

HB. 154

A BILL**FOR**

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE CYBER SECURITY
AND INFORMATION PROTECTION AGENCY CHARGED WITH THE RESPONSIBILITY TO
SECURE COMPUTER SYSTEMS AND NETWORKS AND LIAISON WITH THE RELEVANT
LAW ENFORCEMENT AGENCY FOR THE ENFORCEMENT OF CYBER CRIMES LAWS,
AND FOR RELATED MATTERS

Sponsored by HON . BASSEY ETIM

[

]

Commence
ment.

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

- 1 1.—(1) There is hereby established a body to be known as Cyber Security Establishment
2 and Information Protection Agency (in this Bill referred to as "the Agency") of the agency.
3 which shall have such functions as conferred on it by this bill.
4 (2) The Agency—
5 (a) shall be a body corporate with perpetual succession and a common
6 seal;
7 (b) may sue and be sued in its corporate name and may, for the purpose of
8 its functions, acquire, hold or dispose of property;
9 2.—(1) The Agency shall consist of—
10 (a) the Chairman of the agency shall be the National Security Adviser;
11 (b) Executive Vice chairman to be appointed by the president, who shall
12 be -
13 (i) a retired or serving member in any security agency of the Federation
14 not below the rank of deputy commissioner of police or its equivalent,
15 with cybersecurity experience;
16 (ii) a lawyer with not less than 10 years post call experience, who
17 must be an expert in cybersecurity ,
18 (iii) responsible for the day to day running of their affairs of the Agency.
19 (c) a representative each of the following Federal Ministries.

Membership
of the agency.

- 1 (i) commerce, industry;
- 2 (ii) science and technology;
- 3 (iii) justice;

4 (d) The Executive Vice Chairman and members of the Agency, other than
 5 *ex-officio* shall each hold office for a period of four years and may be
 6 reappointed for one further term.

7 (e) a representative each from the following organizations:

- 8 (i) the department of state security services;
- 9 (ii) the Nigerian police force;
- 10 (iii) the Nigeria communications commission;
- 11 (iv) the Nigeria Security & civil Defence Corps and

12 (2) Four persons whom—

13 (a) two must be experts in telecommunication with not less than 10 years
 14 experience

15 (b) two computer scientists with specialization in cyber crime with not
 16 less than 10 years experience

17 (3) The Executive Vice Chairman and four other members of the agency
 18 shall be appointed by the president subject to confirmation by the senate.

19 (4) The Executive Vice Chairman appointed pursuant to sub_section (1)
 20 of this section shall be the chief executive of the agency and shall be responsible
 21 for the day to day running of its affairs.

Resignation
 and
 allowances of
 members.

22 3.—(1) A member of the agency may at any time resign his office in
 23 writing addressed to the president and may be removed from office because
 24 of-

- 25 (a) infirmity of mind or body;
- 26 (b) permanent incapacity; or
- 27 (c) any other reason subject to confirmation by the senate.

28 (2) Members of the agency shall be paid such allowances as may be
 29 determined by the Salary and Wages Commission.

Functions of
 the Agency.

30 4. The Agency shall be responsible for the—

- 31 (a) enforcement of the provision of this Bill;

- 1 (b) investigation of all cyber crimes;
- 2 (c) adoption of measures to eradicate the commission of the cyber crimes;
- 3 (d) examination of all reported cases of cyber crimes with the views to
- 4 identifying individuals, corporate organization involve in the commission of
- 5 the crime;
- 6 (e) registration and regulations of service providers in Nigeria with the
- 7 views to monitor their activities; organizing and undertaking campaigns and
- 8 other forms of activities as will lead to increased public awareness on the
- 9 nature and forms of cyber crimes; and
- 10 (g) maintaining a liaison with the office of the Attorney General of the
- 11 Federation, and inspector General of police on the arrest and subsequent
- 12 prosecution of the offenders.

13 5.—(1) In execution of its functions and powers under this Bill, the Agency ^{Staffs and} may appoint— ^{staffs}

14 ^{regulation.}

- 15 (a) persons or second officers from government security or law enforcement
- 16 agencies; and
- 17 (b) specialist in the area of communication, science and technology, law,
- 18 which will assist the agency in the performance of its functions.

