

WHISTLE BLOWER PROTECTION BILL, 2017

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# A BILL

## FOR

AN ACT TO ENCOURAGE AND FACILITATE WHISTLE BLOWING, TO REGULATE THE RECEIVING, INVESTIGATING AND OTHERWISE DEALING WITH DISCLOSURES BY WHISTLE BLOWERS, AND TO PROTECT WHISTLE BLOWERS FROM REPRISALS AND OTHER ADVERSE ACTIONS AND FOR RELATED MATTERS

*Sponsored by Hon. Kayode Oladele*

[ ] Commencement

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

### PART I - OBJECTS AND APPLICATION

- 1           1. The main objects of this Act are to: Objects
- 2           (a) encourage and facilitate disclosure of wrongdoing in the public
- 3           sector;
- 4           (b) regulate and ensure that a disclosure received from a whistle
- 5           blower (in this Act referred to as "protected disclosure") is properly
- 6           assessed, investigated and dealt with;
- 7           (c) ensure that appropriate consideration is given to the rights of
- 8           whistle blowers; and
- 9           (d) afford protection from reprisals or other adverse consequences
- 10          to whistle blowers.
- 11          2. This Act applies to protected disclosures made after the date on Application
- 12          which this Act comes into operation, whether or not the wrongdoing
- 13          concerned occurred before or after that date.

### PART II - PROTECTED DISCLOSURES

- 15          3.-(1) A protected disclosure is the disclosure of information that Meaning of  
protected  
disclosure
- 16          tends to show that, in relation to the performance of a public function, a
- 17          public authority, a public officer, or a public sector contractor is, has been, or

1 proposes to be, involved in:

2 (a) an improper conduct;

3 (b) a miscarriage of justice;

4 (c) an act or omission that constitutes an offence under a written law;

5 (d) an unauthorised or irregular use of, or mismanagement of public

6 resources (other than an alleged misuse based on mere disagreement over

7 policy that may properly be adopted on the amounts, purposes or priorities of

8 expenditure); or

9 (e) an act or omission that involves risk of:

10 (i) injury to public health,

11 (ii) prejudice to public safety, or

12 (iii) harm to the environment.

13 (2) A protected disclosure includes the disclosure of all information

14 and assistance given by the person making the disclosure to a proper authority.

15 (3) A disclosure is not a protected disclosure if the person making the

16 disclosure commits an offence by making it.

17 (4) A disclosure of information in respect of which a claim to legal

18 professional privilege could be maintained in legal proceedings is not a

19 protected disclosure if it is made by a person to whom the information had been

20 disclosed in the course of obtaining legal advice.

Protected  
disclosure:  
general

21 4.-(1) A person may make a protected disclosure to a proper  
22 authority.

23 (2) A person makes a protected disclosure to a proper authority if the  
24 person who makes the disclosure:

25 (a) believes on reasonable grounds that the disclosure is true;

26 (b) has no reasonable grounds on which to form a belief about the  
27 truth of the information but believes on reasonable grounds that the disclosure  
28 may be true; and

29 (c) does not do so for purposes of personal gain.

30 (3) A protected disclosure is made to a proper authority if:

1 (a) where the disclosure relates to an act or omission that  
2 constitutes an offence under a written law, it is made to a police officer;

3 (b) where the disclosure relates to an unauthorised or irregular use  
4 of, or substantial mismanagement of public resources, it is made to:

5 (i) the Auditor-General of the Federation;

6 (ii) the Economic and Financial Crimes Commission, or

7 (iii) the Fiscal Responsibility Commission;

8 (c) where the disclosure relates to a case of corruption,  
9 gratification or related offence, it is made to the Anti-Corruption  
10 Commission;

11 (d) where the disclosure relates to a case of economic or financial  
12 crime, it is made to the Economic and Financial Crimes Commission;

13 (e) where the disclosure relates to income tax and related taxes, it  
14 is made to the Federal Inland Revenue Services;

15 (f) where the disclosure relates to a matter of administration of a  
16 Government Ministry, department or agency, it is made to a person who  
17 occupies a position specified under section 36 (1)(a) of this Act in relation to  
18 the Ministry, department or agency concerned;

