

TEMPLARS



TEMPLARS LEGISLATIVE WATCH:

HB 01: ELECTRIC POWER SECTOR REFORM ACT

HB 30: THE INVESTMENT AND SECURITIES ACT

HB 04: FEDERAL HIGHWAYS ACT

(AMENDMENT) BILL 2019

HB 01: ELECTRIC POWER SECTOR REFORM ACT (Amendment) Bill 2019

On the 3rd of October 2019, the House of Representative ('HoR') passed the Electric Power Sector Reform Act (Amendment) Bill 2019 (the 'EPSRA Bill'). The EPSRA Bill seeks to prohibit and criminalise estimated billing by electric distribution companies and to provide for compulsory installation of pre-paid meters to all power consumers in Nigeria. The EPSRA Bill seeks to amend the Electric Power Sector Reform Act 2005 ('the Act') to criminalise estimated billing in the power sector. Highlights of the amendments proposed by the Bill include the following:

- 1) Section 67(1) (b) which originally stated that 'the installation, maintenance and reading of meters, billing and collection' be deleted and replaced with '*the installations, maintenance and checking of pre-paid meters, tariff methodology and proscription of estimated billings*';
- 2) The requirements to obtain distribution licenses has been amended to include that estimated billing methodology is prohibited² and that '*every electric consumer in Nigeria must apply to the Electricity Distribution Company 'EDC' carrying out business within its jurisdiction, for a pre-paid meter and such consumer must pay the regulated fee for pre-paid meter to be installed in its premises and the EDC shall within 30 days of receiving the application and payment install the pre-paid meter applied for in the premises of the consumer*'³.
- 3) Furthermore, '*all electricity charges or billings to the premises of every consumer must be based strictly on pre-paid metering and no consumer will be allowed to pay any bill without a pre-paid meter first being installed at the premises of the consumer*'⁴. Notwithstanding the above, an unmetered consumer may still be issued with an estimated bill for a stipulated period where such estimated bill has been issued through the Commission's approved centralized automated system that reflects the Commission's approved estimated billing methodology.⁵
- 4) Nigerian Electricity Regulatory Commission must ensure that all licensed Distribution Companies comply with the provisions of this Bill.⁶
- 5) Any person who performs any act or does anything or refuses, fails and/or neglected to carry out his lawful duties with intention to contravene or frustrate the implementation of sections 68 and 71 of the Act is said to have omitted an offence; and upon conviction shall be liable to six (6) months imprisonment or a minimum fine of N1,000,000 (One Million Naira) or both such fine and imprisonment without prejudice to the right of the Commission to cancel or suspend any license under the ESPRA Bill.⁷

¹ New Section 67

² New Section 68(1)

³ New Section 68(2)

⁴ New Section 68(4)

⁵ New Section 68(5)

⁶ New Section 70

⁷ New section 94

The rule making process requires that a bill passes through the first reading, the second reading, the committee stage, the third reading and passage. Given the bicameral nature of Nigeria's legislature, once a bill is passed by one chamber, it is forwarded to the sister chamber for concurrence before it is deemed passed after which it is presented to the President for assent.

Following the passage of the Bill by the HoR, the Bill has been forwarded to the Senate for concurrence. Depending on the outcome of the Senate proceedings, the harmonised Bill may be forwarded to the President for assent. So far, the Bill is yet to be listed for deliberations at the Senate and until this is done, it is unclear when the legislative processes regarding the Bill will be completed.

HB 30: THE INVESTMENT AND SECURITIES ACT (Amendment) Bill 2019

The House of Representative ('HoR') on 4th July 2019, commenced the first reading of the Investment and Securities Act (Amendment) Bill 2019 (the 'ISA Bill'). The ISA Bill seeks to provide for greater transparency and accountability in the finances of the Securities and Exchange Commission (SEC).

The ISA Bill seeks to amend the Investment and Securities Act 2007 ('the Act') by inserting new clauses providing that:

- 1) The Commissioner *shall* subject to the provisions of subsection (2) of section 20, apply the proceeds of the Fund from SEC established under section 19 of the Act which provides for the establishment of the Commission's fund.⁸
- 2) No money shall be withdrawn from the fund of the Commission unless the issue of those moneys has been authorised by an Act of the National Assembly as set out under section 26 of this Act'.⁹

The Bill also seeks to create new subsections (2), (3), (4), (5) and (6) in section 26 which prescribes the annual estimates, accounts and audit.

