

## INCORPORATED TRUSTEES AND THE COMPANIES AND ALLIED MATTERS ACT (CAMA) 2020: POSITION OF THE LAW\*<sup>1</sup>

### Abstract

*The Companies and Allied Matters Act (CAMA) 2020, the foundational corporate legal framework was assented to by President Muhammadu Buhari on August 7<sup>th</sup>, 2020, first of its kind since 1990 it was enacted, aimed at enhancing transparency and stakeholders' engagement in corporate relationship, introduce innovations to boost businesses, build world class Companies Registry, and ensure efficiency, has 870 sections, and classified into chapters under Parts A to G. The Act principally is to regulate the formation, management and dissolution of Businesses and Associations. This work mainly is directed at illuminating the changes made to the law with respect to Incorporated Trustees under Part C of the repealed Act, now Part F of the New Act. It regulates the affairs of Associations such as Non-Governmental Organizations (NGOs), Churches, Mosques, Clubs etc. from their formation, management, and dissolution, though the Corporate Affairs Commission (CAC) is yet to issue Regulations that will guide such affairs. Section 839 of new CAMA, a controversial regulatory provision, states that by an order, power is vested on CAC to suspend trustees and appoint interim managers to oversee the affairs of any IT, where such suspension is desirable in the public interest or due to incidence of misconduct, mismanagement or fraud. Above have provoked reaction from stakeholders, some argued it is utterly repressive, an affront to the powers of the courts, unlawful and unconstitutional. We shall look at all that and state what the law is. Nevertheless, the discretionary oversight powers of the CAC through the Registrar General and Supervising Minister of Trade should be varied, exercised judiciously and with great circumspect. Nonetheless, any discretionary powers are subject to judicial review by the courts which should provide adequate safeguard against abuse.*

**Keywords:** Incorporated Trustees, CAMA 2020, Law, Church, Mosque

### 1. Introduction

Companies and Allied Matters Act 1990 Cap C20, Laws of the Federation of Nigeria (LFN) 2004, recently, was colossally amended and altered into a new legislation more suitable for the present-day corporate practice. Several sections and relevant innovations were added which did not exist in the repealed Act. Key innovations introduced includes: that a company can now have only one shareholder; no need for company seal anymore; Incorporated Trustees (IT) can now merge; prohibition of anyone from serving as director in more than five (5) public companies; electronic filing, share transfer and e-meetings for private companies; introduction of Limited Liability Partnerships (LLP) and Limited Partnership; small companies no longer need to appoint auditors; authorized share capital replaced by minimum share capital; provision for virtual Annual General Meeting; applicant can now sign their statement of compliance during incorporation; private companies no longer need to appoint company secretary; increased minority protection; Reduction in filing fees for registrations and charge; and rescuing provisions for insolvent and distress companies. The chart makes clear that part F formerly part C, IT, our main focus of this work, had half of the previous provisions in CAMA 1990 retained, with changes accounting for less than 25% and new additions nearly at 30%. IT are fiduciaries, by law they do not pay taxes, and it is natural that Government should be interested in their activities. Fiduciary holds one out in position of trust, a person that can be entrusted with the wealth, welfare or patrimony of its members/beneficiaries. Trustees should follow due process of law by being transparent and accountable to members and authorities, and administer the organisation only for the purpose and object it is set for, and its resources used only as may be approved by the association (members).

### 2. The Effect of Incorporation of Trustees

The Court in *Oluwaniyi v. Adewumi*<sup>2</sup> was emphatic when it held (CAMA 1990) as follows:

Section 673 (1)<sup>3</sup> provides that where one or more trustees are appointed by any community of persons bound together by religion etc, or for any religious or charitable purpose, etc, he or they may, if so authorized by the community, body or association,

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<sup>2</sup> (2007) LPELR-9034(CA) (Pp. 29-30, para. E).