19 (g) where the disclosure relates to a person who holds an  
20 appointment made under the Police Act (Cap. P19 LFN), it is made to the  
21 Inspector-General of Police;

22 (h) where the disclosure relates to a judicial officer, it is made to the  
23 National Judicial Council;

24 (i) where the disclosure relates to a legislator, it is made to the  
25 Presiding Officer of the Legislative House to which the legislator belongs;

26 (j) where the disclosure relates to an officer in the civil service of  
27 the Federation, it is made to the Public Service Commission;

28 (k) where the disclosure relates to a matter falling within the area  
29 of responsibility of a public authority, it is made to a person who occupies

1 a position specified under section 36 (1)(a) of this Act in relation to that  
2 authority;

3 (l) where the disclosure relates to a person or a matter of a prescribed  
4 class, it is made to a person prescribed by an order of the Attorney-General  
5 under section 9 of this Act to be a proper authority for the purposes of  
6 subsection (1) of this section in relation to the disclosure; or

7 (m) it is made to any other authority specified in this Act or by  
8 regulations made under this Act.

9 (4) Where a protected disclosure falls within two or more paragraphs  
10 of subsection (3) of this section, then it is made to a proper authority if made to  
11 any or all of the authorities contemplated by the applicable paragraphs.

12 (5) A person may make a protected disclosure about events that:

13 (a) happened or may have happened, whether before or after the  
14 commencement of this Act;

15 (b) are or may be happening; or

16 (c) will or may happen.

17 (6) Where the proper authority specified in paragraphs (a) to (m) of  
18 subsection (3) of this section is a person subject of, or affected by the protected  
19 disclosure, then the disclosure shall be made to the oversight agency.

20 (7) Nothing in this Act entitles a person to disclose information that  
21 would otherwise be the subject of legal professional privilege.

Protected  
disclosure respect  
of an unidentified  
person

22 5. A person may make a protected disclosure whether or not the  
23 person is able to identify a particular person to whom the disclosure relates.

Protected  
disclosure made  
under legal  
requirement

24 6. A person may make a protected disclosure even though the person  
25 makes it under a legal requirement.

Number of  
protected  
disclosures not  
limited

26 7. The fact that a person may make a protected disclosure under a  
27 particular provision of this Act does not prevent the person from making the  
28 disclosure under another provision of this Act to the same or another proper  
29 authority.

1                   8. -(1) If a person:

2                   (a) has information that he may disclose as a protected disclosure to  
3                   a proper authority; and

4                   (b) discloses the information to a court or tribunal in a proceeding  
5                   in which the information is relevant and admissible,  
6                   the disclosure is considered to be a protected disclosure made to the court or  
7                   tribunal as a proper authority under section 4 (1) of this Act.

8                   (2) The court or tribunal may refer the disclosure to another proper  
9                   authority.

10                  (3) Section 20 (2) to (5) of this Act applies to a referral under  
11                  subsection (2) as if the court or tribunal were a public authority.

12                  (4) The fact that a court or tribunal is treated as a public authority  
13                  under subsection (3) of this section, does not give a person a right to institute  
14                  proceedings before the court or tribunal that the person does not have,  
15                  except as provided for under this Act.

16                  9. -(1) The Attorney-General may by order published in the Federal  
17                  Gazette prescribe a person as a proper authority to receive protected  
18                  disclosure for the purposes of this section.

19                  (2) A person may make a protected disclosure in good faith to a  
20                  prescribed person under this section if:

21                   (a) the disclosure is in good faith; and

22                   (b) the person reasonably believes that:

23                   (i) the subject of the disclosure falls within any description of  
24                   matters in respect of which that person is so prescribed, and

25                   (ii) the information disclosed, and any allegation contained in it,  
26                   are substantially true.

27                  (3) An order prescribing persons for the purposes of this section:

28                   (a) may specify persons or descriptions of persons; and

29                   (b) shall specify the descriptions of matters in respect of which  
30                  each person, or persons of each description, is or are prescribed.