19 (2) The agency may, make staff regulations relating generally to the

20 conditions of service of the employees, and such regulations may provide for:

- 21 (a) the appointment, promotion and disciplinary control; and
- 22 (b) appeals by such employees against any disciplinary measures taken
- 23 against them, shall be regulated by the provision of the civil services rules,
- 24 until such regulations are made.

25 (3) Service in the agency shall be public service for the purposes of

26 pension Act.

27 6. The Agency shall maintain a fund which shall consist of— ^{Fund of the}

- 28 (a) money to be received from the federal government for the purposes of ^{agency.}
- 29 takeoff;
- 30 (b) proceeds from all activities, services and operations of the Agency.
- 31 (c) grants, gifts and donations made to the Agency.

- 1 (d) such other sums as may accrue to the Agency.
- Offences relating to unlawful access to a computer.
- 2 7.—(1) Any person who without authority or in excess of his authority
- 3 accesses any computer for the purpose of—
- 4 (a) securing access to any program; or
- 5 (b) data held in that computer; or
- 6 (c) committing any act which constitute an offence under any law for
- 7 time being in force in Nigeria, commits an offence and shall be liable on
- 8 conviction:
- 9 (i) in the case of offence in paragraph (a) of this subsection, to a fine
- 10 of not less than M 10,000 or imprisonment for a term of not less than 6
- 11 months or to both such fine and imprisonment.
- 12 (ii) For the offence in paragraph (b), to a fine of not less N1 00,000 or
- 13 a term of not less than 1 year or to both such fine and imprisonment.
- 14 (2) Where damage or loss is caused to any computer as a result of the
- 15 commission of an offence under subsection (1) of this section, the offender shall
- 16 be liable to a fine of not less than N1,000,000 or imprisonment for a term of not
- 17 less than 5 years or to both such fine and imprisonment.
- 18 (3) In pronouncing sentence under this section, the court shall have regard
- 19 to the extent of damage or loss occasioned by the unlawful act.
- Unauthorized disclosure of access, pass word code etc.
- 20 8.—(1) Any person who, knowingly and without authority or in excess of
- 21 authority, disclose any—
- 22 (a) password;
- 23 (b) access code; or
- 24 (c) any other means of gaining access to any program data or database
- 25 held in any computer for any unlawful purpose or gain, commits an offence
- 26 and shall be liable on conviction to a fine of not less than N500,000 or to
- 27 imprisonment for a term of not less than 3 years or to both such fine and
- 28 imprisonment, and in the case of a second or subsequent conviction, to a fine
- 29 not exceeding N1,000,000 or to imprisonment for a term of not less than 5
- 30 years or both such fine and imprisonment.
- 31 (2) Where the offence under subsection (1) results in damage or loss, the

1 offender shall be liable to a fine of not less than N1,000,000 or imprisonment
2 for a term of not less than 5 years or both such fine and imprisonment.

3 (3) Any person who with intent to commit any offence under this Act uses
4 any automated means or device or any computer program or software to—

5 (a) retrieve;

6 (b) collect; and

7 (c) store password, access code; or

8 any means of gaining access to any program, data or database held in any
9 computer, commits an offence and shall be liable on conviction to a fine of
10 N1,000,000 or to imprisonment for a term of 5 years or to both such fine and
11 imprisonment.

12 9.—(1) Any person who with intent to defraud send electronic mail message
13 to a recipient, where such electronic mail message materially misrepresents
14 any fact or set of facts upon which reliance the recipient or another person is
15 caused to suffer any damage or loss, commits an offence and shall be liable on
16 conviction to a fine of not less than 5 years or to both such fine and imprisonments. Fraudulent
electronic
mail message
and
spamming.

17 (2) It shall not operate as a defense for any person charged with an offence
18 under subsection (1) of this section to claim that—

19 (a) he could not have carried out his intended act; or

20 (b) it is impossible to execute the ultimate purpose of his intention; or

21 (c) the object of his deceit is non-existent.

