



Nigerian Startup Act

On 19th October, 2022, the Nigerian President, Muhammadu Buhari signed the Nigerian Startup bill into law. The Startup Act 2022 (the Act) is seen as a welcomed development especially within the technology scene in Nigeria. The Act applies to all companies, partnerships and sole proprietorships registered under the Companies and Allied Matters Act 2020 which have been granted the startup label. It also applies to organizations and establishments, whose activities affect the creation, support, and incubation of labelled startups in Nigeria.

We would start with a brief definition of a startup and the difference between startups and SMEs. Startups are organizations formed to search for a repeatable and scalable business model, they want to prove their business model and execute on it.

While SMEs are self-sustaining organizations that generate revenue, albeit in small amounts, from the onset and commencement of the business.

In this article, we shall be reviewing some of the major provisions of the Startup Act:

1. Establishment of the National Council for Digital Innovation and Entrepreneurship: Section 3 of the Act sets up a National Council for Digital Innovation and Entrepreneurship (NCDIE or Council) with the National Information Technology Development Agency (NITDA or Secretariat) serving as the Secretariat to the Council. Section 4 lists out the members who are to constitute the NCDIE with the President as its Chairman and the Vice President as its Vice Chairman along with 12 other members.

The Council is also responsible for formulating and providing general policy guidelines for the realisation of the objectives of the Act amongst several other functions and powers. It is important for startups to educate and align themselves with the directives/regulations by the newly established NCDIE and NITDA.

2. Establishment and Functions of the National Information Technology Development Agency: The Secretariat (NITDA) shall amongst several other functions, manage the process of labelling a startup, collaborate/partner with Ministries, Departments and Agencies (MDAs) and stakeholders to promote digital technology innovations and enterprise development for startups as well as establish platforms which will serve as a repository of information on startups, incubation,

acceleration and provide the needed support for startups. See Section 9 of the Act.

3. Establishment and Functions of the Startup Support and Engagement Portal: The Secretariat (NITDA), with the approval of the Council, shall establish a Startup Support and Engagement Portal (Startup Portal) which shall serve as a platform through which a startup conducts registration process with relevant government agencies and departments. The Startup Portal shall facilitate the issuance of a permit or licence to a labelled startup, provide platform for interaction between a startup and the Federal Government, private institutions, angel investors, venture capitalists, incubators, accelerators and other relevant institutions. See Section 10 of the Act.

4. Purpose of the Startup Consultative Forum: The Secretariat shall, with the approval of the Council, set up a consultative body known as the Startup Consultative Forum on the Startup Portal to provide a platform for information sharing and collaboration in the Nigerian startup ecosystem. This Forum will include representatives from labelled startups, venture capitalists, angel investors, incubators, accelerators, innovation hubs and 2 civil society organizations involved in technology and innovation advancement. See Section 12 of the Act.

5. Conditions for Startup Status: To be eligible as a startup under the Act, the organization must fulfill the following:

A. it is registered as a limited liability company under

the Companies and Allied Matters Act and has been in existence for a period not more than 10 years from the date of incorporation;

B. its objects are innovation, development, production, improvement, and commercialization of a digital technology innovative product or process;

C. it is a holder or repository of a product or process of digital technology, or the owner or author of a registered software;

D. it has at least one-third (33.33%) local shareholding held by one or more Nigerians as founder or co-founder of the startup; and

E. in the case of a sole proprietorship or partnership, it satisfies the conditions set out in paragraphs (b), (c) and (d). See Section 13 of the Act.

6. This Act is not applicable to holding companies or subsidiaries of an existing company which is not registered as a startup.

7. A startup desirous of being granted a label under the provisions of the Startup Act must submit an application on the Startup Portal.

8. Establishment and Functions of the Startup

Investment Seed Fund: The Startup Act also established the Startup Investment Seed Fund (Fund) which shall have an annual sum of not less than NGN 10 Billion. The Fund is to be managed by the Nigeria Sovereign Investment Authority. This Fund is to be used to provide finance for labelled startups and provide relief to technology laboratories, accelerators, incubators and hubs. See Section 19 of the Act.

9. Additional Functions of the Secretariat: The Secretariat (NITDA) shall also design and implement a training and capacity building programme for startups. The Secretariat (NITDA) shall establish centres for the acquisition of digital technology in the six geopolitical zones of Nigeria for the promotion of digital technology utilisation, strengthening of digital technology management capability, and information systems.

