

PUBLIC INTEREST DISCLOSURE BILL, 2015

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A BILL

FOR

AN ACT TO PROVIDE FOR THE MANNER IN WHICH INDIVIDUALS MAY IN THE PUBLIC INTEREST DISCLOSE INFORMATION THAT RELATES TO CRIME, UNLAWFUL CONDUCT OR CORRUPT PRACTICES OF OTHERS; TO PROVIDE FOR THE PROTECTION AGAINST VICTIMISATION OF PERSONS WHO MAKE THESE DISCLOSURES; TO ESTABLISH A FUND FOR THE SAKE OF REWARDING INDIVIDUALS WHO MAKE THE DISCLOSURES AND THEREBY ENHANCE CRIME INFORMATION GATHERING FOR SECURITY UTILISATION AND FOR RELATED MATTERS

Sponsored by Rt. Hon. Yakubu Dogara

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1 1. -(1) A person may make a disclosure of information where that
2 person has reasonable cause to believe that the information tends to show:
3 (a) any crime has been committed, is about to be committed or is
4 likely to be committed;
5 (b) another person has not complied with a law or is in the process
6 of breaking a law or is likely to break a law which imposes an obligation on
7 that person;
8 (c) a miscarriage of justice has occurred, is occurring or is likely to
9 occur;
10 (d) in a public institution there has been, there is or there is likely to
11 be waste, misappropriation or mismanagement of public resources; .
12 (e) the environment has been degraded, is being degraded or is
13 likely to be degraded; or the health or safety of an individual or a community
14 our sea is endangered, has been endangered or is likely to be endangered.
15 (2) A conduct which falls within any of the matters specified in

1 subsection (1) is in this Bill referred to as an "impropriety".

2 (3) A person who makes a disclosure of impropriety is in this Bill
3 referred to as "informant".

4 (4) Notwithstanding any other law to the contrary, a disclosure of act
5 of impropriety is protected if:

6 (a) the disclosure is made in good faith;

7 (b) the informant has reasonable cause to believe that the information
8 disclosed and an allegation of impropriety contained in it are substantially true;
9 and.

10 (c) the disclosure is made to one or more of the persons or institutions
11 specified in Section 3.

12 2. Disclosure of impropriety may be made by:

13 (a) a person in respect of another person, or an institution;

14 (b) an employee in respect of another employee; or

15 (c) an employee in respect of an employer.

16 3. -(1) Disclosure of impropriety may be made to anyone or more of
17 the following:

18 (a) Police Officer from the rank of Commissioner of Police,

19 (b) the Attorney-General of the Federation;

20 (c) the Auditor-General of the Federation;

21 (e) Head Department of State Security Services Office;

22 (d) Chairman Economic and financial crime commission; Chairman
23 Independent corrupt practices commission;

24 (e) Controller General of Custom;

25 (f) Director General National Drug law Enforcement Agency;

26 (g) the Civil Defence Corp office;

27 (h) any Traditional Ruler;

28 (i) the head or an elder of the family of the informant; and

29 (j) a head of a recognised religious body.

30 (2) In determining to whom the disclosure may be made the Informant

- 1 may take into account:
- 2 (a) a reasonable belief or fear that he or she may be subjected to
- 3 dismissal, suspension, harassment, discrimination or intimidation;
- 4 (b) a reasonable belief or fear that evidence relevant to the
- 5 impropriety may be concealed or destroyed;
- 6 (c) that the person to whom the disclosure is made will not frustrate
- 7 the objective;
- 8 (d) that the impropriety is of an exceptionally serious nature and
- 9 that expeditious action must be taken to deal with it; and
- 10 (e) the place where and the prevailing circumstances under which
- 11 the informant lives.
- 12 4.-(1) A disclosure may be made in writing or orally.
- 13 (2) The disclosure shall contain as far as practicable:
- 14 (a) the full name, address and occupation of the informant;
- 15 (b) the nature of the impropriety in respect of which the disclosure
- 16 is made:
- 17 (c) the person alleged to have committed, who is committing or is
- 18 about to commit the impropriety;
- 19 (d) the time and place where the alleged impropriety is taking
- 20 place, took place or is likely to take place;
- 21 (e) the full name, address and description of a person who
- 22 witnessed the commission of the impropriety if there is such a person;
- 23 (f) whether the informant has made a disclosure of the same or of
- 24 some other impropriety on a previous occasion and if so, about whom and to
- 25 whom the disclosure was made; and
- 26 (g) if the person is an employee making a disclosure about that
- 27 person's employer or a fellow employee, whether the informant remains in
- 28 the same employment.
- 29 5.-(1) Where an informant makes a disclosure orally, the person to
- 30 whom the disclosure is made shall cause the disclosure to be reduced into