22 (3) Any person spamming electronic mail messages to recipients with whom
23 he has no previous commercial or transactional relationship commits an offence
24 and shall be liable on conviction to a fine not less than N500,000 or imprisonment
25 for a term of not less than 3 years or to both such fine and imprisonment.

26 (4) Any person who with intent to commit any offence under this Bill—

27 (a) uses any automated means, device; or

28 (b) any computer program, software to collect or store electronic mail
29 addresses from any sources whatsoever, commits an offence and shall be
30 liable on conviction to a fine not less than N1,000,000 or to imprisonment
31 for a term not below 5 years or both such fine and imprisonment.

Computer
fraud and data
forgery.

1 10.—(1) Any person who, with the intent to commit an offence, uses any
2 computer program or software to deliberately block being traced or avoid
3 detection, commits an offence and shall be liable on conviction to a fine of not
4 less than N500,000 or imprisonment for a term of not less than 3 years or both
5 such fine and imprisonment.

6 (2) Any person who knowingly accesses any computer and inputs, alters,
7 deletes or suppresses any data resulting in unauthentic data with the intention
8 that such inauthentic data be considered or acted upon as if it were authentic or
9 genuine, whether or not such data is readable or intelligible, commits an offence
10 and shall be liable on conviction to a fine of not less than N500,000 or
11 imprisonment for a term of not less than 3 years or both such fine and
12 imprisonment.

13 (3) Any person who knowingly and without right causes any loss of property
14 to another by altering, erasing, inputting or suppressing any data held in any
15 computer for the purpose of conferring any benefits whether for himself or
16 another person, commits an offence and shall be liable on conviction to a fine of
17 not less than N500,000 or imprisonment for a term of not less than 3 years or
18 both such fine and imprisonment.

System
Interference.

19 11.—(1) Any person who without authority or in excess of authority
20 interferes with any computer network in such a manner as to cause any data or
21 program or software held in any computer within the network to be modified,
22 damaged, suppressed, destroyed, deteriorated or otherwise rendered ineffective,
23 commits an offence and shall be liable on conviction to a fine of not less than
24 N1,000,000 or imprisonment for a term of not less than 5 years or to both such
25 fine and imprisonment.

Misuse of
devices.

26 12. Any person who unlawfully produces, adapts or procures for use,
27 distributes, offers for sale, possesses or uses any devices, including a computer
28 program or a component or performs any of those acts relating to a password,
29 access code or any other similar kind of data, which is designed primarily to
30 overcome security measures with the intent that the devices be utilized for the
31 purpose of violating any provision of this Bill, commits an offence and is liable

1 to a fine of not less than N1,000,000 or imprisonment for a term of not less than
2 5 years or to both such fine and imprisonment.

3 13. Any person who without authority or in excess of authority intentionally denial of
4 interferes with access to any computer or network so as prevent any—

5 (a) part of the computer from functioning; or

6 (b) denying or partially denying any legitimate user of any service of such
7 computer or network; commits an offence and shall be liable on conviction
8 to a fine of not less than N2,000,000 or imprisonment for a term of not less
9 than 7 years or to both such fine and imprisonment.

10 14. Any person who with the intent to deceive or defraud, accesses any Impersonation
11 computer or network and uses or assumes the identity of another person, commits access.
12 an offence and shall be liable on conviction to a fine of not less than N500,000

13 or imprisonment for a term of not less than 3 years or to both such fine and
14 imprisonment.

15 15.—(1) Every service provider shall keep all traffic, subscriber
16 information or any specific content on its computer or network for such period
17 of time as the Agency may require.

18 (2) Every service provider shall, at the request of any law enforcement
19 agency—

20 (a) provide the law enforcement agency with any traffic of subscriber
21 information required to be kept under subsection (1) of this section; or

22 (b) preserve, hold or retain any related content.

23 (3) Any law enforcement agency may with warrant issued by a court of
24 competent jurisdiction, request for the release of any information in respect of
25 subsection (2) (b) of this section and it shall be the duty of the service provider
26 to comply.