<sup>3</sup> Part C (now part F, section 823 (1)) CAMA.

apply to the Commission for registration as a corporate body. Section 673 (2) further provides - 'Upon being so registered by the Commission, the trustee or trustees shall become a corporate body in accordance with the provisions of Section 679<sup>4</sup> of the Act', which section reads as follows - 'From the date of registration, the trustee or trustees shall become a body corporate by the name described in the certificate, and shall have perpetual succession and a common seal (If they so wish)<sup>5</sup>, and power to sue and be sued in its corporate name and as such trustee or trustees - - ' In effect, once a body or an association is registered with the Corporate Affairs Commission (CAC), the trustees become a corporate body in accordance with Section 679 of Part C of CAMA<sup>6</sup>, which invests them with the power to sue and be sued in its corporate name and as such Trustees.<sup>7</sup>

On above effect of Incorporation of Trustees, it was further held by the court in the case of *Inc'd Trustees of Holy Apostles Church, Ayetoro & Ors v. Inc'd Trustees of Oneness Faith of Christ Ministry, Ayetoro & Ors*<sup>8</sup> as follows:

Learned counsel are *ad idem* in their respective submissions that it is only on being registered by CAC that any Incorporated Trustees (ITs) becomes a corporate body with the status of a juristic personality capable of suing or being sued. That is the law.<sup>9</sup> It is equally not in dispute between parties that the best evidence in proof of juristic personality is the production of Certificate of Incorporation (C-of-Inc) issued by CAC. The C-of-Inc in this case has been tendered in evidence and same admitted by the lower Court, it can be found on page 52 of the Record of Appeal. The subject C-of-Inc bears the name 'The Incorporated Trustees of Oneness Faith of Christ Ministry' whereas the 1st Respondent instituted this action as The Incorporated Trustees of Oneness Faith of Christ Ministry, Ayetoro. The contention between the parties is whether or not 'The Incorporated Trustees of Oneness Faith of Christ Ministry, 'Ayetoro' is the same as 'The Incorporated Trustees of Oneness Faith of Christ Ministry'? It is pertinent to note that juristic personality is a creation of statute, and the position of the law is very clear that where words used in a statute are clear and unambiguous; they must be given its plain or ordinary meaning.<sup>10</sup> Indeed in the case of the *Registered Trustees of National Association of Community Health Practitioners of Nigeria & Ors. vs. Medical and Health Workers Union of Nigeria & Ors.*<sup>11</sup>, the Apex Court per Mukhtar, JSC (as he then was) at page 371 Paragraphs 15 to 20, put the issue thus: '.....Once a Court gives the provisions of a law that is not ambiguous, the grammatical and ordinary interpretation to conform with the interest of the legislature when the law was passed, an appellate Court cannot fault such interpretation for the cardinal principle of interpretation would have been met with by the lower Court.?' On the effect of Registration and C-of-Inc of an IT, Ss 591(1) (a) and 596(1) provide as follows: S. 591(1)(a)<sup>12</sup>: 'Application under S. 596 of this Act shall be in the form prescribed by the Commission and shall state (a) the name of the proposed body which must contain the words 'ITs of...'. Section 596(1)<sup>13</sup> provides as follows: (1) From the date of registration, the trustee or trustees shall become a body corporate by the name described in the Certificate, and shall have perpetual succession and a common seal and power to sue and be sued in its corporate name as such Trustee or Trustees and subject to S. 602 of this part of this Act to hold and acquire, and transfer assign or otherwise dispose of any property, or interest therein belonging to, or held for the benefit of such association, in such manner and subject to such restrictions and provisions as the Trustees

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<sup>4</sup> Now section 830 CAMA.

<sup>5</sup> Emphasis mine, an addition to the current amended version

<sup>6</sup> S. 596 of CAP C20 LFN, 2004. Now s. 836 CAMA as amended.

<sup>7</sup> Per Augie, JCA.

<sup>8</sup> (2016) LPELR-41368(CA) (Pp. 35-41, paras. F-E).

<sup>9</sup> S. 59 CAMA, LFN 1990 (Now s. 830 CAMA as amended).