The rule making process requires that a bill passes through the first reading, the second reading, the committee stage, the third reading and passage. Given the bicameral nature of Nigeria's legislature, once a bill is passed by one chamber, it is forwarded to the sister chamber for concurrence before it is deemed passed after which it is presented to the President for assent.

The ISA Bill passed its second reading on 17 September 2019 and is presently at the HoR Committee Stage. We envision that it could come up for third reading and passage by the HoR anytime from 29 October 2019. Following its passage by the HoR, the Bill will be forwarded to the Senate for concurrence. With these remaining processes yet to commence, it is unlikely that this Bill will be passed and presented for assent before Q2 2020.

⁸ New section 20(1)

⁹ New section 20(2)

HB 04: FEDERAL HIGHWAYS ACT (Amendment) Bill 2019

The House of Representative ('HoR') on 3rd July 2019, commenced the first reading of the Federal Highways Act (Amendment) Bill 2019 (the 'FHA Bill'). The FHA Bill seeks to make further provisions for the safety of Nigerian Highways. The FHA Bill seeks to revise the Federal Highways Act 1971 ('the Act') by increasing the penalty:

1. For any person who wilfully does any fraudulent act or thing relating to the issue of receipts or collection of fees, dues or charges from N10,000 (Ten thousand Naira) to 'N100,000 (One Hundred Thousand Naira)¹⁰;
2. For the failure to comply with the requirement of the Minister directed or given to any person under this section from not less than 'N100,000 (One Hundred Thousand Naira) to not more than N200,000 (Two Hundred Thousand Naira)¹¹; and
3. For any person who on a Federal Highway drives a motor vehicle on any occasion without the express or implied authority of the owner from N100 (One Hundred Naira) to 'N20,000 (Twenty Thousand Naira)¹²;

Also, the FHA Bill creates a new section 17 which provides for offences relating to driving of trucks or any vehicles with a container. It states that '*any person who drives a truck or any other vehicle with a container or containers must ensure that the container is latched or bolted to the truck or vehicle in such a manner that the container will not falloff the truck or vehicle*¹³ Furthermore, '*it will be an offence for any person to drive any truck whether with or without a container between the hours of 6am and 9pm on all Federal Highways.*¹⁴ Similarly, '*if any truck or vehicle is caught on the Federal Highway without the container latched or bolted to the truck, the driver of the truck will be arrested immediately and the truck or vehicle impounded.*¹⁵ A driver and the owner of a truck that is guilty of the aforementioned, will be liable to a fine of N5,000,000 (Five Million Naira) or 2 years imprisonment or both and where the owner of the truck is a corporate organisation, the organisation will be liable to a fine of N2,000,000 (Two Million Naira).

The rule making process requires that a bill passes through the first reading, the second reading, the committee stage, the third reading and passage. Given the bicameral nature of Nigeria's legislature, once a bill is passed by one chamber, it is forwarded to the sister chamber for concurrence before it is deemed passed after which it is presented to the President for assent.

The FHA Bill passed its second reading on 25th July 2019. It has also passed through the HoR Committee Stage. We envision that it could come up for third reading and passage by the HoR anytime from 29 October 2019. Following its passage by the HoR, the Bill will be forwarded to the Senate for concurrence. With these remaining processes yet to commence, it is unlikely that this Bill will be concurred and passed by the Senate and presented for assent before Q2 2020.

¹⁰ New section 2(7)(d)

¹¹ New section 4(5)

¹² New section 12

¹³ New section 17

¹⁴ New section 17(2)

¹⁵ New section 17(6)

Contacts:



Dayo Okusami
 Partner, Energy and Projects
dayo.okusami@templars-law.com



Zelda Akindele
 Partner, Finance
zelda.akindele@templars-law.com



Desmond Ogba
 Partner, Finance, Energy and Projects
desmond.ogba@templars-law.com



Moses Pila
 Senior Associate, Energy and Projects
moses.pila@templars-law.com

OFFICE LOCATIONS

Lagos

5th Floor, The Octagon
 13A, AJ Marinho Drive
 Victoria island
 Lagos

Tel: +234 1 46 11 294, +234 1 2703982
 +234 1 2799396, +234 1 4611889-90

Fax: +234 1 27 12 810

Email: info@templars-law.com


Abuja

No. 6 Usuma Close
 Off Gana Street, Maitama
 Abuja

Tel: +234 9 291 1760, +234 9 273 1898
 +234 9 273 1877

www.templars-law.com

 www.linkedin.com/company/templars

 twitter.com/templars_law