27 (4) Any data retained, processed or retrieved by the service provider for
28 the law enforcement agency under this Bill, shall not be utilized except for
29 legitimate purposes either with the consent of individuals to whom the data
30 applies or if authorized by a court of competent jurisdiction.

31 (5) A person exercising any function under this section shall have due

1 regard to the individual right to privacy under the constitution of the Federal
2 Republic of Nigeria 1999 and shall take appropriate technological and
3 organizational measure to safeguard the confidentiality of the data retained,
4 processed or retrieved for the purpose of law enforcement.

5 (6) A person or service provider, body corporate who willfully contravenes
6 the provisions of this section commits an offence and shall be liable on conviction
7 to a fine of not less than N500,000 or imprisonment for a term not less than 3
8 years or both fine and imprisonment.

Unlawful
interception.

9 16.—(1) A person who intentionally, without authority or in excess of
10 authority intercepts any communication originated, terminated or directed from,
11 at or to any equipment, facilities or services in Nigeria, commits an offence
12 and shall be liable on conviction to—

13 (a) a fine of not less than N500,000;

14 (b) imprisonment for a term of not less than 10 years; or

15 (c) both such fine and imprisonment.

16 (2) Notwithstanding the provision of subsection (1) of this section, any
17 service provider, its employee or duly authorized agent may, in the normal
18 course of work, carry out the activity mentioned in section 16 of this Bill.

Standard
equipment and
services.

19 17. Every service provider shall ensure that any of its equipment, facilities
20 or services that provides a communication is capable of—

21 (a) enabling a law enforcement agency to intercept all communications
22 on its network for the purpose of investigation and prosecution;

23 (b) accessing call data or traffic record;

24 (c) delivering intercepted communications and call data or traffic record
25 in such a format that they may be transmitted by means of equipment, facility
26 or service procured by any law enforcement agency to a location other than
27 the premises of the service provider; and

28 (d) facilitating authorized communications interceptions and access to
29 call data or traffic records unobtrusively with minimum interference with
30 any subscriber's communication service and in a manner that protects:

31 (i) the privacy and security of communications and call data or traffic

1 records not authorized to be intercepted.

2 (ii) information regarding the interception.

3 (2) A service provider who contravenes the provision of subsection (1) of
4 this section, commits an offence and shall be liable on conviction, in case of—

5 (a) service provider, a fine of not less than N 100,000; and

6 (b) director, manager or Officer of the Service provider, a fine of not less
7 than N500,000 or imprisonment for a term of not less than 3 years or to both
8 such fine and imprisonment.

9 18.—(1) It shall be the duty of every service provider at the request of
10 any law enforcement agency or at the initiative of the service provider, to
11 provide assistance towards the—

Failure of
service
provider to
perform
certain duties.

12 (a) identification, arrest and prosecution of offenders; or

13 (b) identification, tracing and confiscation of proceeds or any offence or
14 any property, equipment or device used in the commission of any offence; or

15 (c) freezing, removal, erasure or cancellation of the services of the offender
16 which enables the offender to either commit the offence or hide, preserve
17 the proceeds of any offence or any property, equipment or device used in the
18 commission of the offence.

19 (2) Any service provider who contravenes the provisions of subsection (1)
20 of this section, commits an offence and shall be liable on conviction, in the case
21 of-

22 (a) service provider, a fine of not less than N5,000,00; and

(b) director, manager or officer of the service provider, a fine of not less
than N500,000 or imprisonment for a term of not less than 3 years or to both
such fine and imprisonment.

23 19.—(1) Any person who on the internet, intentionally takes or makes
24 use of a name, business name, trademark, domain name or other word or phrase
25 registered, owned or in use by any individual, body corporate or belonging to
26 either the Federal, state or local government without:

Cyber
Squatting.

30 (a) authority or right; or

31 (b) for the purpose of interfering with their use in the internet by the

1 owner; commits an offence under this Bill and shall be liable on conviction
2 to a fine of not less than N100,000 or imprisonment for a term of not less
3 than 1 year or to both such fine and imprisonment.