<sup>10</sup> See *Madam Akon Iyoho v. E.P.E. Effiong (Esq.) & Anor* (2007) 4 SCNJ 414; *Hon. Michael Dapianlong & Ors. v. Chief (Dr.) Joshua Chibi Dariye & Anor* (2007) 4 SCNJ 286; and *The Registered Trustees of National Association of Community Health Practitioners of Nigeria & Ors. v. Medical and Health Workers Union of Nigeria & Ors.* (2008) 1 SCNJ 348.

<sup>11</sup> *Supra*.

<sup>12</sup> Now s. 825 (1) (a) CAMA as amended

<sup>13</sup> Now s. 830 CAMA as amended.

ought without incorporation hold or acquire, transfer, assign or otherwise dispose of the same for the purposes of such community, body or association of persons. The combined implication of Ss. 591(1)(a) and 596(1) reproduced above is that the name described on the C-of-Inc only, is the name clothed with legal or juristic personality with powers to, *inter alia*, sue and be sued in its corporate name. In the instant case, the name on the C-of-Inc - (Exhibit A) as can be found at page 52 of the Record of Appeal is ‘The ITs of Oneness Faith of Christ Ministry’, which is clearly different from ‘The ITs of Oneness Faith of Christ Ministry, Ayetoro’ - the name with which the 1st Respondent instituted this suit. Any addition or subtraction from the name on the C-of-Inc, to my mind, will amount to alteration or change of name which can only be effected with the permission and approval of C.A.C. See: S. 597 (1) of CAMA. The arguments of the learned counsel for the Respondents on implication of a ‘comma sign’ is only academic and/or semantic, given the fact that Ss 591 (1) (a) and 596 (1) are very clear and unambiguous that it is the name described on the C-of-Inc that is clothed with juristic personality with power, *inter alia* to sue and be sued. Respondents' submissions vide Para 5.08 of their Brief of Argument is messed up by the combined effect of Article No. 2 of the Certified True Copy of the Constitution of Oneness Faith of Christ Ministry and Para 9 of their Counter-Affidavit in opposition to Appellants' Motion dated 20/5/2013. I shall reproduce them hereunder for ease of reference. ‘Article 2: Headquarters: No. 1B Anwana Esin Lane, Oron, Akwa Ibom State’ Para 9: ‘That I know as a fact that in the course of proceedings in this case on the 17th April, 2013 the Claimant 1st Witness (CW1) Rev. J. S. O. Omagbemi told the Court under cross examination that 1st Claimant has branches in Ayetoro, Akwa Ibom, Lagos etc. (See pages 50 and 61 of the Record of Appeal). To be deciphered from the above is that while the headquarters of the ‘Oneness Faith of Christ Ministry’ is located at No. 1B, Anwana Esin Lane, Oron, Akwa Ibom State, Oneness Faith of Christ Ministry, Ayetoro is a branch of Oneness Faith of Christ Ministry. Therefore, it is safe to conclude that it is the ITs of Oneness Faith of Christ Ministry, Ayetoro branch that instituted this action, which clearly is not juristic person. I cannot agree more with my learned brother Mukhtar, JCA (as he then was) in the case of *lfedapo Community Bank Ltd. v. Eternal Order of C & S Church, Saki Branch*<sup>14</sup> when he held thus: ‘That the name under which the Plaintiff sues is different from the above is glaring and clear as crystal, the fact that it bears the words Cherubim and Seraphim, and that the only addition (that may be regarded as minor) are the words Saki Branch, notwithstanding. I am not aware that the Plaintiff/Respondent in its reply to the Statement of Defence disclosed that the Plaintiff is a branch of the said Eternal Order of Cherubim and Seraphim. The fact however remains that it was only the overall umbrella body that was incorporated, and not the branches that spring up from thereunder and as can be seen from the C-of-Inc reproduced above...’<sup>15</sup>

### 3. The Status of an Incorporated Association (Trustees inclusive)

The Court of Appeal in *Okatta v. Registered Trustees*<sup>16</sup> held as follows:

Having stated the submissions of both parties to this appeal on issue one, it is necessary at this stage to take the issue of the status of the respondent in this matter vis-a-vis the learned senior Advocate of Nigeria, Mr. Egonu. It was common ground that the respondent was an association, (social for that purpose) registered under the Companies and Allied Matters Act (CAMA)<sup>17</sup> and that Mr. Egonu (SAN) was only, one of the Registered Trustees of the Respondent. The Law is trite that an incorporated association such as the respondent, is different legal entity from its directors or management. It has a separate and distinct life and existence. The law in recognizing its separate and distinct entity vests in it a legal personality which can sue or be sued in that name.<sup>18</sup> In view of

<sup>14</sup> (2001) 7 NWLR (pt. 712) 508 @ 514 Para. G – H.

<sup>15</sup> Per Denton-West, JCA.

<sup>16</sup> (2007) LPELR-8347(CA) (Pp. 14-16, paras. A-D).

<sup>17</sup> Cap 37 of 1990.

<sup>18</sup> See *Alhaji Mai lanya Trading and Transport Co. Ltd. v. Veritas Insurance Co. Ltd.* (1986) 4 NWLR (Pt.38) 802; *Fawehinmi v. N.B.A. & Ors (No.2)* (1989) 2 NWLR (Pt.105) 558.

the fact that an artificial person, like the respondent, vested with legal or juristic personality, lacks the natural or physical capacity to function as a human being, those who work in it do all things for and on behalf of it. The respondent in this case, cannot hear, and it cannot talk. Therefore, it cannot physically react to a situation or perform a physical act outside the goading force of a human being. It is therefore the law and the tradition for the human being or human beings authorised, to take decisions for and on behalf of the incorporated association such as the Respondent. Where a certain act is done, by a person or persons in authority (e.g. the decision taken in this case), the association is liable or deemed to be liable for the act or acts of the person or persons. In the instant case, Mr. Egonu (SAN) was one of the trustees of the respondent. Even if the learned SAN held the position of the sole chairman or sole trustee of the respondent, the respondent was a separate and distinct legal entity different from the learned SAN.<sup>19</sup> The confusions that arose in this case were as result of the failure of the appellant to bear in mind that the decision in question in this suit was the respondent's decision and not the individual trustee or that of Mr. Egonu in his personal capacity. The decision of the trustees nullifying the election of the appellant and others was taken on behalf of the respondent by the trustees who were authorised so to do. Thus, the appellant sued the respondent for the act of nullifying the appellant's election. See Para.3 of the affidavit in support of the motion 31st October, 2005 as well as Para 8 of the counter-affidavit sworn to by one Hyacinth Nwango and filed on 16th November, 2005. If the foregoing facts had been borne in mind by the appellant, this appeal would have been otherwise.<sup>20</sup>

#### **4. Conditions for applying part C (now Part F) of Companies and Allied Matters Act**

The Supreme Court in the case of *Amasike v The Registrar General, C.A.C. & Anor*<sup>21</sup> held:

Under Part C<sup>22</sup>, the provisions of sections 673(1) and 674(1) (a)<sup>23</sup>, must be complied with. Thus, a party applying under Part C, must be made up of one or more<sup>24</sup> Trustees appointed by a community of persons bound together by custom, religion, kinship or nationality. Such an application also, must be made by an association of persons established for any religious, educational, literary, scientific, social development, cultural, sporting or<sup>25</sup> charitable purpose.<sup>26</sup>

The new CAMA (2020) states in section 823 that:

- (1) Where two or more trustees are appointed by any community of persons bound together by custom, religion, kinship or nationality or by anybody or association of persons established for any religious, educational, literary, scientific, social, development, cultural, sporting or charitable purpose, they may, if so authorised by the community, body or association (in this Act referred to as 'the association') apply to the Commission in the manner provided for registration under this Act as a corporate body.
- (2) Upon being so registered by the Commission, the trustees shall become a corporate body in accordance with the provisions of section 830 of this Part.