1 writing containing the same particulars as are specified in subsection (2) of
2 Section 4.

3 (2) Where the informant is illiterate, the writing required to be made
4 under subsection (1) shall be read over, interpreted and explained to the
5 informant in a language he or she understands and the informant shall approve
6 of it before making a mark to it and a certificate to this effect shall be attached to
7 the writing.

8 (3) In the case of a person who is blind or with some other physical
9 disability, but literate, a certificate as required in subsection (2) shall be made
10 with the necessary modification stating his disability.

11 6.-(1) When a disclosure of impropriety is made to a person specified
12 in Section 3, the person shall:

13 (a) make a record of the time and place where the disclosure is made;

14 (b) give to the informant an acknowledgment in writing of receipt of
15 the disclosure; and

16 (c) keep the writing in which the disclosure is made confidential and
17 in safe custody pending investigation of the impropriety.

18 (2) Where the disclosure is made to a Chief, head of recognised
19 religious body or a head or an elder of a family, the traditional ruler, head or
20 elder may instead of recording the disclosure as required under subsection (1),
21 assist the informant to make the disclosure to the police or other authority
22 specified in Section 3.

23 (3) Where a person to whom the disclosure is made fails to keep
24 confidential the disclosure, the person commits an offence and is liable on
25 summary conviction to a fine of not less than five hundred thousand naira or to
26 a term of imprisonment of four years or both.

27 7. Where a disclosure is made to a person specified under Section 3,
28 other than the Inspector-General, Head Economic and Financial Crime
29 Commission, Independent Corrupt Practices Commission or Security Agency,
30 the person shall submit a copy of the written disclosure to any of the mentioned

1 Agencies within two working days after receipt of the disclosure.

2 8. -(1) Where a disclosure is made to a person specified under
3 Section 3, the person shall investigate the matter except where:

4 (a) the person to whom the disclosure is made does not have the
5 capacity to undertake the investigation; or

6 (b) the Institution has no power to handle the matter.

7 (2) A person for reason specified in subsection (1) shall refer the
8 disclosure as recorded to the Inspector-General or any other Security
9 Agency that has power to investigate crime, or unlawful conduct within two
10 working days after receipt of the disclosure.

11 (3) Notwithstanding the provision of subsection (1), the Inspector-
12 General, Head Economic and Financial Crime Commission, Independent
13 Corrupt Practices Commission or Security Agency may on receipt of a copy
14 of a written disclosure under Section 7, cause investigation to be conducted
15 into the disclosure within one month.

16 (4) Investigation undertaken in respect of impropriety shall be
17 carried out as expeditiously as possible and shall in any event be completed
18 within two months of receipt of the disclosure or directives to undertake the
19 investigation.

20 (5) A person who undertakes an investigation in respect of an
21 impropriety and in the course of that investigation conceals or suppresses
22 evidence, commits an offence and is liable on summary conviction to a term
23 of imprisonment of not less than five years.

24 9. Where in the course of an investigation under Section 8, it
25 appears to the investigating officer that:

26 (a) evidence or documents relevant to the investigation are likely
27 to:

28 (i) be destroyed;

29 (ii) concealed; or

30 (iii) tampered with; or

1 (b) a person willing to provide information relevant to the
2 investigation is being subjected to:

3 (i) pressure,

4 (ii) inducement, or

5 (iii) intimidation to withhold the information, the investigating
6 officer may apply to the Court for an order to preserve the evidence or
7 documents or to restrain the intimidation of the person willing to provide the
8 information.