4 (2) In the determination of the case against an offender, a court shall have
5 regard to:

6 (a) a refusal by the offender to relinquish, upon formal request by the
7 rightful owner of the name, trademark, words or phrase; or

8 (b) an attempt by the offender to obtain compensation in any form for the
9 release to the rightful owner for use in the internet, of the name, business
10 name, trade mark, or words or phrase registered, owned or in use by any
11 individual, body corporate or belonging to either the Federal, State or Local
12 Government of Nigeria.

13 (3) In addition to the penalty specified under this section, the court shall
14 make an order directing the offender to relinquish to the rightful owner.

Cyber
Terrorism.

15 20.—(1) Any person, group or organization that intentionally accesses
16 any computer or network for purposes of terrorism, commits an offence and
17 shall be liable on conviction to a fine of not less than N10,000,000 or a term of
18 imprisonment of not less than 20 years or to both such fine and imprisonment.

19 (2) For the purpose of this section, terrorism means any act which—

20 (a) may seriously damage a country or an international organization; or

21 (b) is intended or can reasonably be regarded as having been intended to:

22 (i) intimidate a population;

23 (h) compel a government or international organization to performance
24 abstain from performing any act;

25 (iii) destabilize or destroy the fundamental political, constitutional;
26 economic or social structures of a country or any internal organization,
27 or;

28 (iv) otherwise influence such government or international organization.

29 (c) Involves or causes, as the case may be to:

30 (i) attaches upon a person is life which may cause death,

31 (ii) attacks upon the integrity of a person;

- 1 (iii) kidnapping of a person,
- 2 (iv) destruction of a Government or public facility, including; an
- 3 information system, private property, likely to endanger human life or
- 4 result in major economic loss.
- 5 (v) the manufacture, possession, acquisition, transport, supply, or use
- 6 of weapons, explosive nuclear, biological or chemical as well as research
- 7 into their development without lawful authority;
- 8 (vi) the release of dangerous substance or causing of fires, explosions
- 9 of flood the effect of which is to endanger human life;
- 10 (vii) interference with or disruption of the supply of water, power or
- 11 any other fundamental natural resource, the effect of which is to endanger
- 12 life; or
- 13 (viii) propagation of information or information materials whether
- 14 true or false, calculated to cause immediate panic, evolve violence.
- 15 21. Any person who uses any computer to violate any intellectual property
- 16 rights protected under any law or treaty applicable in Nigeria, commits an
- 17 offence under this Bill and shall be liable on conviction to a fine of not less than
- 18 N1,000,000 or imprisonment for a term of not less than 5 years or to both such
- 19 fine and imprisonment, in addition to any penalty or relief provided under laws.
- 20 22. Any person who use any computer to—
- 21 (a) engage or solicits or entices or compels any minor in any sexual or
- 22 related act; or
- 23 (b) engage in, or facilitates any indecent exposure of a minor or creates,
- 24 possesses or distributes child pornography; or
- 25 (c) facilitates the commission of a sexual or related act which constitutes
- 26 an offence under any law for the time being in force in Nigeria, commits an
- 27 offence and shall be liable on conviction—
- 28 (i) in case of paragraph (a), to a time of not less than N3,000,000 or
- 29 imprisonment for a term of not less than 7 years or to both such fine and
- 30 imprisonment.
- 31 (ii) in case of paragraph (b), and (c), to a fine of not less than

Violation of
intellectual
property right
with the use

of computer

Using any

purposes, etc.

1 N1 ,000,000 or imprisonment for a term of not less than 5 years or both
2 such fine and imprisonment.

3 23. Any person who—
4 (a) attempts to commit any offence under this Bill; or
5 (b) does any act preparatory to or in furtherance of the commission of an
6 offence under this Bill; and
7 (c) abets or engages in a conspiracy to commit any offence, commits an
8 offence and shall be liable on conviction to the punishment provided for such an
9 offence, under this Bill.