#### **5. Effect of Registration and Certificate**

Section 830 of CAMA<sup>27</sup> provides as follows:

- (1) From the date of registration, the trustees shall become a body corporate by the name described in the certificate, and shall have –
  - (a) perpetual succession;
  - (b) a common seal if they so wish;
  - (c) power to sue and be sued in its corporate name as such trustees; and

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<sup>19</sup> S.679 (1-3) CAMA Cap.37 LFN 1990 (Now s. 836 as amended; *Solomon v Solomon & Co. Ltd.* (1897) A.C 22.

<sup>20</sup> Per Tsamiya, JCA.

<sup>21</sup> (2010) LPELR-456 (SC) (P. 44, paras. A-C).

<sup>22</sup> Now Part F.

<sup>23</sup> S. 590 (1) of CAMA Cap C20 LFN, 2004. Now s. 823 (1) CAMA as amended.

<sup>24</sup> Now, two or more Trustees...

<sup>25</sup> Underlined word added in the amended Act.

<sup>26</sup> Per Ogbuagu, JSC.

<sup>27</sup> As amended in 2020.

- (d) subject to section 836 of this Part, power to hold and acquire, and transfer, assign or dispose of any property, or interests therein belonging to, or held for the benefit of such association, in such manner and subject to such restrictions and provisions as the trustees might without incorporation, hold or acquire, transfer, assign or otherwise dispose of the same for the purposes of such community, body or association of persons.
- (2) The certificate of incorporation shall vest in the body corporate all property and interests of whatever nature or tenure belonging to or held by any person in trust for such community, body or association of persons.
- (3) A certificate of incorporation when granted shall be prima facie evidence that all the preliminary requisitions herein contained and required in respect of such incorporation have been complied with, and the date of incorporation mentioned in such certificate shall be deemed to be the date on which incorporation has taken place.

### 6. Highlight of Few sections of CAMA 2020: Sections 839, 823, 839 (7) 842 (2) 836, 837

Section 839 (1) of the Act<sup>28</sup>, provides that the commission may by order, suspend the trustees of an association and appoint an interim manager or managers to manage the affairs of an association where it reasonably believes that there has been any misconduct or mismanagement of the association, or where the affairs of the association are being run fraudulently or where it is necessary or desirable for the purpose of public interest. Section 839 (2) also provides for another procedure for the suspension of trustees. Here the trustees can also be suspended by an order of court upon a petition by the commission or one-fifth of the members of the association. However, the petitioners must present reasonable evidence or such as requested by the court. A comparative perusal of subsections (1) and (2) above suggests that, while the court requires evidence, following a petition to suspend trustees, the commission has omnibus power and wide discretion in arriving at what is in the public interest, to suspend trustees. Drawing from above provisions, should the powers of the commission override that of a court of competent jurisdiction. The commission here is represented by the Registrar General and the Minister, their position cannot however be superior to the judicial powers of the court under subsection 2. Can we safely say that petitioners do not need the court to suspend trustees; all they need to do is appeal to the belief and conscience of the Registrar General or the supervising Minister.<sup>29</sup> Section 823 (1) recognises the appointment of trustees by a community of persons bound by custom, religion, kinship or nationality. However, as expected, the new law is yet to release a regulation on the procedure for such appointment by the commission, to avoid appointing one who may not have anything in common with the community to manage the affairs of the association. Section 839 (7) provides that after an enquiry into the affairs of the association, if the commission is satisfied as to the matters in subsection (1)<sup>30</sup> it may suspend and remove any trustee. Section 842 (2) gives the Commission the power to direct transfer of credits in dormant accounts of NGOs. The banks are to inform the commission of dormant accounts of NGOs in its custody and if after 15 days there is no ‘satisfactory’ response from the association of evidence of its activities, the commission may dissolve an association and direct a bank to transfer monies from the association’s dormant account to another account.<sup>31</sup> Even EFCC by its enabling law requires a court order to forfeit accounts of suspects/defendants. Section 836 gives the association power ‘to appoint a council, or governing body, which shall include the trustees and may, subject to the provisions of this Part, assign to it such administrative and management functions as it deems expedient’. Section 837 provides that ‘the powers vested in the trustees by or under this Act shall be exercised subject to the directions of the associations, or the council or governing body appointed under section 836 of this Part.’<sup>32</sup> Above, particularly section 839 (1) CAMA shows a trustee who failed to be transparent and accountable may be removed to preserve the ‘res’. If a residential castle must be built for a church leader, members must know and approve of it, else, it becomes void, and members can petition CAC, who may temporarily suspend the Trustee(s) and appoint interim manager to preserve the *res*, and the court may rule on it one way or the other. Being not owners, Trustees are not paid officers, except for allowances. Trustees are just the custodians of the

<sup>28</sup> CAMA, 2020.