9 **10.**-(1) A report on investigation conducted under Section 8 shall be
10 submitted to the Inspector-General, Head of Commissions or other Security
11 Agency for directives immediately the investigation is completed.

12 (2) Where the completion of the investigation is delayed beyond the
13 one month specified in subsection (3) of Section 8, a report shall be submitted
14 to the Inspector-General, Head of Commission or other Security Agency
15 stating:

16 (a) the reasons for the delay;

17 (b) measures that are proposed to expedite the investigation; and

18 (c) any further assistance required to complete the investigation.

19 (3) A report of an investigation which is submitted shall contain
20 particulars of:

21 (a) the manner in which the investigation was conducted;

22 (b) the names and particulars of persons who provided information in
23 the course of the investigation;

24 (e) facts obtained which either confirm or dispute the truth or
25 accuracy of the information contained in the disclosure; and

26 (d) obstacle encountered in the course of the investigation and the
27 nature of the obstacle.

28 **11.** The Inspector-General, Head of the Commissions or Security
29 Agency may on receipt of a report under subsection (3) of Section 10, take the
30 following steps:

- 1 (a) prosecute the accuse person;
- 2 (b) ask for further investigations by the same person or institution
- 3 that conducted the investigations or by other person or institution; or
- 4 (c) reject the report on the investigation and close the matter.

5 **12.-(1)** The Informant shall not be subjected to victimisation by the

6 employer of the Informant or by a fellow employee or by another person

7 because of the disclosure made.

8 (2) The Informant shall be considered as having been subjected to

9 victimisation if because of making the disclosure:

- 10 (a) the Informant, being an employee is
- 11 (i) dismissed,
- 12 (ii) suspended,
- 13 (iii) declared redundant,
- 14 (iv) denied promotion,
- 15 (v) transferred against the informant's wish,
- 16 (vi) harassed,
- 17 (vii) intimidated,
- 18 (viii) threatened with any of the matters set out in Subparagraph (i)-
- 19 (v),
- 20 (ix) subjected to a discriminatory or other adverse measure by the
- 21 employer or fellow employee; or

22 (b) the informant not being an employee, is subjected to

23 discrimination, intimidation or harassment by a person or an institution.

24 (3) The Informer shall not be considered as having been subjected

25 to victimisation if the person against whom the complaint is directed has the

26 right in law to take the action complained of and the action taken is shown to

27 be unrelated to the disclosure made.

28 **13.** Where the Informant is aggrieved by any action on the ground

29 that he is being victimised due to the fact that he had disclose the act of

30 impropriety, he may file a complaint before the Public Complaint

1 Commission seeking redress in the matter.

2 **14.**-(1) On receipt of complaint under Section 13, the Commission
3 may, after making such investigation as it deems fit, is of opinion that
4 allegation of victimization:

5 (a) is true and is related to the complaint or its subject matter, it may
6 give appropriate directions as it may consider necessary, to the concerned
7 public servant or public authority as the case may be;

8 (b) is not true or is not maintainable for the reason that the alleged
9 victimisation is not related to the complaint or its subject matter, it may dismiss
10 the application.

11 (2) Notwithstanding anything contained in any other law for the time
12 being in force, the power to give directions under sub-Section (1), in relation to
13 a public servant, shall include the power to direct the restoration of the public
14 servant making the disclosure, or the status quo ante to be maintained.

15 (3) The Commission issuing directions under sub-section (2), shall
16 take such action as is necessary and reasonable to prevent the victimisation
17 continuing or occurring in the future.

18 (4) Every direction given by the Commission shall be binding upon
19 the public servant or the public authority against whom the allegation of
20 victimisation has been proved.

21 **15.** Where the Commission in the course of hearing the complaint of
22 victimisation is of the opinion that the informant is in need of legal assistance'
23 to pursued claim in the High Court, the Commission shall issue a certificate to
24 the informant to the Legal Aid Council to obtain legal services.

25 **16.**-(1) The Informant who makes a disclosure and who has
26 reasonable cause to believe that:

27 (a) the Informant's life or property, or

28 (b) the life or property of a member of the Informant's family is
29 endangered or likely to be endangered as a result of the disclosure, may request

1 police protection and the police shall provide the protection considered
2 adequate.

