

# Salient Provisions of the AMCON Amended Act 2019

The Asset Management Corporation of Nigeria (AMCON) is a body established by the ***Asset Management Corporation of Nigeria (AMCON) Act 2010 (“the Act”)***. It was established with an intended 10 years life span, commencing from 19th July 2010. AMCON is empowered by the Act to take over nonperforming loans from eligible financial institutions with an overriding aim of protecting shareholders interest in the eligible financial institutions,

The Act was first amended in 2015, to give additional powers to AMCON. On the 7th of August, 2019, President Muhammadu Buhari signed the Asset Management Corporation of Nigeria (Amendment) Act, 2019 into law (“the Amended Act”). The Amended Act contains amendments which appear to further increase the powers of the AMCON as regards the enforcement of the Act and recovery of debt from debtors. Some of the notable amendments are highlighted below:

- **Unfettered Access to Electronic or Mechanical Devices**

The Amended Act empowers AMCON to access electronic or mechanical devices of any debtor of an eligible financial institution in order to locate both disclosed and undisclosed funds of the debtor.

This provision apparently targets debtors who take advantage of banking confidentiality to prevent AMCON from getting details of the sources and locations of their funds. The convenience of relying on the right to confidentiality and banking privacy as a basis for objecting to the powers of AMCON to recover debts have been taken away from the debtors. Accordingly, private account information and all bank financial and commercial records of any debtor can now be obtained with ease, for the purpose of debt recovery.

- **Right to place Debtors’ Accounts under Surveillance**

AMCON may place any bank account or any other account related to a debtor under surveillance. All bank accounts of individual debtors and their companies will be monitored for the effective tracing and recovery of debts.

- **Request for Financial Information**

AMCON may request an eligible financial institution from which it has acquired an eligible bank asset to furnish it with information and produce documents, books, accounts and records in relation to any eligible bank asset which may have been acquired by AMCON. The request may be extended to any director, manager or officer of such institution. Also, the information requested by AMCON, may be in relation to the borrower or other obligator, such as a guarantor, connected with such eligible bank asset.

- **Screening of Potential/Eligible Government Contractors**

AMCON will have the power to impose an obligation on the Federal Government, Ministries, Departments and Agencies of the Government, requiring them to seek clearance from AMCON before engaging, dealing with or paying a client who is on AMCON's debtor list.

AMCON is to provide these bodies with a list of debtors which would serve as a guide for exercising such power. Thus, where the Federal Government, Ministries, Departments or Agencies propose to award any contract to any debtor on AMCON's list, AMCON must be notified and it is possible that money which ought to be paid to a debtor may be used to offset their debt.

- **The Prohibition of the Grant of any Orders of Attachment against AMCON**

The Amended Act prevents any court of competent jurisdiction from granting any interim, interlocutory or preservative order of attachment against AMCON's funds. In effect, where a debtor or other party brings an action against AMCON in a competent court, until a final decision is made, no order of attachment can be made against AMCON. It is worthy of note that all monies standing to the credits of AMCON in any bank account is deemed to be in the custody and control of AMCON.

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