10. Tax Incentives for Startups: A labelled startup which falls within industries captured under the extant Pioneer Status Incentives (PSI) Scheme may upon application through the Secretariat (NITDA) receive expeditious approval from the Nigerian Investment Promotion Commission (NIPC) for the grant of the tax reliefs and incentives under the PSI Scheme. See Section 24 of the Act

11. Additional Tax Reliefs for Labelled Startups: They include:

A. the possible exemption from income tax payments for a period of 3 years and an additional 2 years if still a labelled startup. This tax relief shall commence on the date of the issuance of the startup label.

B. tax deductions for expenses on research and development which are wholly incurred in Nigeria and restrictions placed by the Companies Income Tax Act shall not apply to labelled startups.

C. a reduced withholding tax rate of 5% on the income derived by non-resident companies which provide technical, consulting, professional or management services to a labelled startup. This is applicable provided that the payment of the withholding tax shall be the final tax to be paid by such non-resident company.

D. labelled startups will be exempted from contributions to the Industrial Training Fund where they provide in-house trainings to its employees for the period whereby such business is designated as a labelled startup. See Section 25 of the Act.

12. Export Incentives for Startups: Labelled startups shall be deemed eligible under the Export (Incentives and Miscellaneous Provisions) Act and entitled to export incentives and financial assistance from the Export Development Fund, Export Expansion Grant and Export Adjustment Scheme Fund. See Section 26 of the Act.

13. Access to Grants and Loans for Startups: Labelled startups shall also have access to grants and loan facilities administered by the Central Bank of Nigeria, the Bank of Industry or other bodies statutorily empowered to assist

small and medium scale enterprises and entrepreneurs.
Section 27 of the Act.

14. Establishment and Function of the Credit Guarantee Scheme: The Act provides for the establishment of the Credit Guarantee Scheme which will create a framework for credit guarantee for startups and provide accessible financial support, financial and credit information and financial management capacity building programmes to startups. Section 28 of the Act.

15. Collaboration of the Secretariat and other Government Agencies: In order to provide the needed support for startups and ease their registration(s) with relevant agencies, the Act also provides for the collaboration of the Secretariat with other government agencies to wit, the Corporate Affairs Commission,

Nigerian Copyright Commission, Trademarks, Patent and Design Registries, National Office for Technology Acquisition and Promotion, Central Bank of Nigeria and Securities and Exchange Commission.

16. Crowdfunding for Startups: Also important is the provision for startups to raise funds through crowdfunding intermediaries and commodities investment platforms, duly licensed by the Securities and Exchange Commission (SEC), which would have their platforms available for use by startups on the Startup Portal.

17. Tax Incentives for Investors: Investors in startups have also not been left out of the benefits of the Act. The Act provides that a national incentives policy will be developed and implemented for investors (individuals, impact investors, angel investors, companies, venture

capitals, private equity funds, accelerators or incubators) in labelled startups or in the startup ecosystem so they can enjoy tax credits on their investment. Such tax credit includes an investment tax credit equivalent to 30% of the investment provided that such credit must be applied to any taxable gains on investment. See Section 29 of the Act.

18. Additional Tax Incentives for Investors: Capital gains tax will not be charged on accrued gains to investors for the disposal of assets with respect to a labelled startup provided such assets have been held in Nigeria for a minimum of 24 months. See Section 29 of the Act.

19. Repatriation of Investments: The repatriation of investment by foreign investors is also provided for. Investment repatriation is posed to be easier and seamless with the collaboration between the Secretariat and the

Central Bank of Nigeria (CBN). Dividends or profits and proceeds (upon sale or liquidation of a labelled startup) accrued to investors net of all taxes and other obligations can be repatriated through a CBN authorized dealer in freely convertible currencies. Such repatriation of investments in a labelled startup shall be carried out at the CBN's official foreign exchange rate provided the investor presents a Certificate of Capital Importation as evidence of initial investment.

As can be seen from the above, the Startup Act is a welcomed initiative. If properly implemented, it can spurn the anticipated growth in the Nigerian technology industry.

Do you need further information on how to register a startup or start a new technology business in Nigeria, [Contact Us](#) today.