3 (2) Despite subsection (1), the Inspector-General, Head of
4 Commissions or Security Agency as appropriate may in relation to a
5 disclosure of impropriety made or about to be made direct that the person
6 who has made or is about to made the disclosure and the person's family be
7 given police protection.

8 17. An Informant is not liable to civil or criminal proceedings in
9 respect of the disclosure unless it is proved that an Informant knew that the
10 information contained in the disclosure is false and the disclosure was made
11 with malicious intent.

12 18.-(1) A provision in a contract of employment or other agreement
13 between an employer and an employee is void if it:

14 (a) seeks to prevent the employee from making a disclosure;

15 (b) has the effect of discouraging an employee from making a
16 disclosure;

17 (c) precludes the employee from making a complaint in respect of
18 victimisation; or

19 (d) prevents an employee from bringing an action in Court or
20 before Public Complaint Commission to claim relief or remedy in respect of
21 victimisation.

22 (2) Subsection (1) also applies to a contract of employment or
23 agreement in existence on the commencement of this Bill

24 19. There is established Informant Reward Fund (in this Bill
25 referred to as "the Fund")

26 20.-(1) There is established for the Fund a Board of Trustee who
27 shall be appointed by the President on the recommendation of the Attorney
28 General.

29 (2) The Board of Trustee shall be responsible for:

30 (a) managing the fund;

- 1 (b) paying the informant reward approved;
- 2 (c) opening the account of the fund; and
- 3 (d) any other functions as may be directed by the President
- 4 **21. The Board of Trustee shall consist of the following:**
- 5 (a) a representative of Attorney General not below the rank of director
- 6 who shall be the Chairman;
- 7 (b) a representative from Ministry of Finance not below the rank of
- 8 director;
- 9 (c) a representative of the Inspector General of police not below the
- 10 rank of Commissioner of Police;
- 11 (d) a representative of the Economic and Financial Crime
- 12 Commission not below the rank of director;
- 13 (e) a representative of the Independent Corrupt Practices
- 14 Commission not below the rank of director; and
- 15 (f) a representative of the Secretary of the Government of the
- 16 Federation not below the rank of director who shall be the Secretary of the
- 17 Board.
- 18 **22. There shall be paid and credited to the Fund established for the**
- 19 **reward of Informant:**
- 20 (a) sums appropriated from the federal budget for the fiscal year;
- 21 (b) gifts, donations and contributions from national and internationals
- 22 Institutions.
- 23 **23.-(1) The object of the Fund is to provide funds for payment of**
- 24 **monetary rewards to informant:**
- 25 (2) Informant who makes a disclosure that leads to the arrest and
- 26 conviction of an accused person shall be rewarded with money from the Fund.
- 27 (3) Informant whose disclosure results in the recovery of an amount
- 28 of money shall be rewarded from the Fund with
- 29 (a) ten percent of the amount of money recovered; or
- 30 (b) the amount of money the Board of Trustee may determine.

1 **24. The Attorney General may make regulations as to the general**
2 **mode of operations of the Board of Trustees.**

3 **25. This Bill is cited as Public Interest Disclosure Bill, 2015.** Citation

EXPLANATORY MEMORANDUM

This Bill seeks to provide for manners in which individuals may in the public interest disclose information that relates to crime, unlawful conduct or corrupt practices of others and to also provide for the protection against victimisation of persons who make these disclosures.

The Bill further seek to establish a Fund with its Board of trustee charge with responsibility of rewarding individual who make the disclosure and thereby enhancing crime information and tracking in order to improve our crime information gathering for security utilisation.

SUBSIDIARY LEGISLATION (REGULATION) BILL, 2015

ARRANGEMENT OF CLAUSES

Clause:

- 1. Guidelines and regulatory impact assessment**
- 2. Publication and consultation**
- 3. Exemption from regulatory impact assessment**
- 4. Requirements of making subsidiary legislation**
- 5. Effect of non compliance with the provision of this Bill**
- 6. Interpretation**
- 7. Citation**