<sup>29</sup> <<https://loyalnigerianlawyer.com/unto-cama-what-belongs-to-cama-and-unto-god-what-belongs-to-god-is-section-839-satanic-or-a-lawful-order-from-constituted-authority/>> Accessed on October 15, 2020.

<sup>30</sup> Subjectivity clause of “reasonably believes”, “deem it necessary or desirable”, “public interest”.

<sup>31</sup> *Suo motu*, without necessarily obtaining court order.

<sup>32</sup> Above provision is where Members of any registered association draw their overriding power over the trustees, either by themselves directly (Association) or through the council or governing body.

Trust and of name of the organisation and they provide it with legal personality and succession, a name for life unless they are dissolved (death).

**7. Similarities and Differences between Old CAMA (1990) and the New CAMA 2020**

Some identifiable similarities and differences between 1990 and 2020 CAMA are as follows:<sup>33</sup>

S/N	1990	2020	Similarities	Difference
01	S. 590	S. 823	Appointed trustees of certain communities, bodies and associations shall apply to the commission for registration under CAMA as a corporate body.	Nil
02	S.591	S.825	The method of application is stated, and shall be in the form prescribed by the commission.	Subsection (5) CAMA 1990 provides for an option of 1-year imprisonment or a N100 fine while subsection (5) of the CAMA 2020 provides for an option of one-year imprisonment or a fine as the court deems fit.
03	S.592	s.826	Provisions for qualification of trustees.	Subsection (2) of CAMA 1990 provides for a N50 fine for everyday a disqualified person still acts as trustee, while subsection (2) CAMA 2020 states that the penalty shall be determined by the regulations made by the commission.
04	S.593	S.827	This deals with the basic provisions of the Constitution of an Association to be registered under this part. They include custody of the common seal, powers, duties, removal and appointment of trustees and members of the governing body, etc.	Subsection (c)(ii) of CAMA 2020, makes it not mandatory to have a common seal.
05	S.594	S.828	After the application has complied with the method of application, qualification of trustees and its constitution as contained in the Act, the application shall be advertised in two newspapers (one national) inviting objections upon grounds within 28 days which shall be considered by the commission.	Nil
06	S.595	S.829	If within 28 days, there is no objection or there is a rejected objection, then the commission can assent the application, issuing a certificate of the registration of the trustees or the commission can withhold assent.	Nil
07	S.596	S. 830	From the date of registration, the trustees shall become a body corporate by the name described in the certificate and shall have perpetual succession, can sue and be sued, hold and be able to act on any property/ interests belonging to the association. There shall sole be a certificate of incorporation.	Subsection (1) (b) of CAMA 2020 states that they shall have a common seal only if they wish to.
08	S.597	S.832	When the trustees apply to the commission for change of names or objects, if it is found lawful, the same process stated in section 591-594 for CAMA 1900 and sections 825-828 for CAMA 2020 shall apply and a new certificate shall be issues in place of the old one.	Nil
09	S.598	S.833	An association can alter its constitution with a	Nil