10 24.—(1) The president may on the recommendation of the Agency, by
11 order published in the Federal Gazette, designate certain computer systems,
12 networks and information infrastructure vital to the national security of Nigeria
13 of the economic and social well being of its citizens, as constituting critical
14 information infrastructure.

15 (2) The president order in subsection (1) of this section may prescribe
16 standards, guidelines, rules or procedures in respect of—
17 (a) the registration, projection or presentation of critical information
18 infrastructure;
19 (b) the general management of critical information infrastructure;
20 (c) access to, transfer and control of data in any critical information
21 infrastructure;
22 (d) procedural rules and requirements for securing the integrity and
23 authenticity of data or information contained in any of the information;
24 (e) procedures or methods to be used in the storage of data or information
25 in critical information infrastructure;
26 (f) disaster recovery plans in the event of loss of the critical information
27 infrastructure or any part thereof; and
28 (g) any other matter required for the adequate protection, management
29 and control of data and other resources in any critical information
30 infrastructure.

Attempt
conspiracy
and
abetment.

Designation of
critical
information
infrastructure.

1 5. The president order in section 23 of this Bill may require audits and
2 inspection to be carried out on any critical information infrastructure to evaluate
3 compliance with the provisions of this Bill. Audit and
4 26.—(1) Any person who violates any provision as to the critical information inspection of
5 infrastructure designated under section 23 of this Bill, commits an offence and critical
6 shall be liable on conviction to a fine of not less than N 15,000,000 or information
7 imprisonment of a term of not less than 25 years or both such fine and infrastructure.
8 imprisonment. Offences
9 (2) Where the offence committed under subsection (1) of this section against
10 results in serious bodily injury, the offender shall be liable on conviction to a critical
11 fine of not less than N20,000,000 or to imprisonment for a term of 30 years or information
12 to both such fine and imprisonment. infrastructure.
13 (3) Where the offence committed resulted in death, the offender shall be
14 liable on conviction to imprisonment for life with no option of fine.
15 27. Nothing in this Bill shall preclude the institution of a civil suit against Civil
16 a person liable under this Bill by any interested party. liability.
17 28.—(1) The Federal High Court or state High Court shall have jurisdiction Jurisdiction
18 to try offender under this Bill. and special
19 (2) Notwithstanding anything to the contrary, the court shall ensure that powers of the
20 all matter brought before it under this Bill against any person or body corporate court.
21 are conducted with dispatch and given accelerated hearing.
22 (3) For the purposes of this Bill, a person shall be subject to prosecution
23 in Nigeria for an offence committed while the offender is physically located
24 either within or outside, if by the conduct of the offender or that of another
25 acting for him—
26 (a) the offence is committed either wholly or partly within Nigeria;
27 (b) the act of the offender committed wholly outside Nigeria constitutes a
28 conspiracy to commit an offence under this Bill within Nigeria; and an act
29 in furtherance of the conspiracy was committed within Nigeria, either directly
30 by the offender or at his instigation; or
31 (c) the act of the offender committed wholly or partly within Nigeria

1 constitutes an attempt, solicitation or conspiracy to commit offence in another
2 jurisdiction under the laws of both Nigeria and such other jurisdiction.

3 (4) For the purpose of this section—

4 (a) an offence or element of the offence is presumed to have been committed
5 in Nigeria if the offence or any of its elements substantially affects person
6 of interest in Nigeria;

7 (b) where any other country claims jurisdiction over an alleged offence
8 which is subject to prosecution in Nigeria as established by this section, the
9 Attorney General of the Federation may consult with such other country
10 with a view to determine the most appropriate jurisdiction for prosecution.

Authorized
officer
powers of
search and
arrest.

11 29.—(1) Pursuant Section (2) of this section, any authorized officer entitled
12 to enforce any provision of this Bill shall have the power to search any premises
13 or computer or network and arrest any person in connection with the offence.

