

CHAPTER 130

PUBLIC OFFICERS (RESTITUTION OF MISAPPROPRIATED FUNDS) LAW

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CHAPTER 130

PUBLIC OFFICERS (RESTITUTION OF MISAPPROPRIATED FUNDS) LAW

A Law to provide for quick recovery of misappropriated or embezzled or stolen public property

ANSL Cap. 113

[27th August 1991]

1. This Law may be cited as the Public Officers (Restitution of Misappropriated Funds) Law.
2. In this Law—

Short title

Interpretation

“agency of the State” means a statutory corporation or other body created by or under this Law or other enactment of the State Government and includes a company or enterprise in which the State Government, the corporation or other body has controlling shares or interest;

“assets” includes all kinds of property, real and personal, movable and immovable, and, without prejudice to the generality of the foregoing includes land (developed or undeveloped), buildings, factory, workshop, warehouse, ships, aircraft, motorvehicles,

furniture, household goods and electronic equipment, farms, stock-in-trade, stocks, shares, debentures, treasury certificates, saving bonds, interests and dividend;

“Governor” means the State Governor;

“investigating panel” means an investigating panel constituted by the Governor under section 4;

“public funds” means any money belonging to or forming part of the revenue of the State or of an agency of the State;

“public officer” means any person who holds or has held any of the offices specified in Part H of the Fifth Schedule to the Constitution of the Federal Republic of Nigeria, to the extent that the offices specified therein apply to the State at any time after 26th day of August, 1991;

“State” means Enugu State of Nigeria.

3. Notwithstanding anything contained in any other Law, where any action, prosecution or other proceeding commenced against a public officer for an offence concerned with or relating to improper, irregular, illegal or fraudulent dealing with, or the embezzlement, stealing or misappropriation in any manner howsoever of, public funds results in the conviction by the court of that public officer for the offence, in addition to whatever punishment the court may impose on him, in accordance with any written law, for the commission of the offence, the court shall order that such public officer shall—

Penalty on conviction for misappropriation of public fund.

(a) within a period not exceeding 3 months from the date of the conviction, pay into the revenue of the State the equivalent in money of the value of the public funds the misappropriation of which he has been convicted of; or

(b) in default of the condition under paragraph (a) forfeit to the State Government assets to the value of the public funds the misappropriation of which he has been convicted of.

4.(1) For the purpose of giving effect to an order made pursuant to section 3, the Governor may constitute a panel consisting of such number of persons (including an officer of the State Ministry of Justice) as he may think fit to conduct an investigation with a view to ascertaining the assets of a public officer convicted of an offence as provided in this Law.

Investigation of the convicted assets.

(2) A panel set up under subsection (1) shall conduct a thorough investigation into the assets and activities of the convicted public officer and may conduct further investigation into the assets and activities of his spouse, child, relative, parent, associate or privy where, in the interest of proper investigation, the panel considers that such further course of action is desirable.

(3) In determining the assets of a convicted public officer, any gift, bequest or donation made by the public officer at any time after the commission of an offence to which section 3 relates shall be treated as forming part of his assets.

(4) In conducting investigations under this Law' the investigating panel may require a public officer, by means of an affidavit, to make a full disclosure of all his assets and income.

(5) The investigating panel shall as soon as may be but not later than a period of 4 months from the date of inception of an investigation under this Law, report in writing its findings to the Governor and such report shall contain a list of the known and verifiable assets of the public officer; the value of such assets; their location; and a recommendation as to which of the assets may be forfeited to the State Government.

Governor to give effect to the order.

5. The Governor shall, having regard to the report of the investigating panel made to him under subsection (5) of section 4, by a forfeiture order published in the State Official Gazette give effect to the order made by the court under paragraph (b) section 3.

Treasury receipt to be evidence of payment.

6. In any proceedings a treasury receipt issued to a public officer and evidencing payment of the sum ordered to be paid by that public officer under paragraph (a) of section 3 and signed by an appropriate revenue officer shall be sufficient evidence of the facts therein stated and shall operate to discharge the public officer from further proceedings under paragraph (b) of section 3 unless the contrary is proved.

Offence
relating to
fronting.

7. (1) Any person who—
(a) acts as a front for a public officer to whom this Law applies or does or omits to do anything or acts in a manner likely to defeat the objects of this Law , or
(b) unlawfully acquires, disposes, operates or retains any assets for and on behalf of such public officer;
commits an offence against this Law and shall be liable on conviction to imprisonment for a term not exceeding 5 years.

(2) In addition to the imprisonment prescribed by subsection (1), the assets in question shall be forfeited to the State Government

(3) For the purposes of this section, a person acts as a front if he accepts a gift donation or bequest from a public officer to whom this Law applies on the understanding or in circumstances in which it may be inferred that such a gift, donation or bequest is intended to be held on behalf of, or in trust for, or for the use of, such public officer, his spouse, children, parents, relatives, associates or privies.

8. (1) Any police officer to whom this Law applies who—
(a) knowingly fails to make full disclosure of his assets as may be required to be made under this Law; or
(b) knowingly makes a declaration that is false, knowing same to be false in pan or in whole; or
(c) fails, neglects or refuses to make a declaration or furnish information as may be required under this Law,
commits an offence against this Law and shall be liable on conviction to imprisonment for a term of 5 years.

Offence
relating to
declaration
of assets.