<sup>33</sup> <<https://hermonlaw.com/wp-content/uploads/2020/08/Part-F-CAMA-2020.pdf>> Accessed on October 15,2020

			resolution passed by a simple majority of its members and approved by the commission.	
10	S.599	S.834	Where an association seeks to replace or appoint additional trustees, it may by resolution in a general meeting to do so apply for the commission's approval.	Nil
11	S.600	S.835	Any changes in contravention of sections 597-599 for CAMA 1990 and sections 832-834 for CAMA 2020 shall be void.	Nil
12	S.601	S.836	The association may appoint a governing body and appoint to it administrative and management functions it deems fit, subject to this part of the Act.	Nil
13	S.602	S.837	The powers vested on the trustees shall be subject to the direction of the association and its governing body.	Nil
14	S.603	S.838	The income and property of an association shall be applied solely towards promotion of the objects of the body. However, remuneration to an officer or servant of the body for services rendered can be given. This still excludes members of the governing body, except ex-officio members.	There is an addition in subsection (2) of CAMA 2020 that includes the powers and duties of the interim manager. Also, the court can suspend any employee of the association, appoint new trustees and transfer properties upon the petition of the commission or members of the association.
15	S.604	S.840	Any instrument to which the common seal of a corporate body has been affixed in apparent compliance to the use of the registrations of the common seal shall be binding on that body no matter the circumstance.	CAMA 1990 states that the common seal shall have such device as may be approved by the commission, whereas CAMA 2020 is to the effect that such device may be approved by the constitution. Also, the common seal is not made mandatory in CAMA 2020.
16	S.605	S.841	Subject to the provisions of the Act and the association's constitution, the corporate body may contract in the same form and manner as an individual.	Nil
17	S.607	S.848	The trustees of the association shall within the 31st June - 31st December submit to the commission their annual returns.	It was added to CAMA 2020, subsection (2) that the returns shall include the audited statement of account for the year of returns. Also, the penalty of failure to comply with this section in CAMA 1990 is a N5 fine for each day which the default continues while the penalty in CAMA 2020 was stated to be prescribed by regulation.
18	S.608	S.850	A body corporate can be dissolved by the governing body, one or more trustees, 50% of the total membership or by commission. The grounds of dissolution are; complete realization of aims and objectives or illegality of the same, expiration of specified period for running or for justice and equitability. Finally, it covers distribution of property between members and charitable object upon dissolution.	Addition of the withdrawal of registration of the association by the commission as a ground on which the body corporate may be dissolved, now in subsection (2)(e) of CAMA 2020.

19	S.609	S.846(3)	Regulations shall be made for the purpose of this Act, prescribing the forms and returns and procedures to get any needed information.	In CAMA 1990, the regulations were stated to be made by the minister with the approval of the President, while in CAMA 2020, the regulations are made by the commission. Also, prescribing relevant accounting principles or standards to be adopted by the association was added as the contents of regulations in subsection (3) (d) of CAMA 2020.

### 8. Innovations in CAMA 2020

Some identifiable innovations of 2020 CAMA are as follows<sup>34</sup>

S/N	Section	Innovation
01	824	Classification of allocations to be registered shall be determined by the commission in accordance with the aims and objectives of the association.
02	831	The commission may direct that for any purpose of the Act, an association can be treated as forming part of an already existing one and that two or more associations with the same trustees be treated as one.
03	839	Where the Commission reasonably believes that any misconduct or mismanagement in administration of the association has occurred, or that the affairs of the Association is being run fraudulently, or for the protection of the property of the association and public policy, the commission may, by order, suspend the involved trustees and appoint interim manager(s) to manage the affairs of the association. The trustees shall be suspended by an order of Court upon the petition of the Commission or members consisting one-fifth of the association.
04	842	The bank shall notify the commission of any dormant account in the name of a particular association. With the approval of the minister, the commission can dissolve the association if they do not give satisfactory evidence of activities within 15 days.
05	843	After the bank has given notice to the commission under section 843, the dormant account shall not be reactivated without first notifying the commission, even if it seems like the account is no more dormant.
06	844	No restriction on disclosure shall preclude a relevant bank from disclosing information of the status of a dormant account to the commission. It goes further to define what a dormant account is.
07	845	Trustees of an association shall submit to the commission a bi-annual statement of affairs of the association, failure to do so shall attract a penalty for everyday the default continues in such amount as is specified by the commission in its regulation.
08	846	The trustees of an association shall ensure that accounting records, showing and explaining the association's transactions are kept in respect of the association.
09	847	The accounting records of an association shall be preserved by it for six years from the date on which they were made.
10	844	Two or more associations with similar aims and objectives may merge under such regulations provided for by the commission.