14 (2) Subject to National Security Agency Act, an authorized officer of any
15 law enforcement agency, upon a reasonable suspicion that an offence has been
16 committed or likely to be committed by any person or body corporate, shall
17 have power to—

18 (a) access and inspect or check the operation of any computer to which
19 this act applies; or

20 (b) use or cause to use a computer or any device to search any data
21 contained in or available to any computer or network; or

22 (c) use any technology to retransform or decrypt any encrypted data
23 contained in a computer into readable text or comprehensible format; or

24 (d) seize or take possession of any computer used in connection with an
25 offence under this Bill, or

26 (e) require any person having charge of or otherwise concerned with the
27 operation of any computer in connection with an offence to produce such
28 computer; or

29 (f) require any person in possession of encrypted data to provide access to
30 any information necessary to decrypt such data;

31 (g) require any person in authority to release any subscriber or traffic

1 information or any related content; and

2 (h) relate with any international law enforcement agencies for the purpose
3 of giving or receiving on information or exchanging any data or database for
4 the purpose or investigation and prosecution under this Bill.

5 (i) The Agency shall have power to cause or direct investigation by any
6 law enforcement agency.

7 30. Any person who— Obstruction
enforcement

8 (a) willfully obstructs any law enforcement agency in the exercise of any officer.
9 power under this Bill; or

10 (b) fails to comply with any lawful inquiry or request made by any
11 authorized officer in accordance with the provisions of this Bill, commits an
12 offence and shall be liable on conviction to a fine of not less than N50Q,000
13 or imprisonment for a term of not less than 3 years or to both such fine and
14 imprisonment.

15 31. Notwithstanding anything contained in any enactment or law in Nigeria, Electronic
16 an information contained in any computer which is printed out on paper, stored, Primary
Evidence.
17 recorded or copied on any media, shall be deemed to be primary evidence
18 under this Bill.

19 32.—(1) Any person who tampers with any evidence in relation to any Tampering
with
evidence.
20 proceeding under this Bill by intentionally: computer

21 (a) creating, destroying, (mutilating, removing or modifying data or program
22 or any other form of information existing within or outside a computer or
23 network; or

24 (b) activating or installing or downloading or transmitting a program that
25 is designed to create, destroy, mutilate, remove or modify data, program or
26 any other form of information existing within or outside a computer or network;
27 or

28 (c) creating, altering, or destroying a password, personal identification
29 number, code or method used to access a computer or network.

30 Commits an offence and shall be liable on conviction to a fine of not less than
31 N500,000 or to imprisonment for a term of not less than 3 years or to both such

1 fine and imprisonment.

The Agency
Power of
Prosecution.

2 33. Criminal proceedings under this Bill shall be instituted by the Agency.

Forfeiture of
assets, etc.

3 34.—(1) The court imposing sentence on any person who is convicted of
4 an offences under this Bill may also order that the convicted person forfeits to
5 the federal republic of Nigeria—

6 (a) any assets, money or property (real or personal) constituting of traceable
7 to gross proceeds of such offence; and

8 (b) any computer, equipment, software or other technology used or intended
9 to be used to commit or to facilitate the commission of such offence.

10 (2) Any person convicted of an offence! under this Bill shall forfeit his
11 passport or international traveling documents to the Federal Republic of Nigeria
12 until he has paid the fines or served the sentence imposed on him

13 (3) Notwithstanding subsection (2) of this section, the court may;

14 (a) upon the grant of pardon by the president to the convicted person; or

15 (b) the purposes of allowing the convicted person to travel abroad for
16 medical treatment, having made formal application before the court on that
17 regard; or

18 (c) in the public interest, direct that the passport or traveling document
19 of the convicted person be released to him.

Compounding
of offence and
payment of
compensation.

20 35.—(1) Without prejudice to section 174 of the constitution of the Federal
21 Republic of Nigeria, 1999, the Attorney General may, subject to voluntary
22 admission of the commission of the offence, compound any offence punishable
23 under this Bill by accepting such amount specified as fine to which the offender
24 would have been liable if he had been convicted of that offence.

25 (2) Notwithstanding the provision of subsection (1) of this section, the
26 court may order the payment of compensation to any person or body corporate,
27 who suffers damages, injury, or loss as a result of the offence committed.

