SENATE IN PLENARY)

The Senate President reported that the Senate in the Committee of the Whole considered the Report of the Committee on Health on the National Agency for the Control of HIV/AIDS Bill 2006 and approved as follows:

Clauses 1 — 4	—	As Recommended
Clause 5	—	As Amended
Clauses 6—12	—	As Recommended
Clauses 13 — 16	—	As Recommended
Clauses 17 — 20	—	As Recommended
Clauses 21—23	—	As Recommended
Schedules 1 and 2	—	As Recommended
Long Title	—	As Amended

Motion made and Question Proposed: That the Bill be read the Third Time and Passed (*Senate Majority Leader*).

Question put and agreed to.

Bill accordingly read the Third Time and Passed.

8. National Agency for Food and Drug Administration and Control Act (Repeal and Re-enactment) Bill 2006 (SB. 239):

Motion made and Question Proposed: That the National Agency for Food and Drug Administration and Control Act (Repeal and Re-enactment) Bill 2006 be read the Second Time (*Senator Abiola Ajimobi*).

Debate:

Question put and agreed to.

Bill accordingly read the Second Time and referred to Committee on Health to report in four (4) weeks.

9. Adjournment:

Motion made and Question Proposed: That the Senate do adjourn till Tuesday 14, November 2006 at 10.00 a.m. (*Senate Majority Leader*).

Adjourned accordingly at 1.05 p.m.

Ken Nnamani
President of the Senate