### 9. Highlight of Contents of Provisions of Incorporated Trustees, CAMA 2020, Part F

823 Chapter 1 — Incorporated Trustees

Incorporation of Trustees of Certain Communities, Bodies and Associations.

824 Classification of Associations.

825 Method of Application.

826 Qualification of Trustees.

827 Constitution.

<sup>34</sup> <https://hermonlaw.com/wp-content/uploads/2020/08/Part-F-CAMA-2020.pdf>



- 828 Advertisement and Objections.
- 829 Registration and Certificate.
- 830 Effect of Registration and Certificate.
- 831 Related Associations.
- Chapter 2 — Changes in Registered Particulars of Incorporated Trustees
- 832 Change of Name or Object.
- 833 Alteration of Provisions of the Constitution.
- 834 Replacement and Appointment of Additional Trustees.
- 835 Changes in Contravention of Certain Provisions of This Part of This Act.
- Chapter 3 — Council, Powers, Income and Property
- 836 Council or Governing Body.
- 837 Exercise of Powers of Trustee.
- 838 Application of Income and Property.
- Chapter 4 — Suspension of Trustees, Appointment of Interim Managers, Etc.
- 839 Suspension of Trustees, Etc., Appointment of Interim Manager, Etc.
- Chapter 5 — Common Seal and Contract
- 840 Common Seal.
- 841 Contract of Corporate Body.
- Chapter 6 — Accounts and Annual Returns
- Power to Direct Transfer of Credit in Dormant Bank
- 842 Accounts of Dissolved Incorporated Trustees.
- 843 Accounts Which Cease to Be Dormant Before Transfer.
- 844 Dormant Bank Accounts: Supplementary.
- 845 Bi-Annual Statement of Affairs.
- 846 Accounting Records and Statement of Accounts.
- 847 Preservation of Accounting Records.
- 848 Annual Returns.

## 10. Conclusion

Incorporated Trustees are not required by Law to pay tax. In reality, it appears Trustees observe the provisions of its enabling law as it affects their respective associations in breach than in compliance, many are rich off the wealth of association they should hold in trust for, hiding literally in plain sight, enjoying a life of affluence that they are not legally entitled to, but which because they are Trustees of the wealth and have access to it, they readily take. This is the aspect that negates the very essence for which IT are given separate personality. Government by this innovative amendment to CAMA is ready in ensuring that corporate existence of ITs is kept and adhered to. Although, section 839 (1) should be varied to checkmate the absolute power of ‘reasonability’ deposited to the Commission which appears an affront to the constitutional powers of the court to issue orders. IT are required to prepare yearly audited accounts and file same with the CAC. Accountability is the essence of the new Act and from the wordings of the new CAMA, it is non-negotiable. One of the demands of Part F of CAMA 2020 to IT is to annually state as follows: ‘In the year 2019, ABC .... IT received XYZ amount of money and that the sum of DEF was expended in GHI ways, with details of the expenditure and income’. The Accounts must be open to members of the Association to view to enable them ask relevant questions. A ready scenario for example is where a General Overseer of a Church organisation decides on the purchase of a private jet, the members must be able to say how the decision was taken and if they were allowed to debate issues such as the opportunity cost of such a purchase *vis-a-vis* the building of a school, etcetera? Whether majority opted for the jet? A Trustee is expected to take the decision that is in the best interest of the members only. These are the issues why Trusts are regulated, so that they can be trusted by all and sundry. NGOs receive money from abroad for charitable purposes, so they are also accountable to those bodies. The only trustworthy accountability tool is the record which is sent to the CAC which is the body legally allowed to keep such records. Therefore, amendment of CAMA, no doubt is to put the Nigerian corporate governance framework in conformity with international best practices. It can also be an instrument designed to checkmate the financial activities of religious association with incorporated trustees by attaching a fastener of supervision to their purses, however, it must not offend any provision of the Nigerian constitution.