Conviction for
alternative
offence.

28 36. Where a person is charged with an attempt to commit an offence
29 under offence this Bill but the evidence establishes the commission of the foil
30 offence, the offender shall not be entitled to acquittal and shall be convicted for

1 the offence and punished under the relevant penalty.

2 37. The president may by order published in the Gazette make such rules
3 and regulations as in his opinion and on the recommendation of the Agency are
4 necessary to give full effect to the provisions of this Bill.

President
powers to
make rules
and
regulation.

5 38. In this Bill,

Interpretation.

6 "access" includes to gain entry to, instruct, make use of any resources of
7 a computer, computer system or network.

8 "Agency" means Cyber Security and Data Protection Agency.

9 "Authorized officer" means a person authorized by law to exercise a
10 power this Bill.

11 "Authority" means express or implied consent to access a computer
12 network, program, data or database, software.

13 "Computer" includes any electronic device or computational machinery
14 programmed instruction which has the capabilities of storage, retrieval
15 memory, logic, arithmetic or communication and includes all input, output,
16 processing, storage, communication facilities which are connected or related
17 to such a device in a system or network or control of functions by the
18 manipulation of signals whether electronic, magnetic or optical.

19 "computer network" includes the interconnection of computers or computer
20 system.

21 "Computer program" means data or a set of instructions or statements
22 that when executed in a computer causes computer to perform function.

23 "damage" means an impairment to the integrity or availability of data,
24 program or network.

25 "data" includes a representation of information, knowledge, facts, concepts
26 or instructions intended to be processed, being processed or has been
27 processed in a network.

28 "database name" includes any designation or name registered with the
29 domain registrar as part of an electronic address.

30 "intellectual property rights" include any right conferred or granted under
31 any of the following laws or treaties to which Nigeria is a signatory:

- 1 (a) Copyright Act, CAP 68. LFX (as amended);
2 (b) Patents and Designs Act CAP 344, LFX;
3 (c) Trade Marks Act, CAP LFX;
4 (d) Berne Convention;
5 (e) World Intellectual Property Organization (WIPO) Treaty;
6 (f) Trade-Related Aspects of Intellectual Property Rights (TRIPs);
7 (g) Universal Copyright Convention (UCC); and
8 (h) Paris Convention (Lisbon Text).

9 "internet" means global information system linked by a unique address
10 space base on the internet protocol or its subsequent extensions.

11 "intercept" includes the aural or acquisition of the contents of any wire,
12 electronic or oral communication through the use of technical means so as
13 to make some or all the contents of a communication available to a person
14 other than whom it was intended, and includes;

- 15 (a) monitoring of such communication by any device;
16 (b) viewing, examination or inspection of the contents of any
17 communication; and
18 (c) diversion of any communication from its intended destination.

19 "Law enforcement" agency means any institution created by law and
20 charged with the responsibility of enforcing obedience to our written law.

21 "loss" means any reasonable loss to a victim, including the cost of
22 responding to an offence, conducting a damage assessment and restoring the
23 data, program, system or information to its condition prior to the offences
24 and any revenue lost, cost incurred and other consequential damages incurred
25 because of the interruption of service.

26 "Minor" means a person under 18 years.

27 "Modification" means

- 28 (a) alteration **or** erasure of the content of any program, **data and** data
29 base;
30 (b) any event which- occurs to impair the normal operation of a computer;
31 (c) modification is unauthorized if:

1 (i) the person that causes the act is not himself entitled to determine
2 whether the modification should be made; and

3 (ii) he does not have consent from anybody to modify.

4 "Service provider" includes but not limited to;

5 (a) internet service provider;

6 (b) communications service provide; and

7 (c) application service provider.

8 "Software" includes any program, data, database, procedure and associated
9 documentation concerned with the operation of a computer system.

10 "Spamming" means unsolicited electronic mail message having false
11 headers, address and lines.

12 "Minister" means minister of information and communication.

13 39. This Bill may be cited as Cyber Security and Data Protection Agency Citation.
14 (Establishment, etc.) Bill, 2008.