Protected  
disclosure in  
court or tribunal  
proceeding

Protected  
disclosure to  
prescribed person

Protected  
disclosure to a  
journalist

1           10.-(1) A person may make a protected disclosure to a journalist if:  
2           (a) the person has made a protected disclosure under this Part; and  
3           (b) the proper authority to which the disclosure was made:  
4           (i) decided not to investigate or deal with the disclosure,  
5           (ii) investigated the disclosure but did not recommend the taking of  
6           any action in relation to the disclosure, or  
7           (iii) did not notify the person, within six months after the date the  
8           disclosure was made, whether or not the disclosure was to be investigated or  
9           dealt with.

10          (2) The person may make a disclosure of substantially the same  
11          information that was the subject of the protected disclosure mentioned in  
12          subsection (1)(a) of this section to a journalist.

13          (3) For the avoidance of doubt:

14          (a) the disclosure of information to a journalist under this section is a  
15          public interest disclosure;

16          (b) a journalist to whom information is disclosed under this section  
17          does not, for the purposes of section 28 of this Act, obtain the information  
18          because of the journalist's involvement in the administration of this Act.

19          (4) In this section:

20          "journalist" means a person engaged in the occupation of writing or editing  
21          material intended for publication in the print or electronic news media.

Liability for own  
conduct

22          11. A protected disclosure made under this Act by a person does not  
23          affect that person's liability for anything to which the information relates.

Ways of making  
disclosure

24          12.-(1) A person may make a protected disclosure to a proper  
25          authority in any way, but if a proper authority has a reasonable procedure for  
26          making a protected disclosure, the person shall use the procedure.

27          (2) This Act does not affect a procedure required under another Act for  
28          disclosing the type of information being disclosed.

29          (3) If a protected disclosure is properly made to a proper authority, the  
30          proper authority is considered to have received the disclosure for the purposes



1 of this Act.

2 PART III - OBLIGATIONS OF PERSON TO WHOM PROTECTED

3 DISCLOSURE IS MADE

4 13. Subject to the provisions of this Act, a proper authority shall  
5 receive and record all protected disclosures made to it.

Duty to receive  
and record  
protected  
disclosures

6 14.-(1) A proper authority shall investigate or cause to be  
7 investigated the information disclosed to it under this Act if the disclosure  
8 relates to:

Obligation to  
investigation

9 (a) the proper authority;

10 (b) a public officer or public sector contractor of the proper  
11 authority; or

12 (c) a matter or person that the authority has a function or power to  
13 investigate.

14 (2) A proper authority may refuse to investigate, or may  
15 discontinue the investigation of, a matter raised by the disclosure if it  
16 considers that-

17 (a) the disclosure is too trivial to warrant investigation and that  
18 dealing with the disclosure would substantially and unreasonably divert the  
19 resources of the proper authority from their use by the organ in the  
20 performance of its functions;

21 (b) the disclosure is vexatious or frivolous;

22 (c) there is no reasonable prospect of obtaining sufficient evidence  
23 due to the time that has elapsed since the occurrence of the matter;

24 (d) the proper authority reasonably considers that the disclosure  
25 should be dealt with by another appropriate process;

26 (e) another proper authority that has jurisdiction to investigate the  
27 disclosure has notified the proper authority that investigation of the  
28 disclosure is not warranted; or

29 (f) the matter is being or has been adequately or properly  
30 investigated by another authority to whom a protected disclosure has been

1 made in accordance with section 4 (3) of this Act.

2 (3) A proper authority that refuses to investigate or deal with, or  
3 discontinue the investigation of a protected disclosure under subsection (2) of  
4 this section, shall give reasons in writing for its decision to the person making  
5 the disclosure.

6 (4) A person who receives reasons for a decision of a proper authority  
7 under subsection (3) of this section may apply to the chief executive of the  
8 proper authority for a review of the decision within twenty-eight days after  
9 receiving the written reasons.

Action by  
proper authority

10 **15. -(1)** If a proper authority forms the opinion that a person may be,  
11 may have been, or may in the future be, involved in a matter that may be the  
12 subject of a protected disclosure, the proper authority shall take such action as  
13 is necessary, reasonable, and within its functions and powers, to:

14 (a) prevent the matter to which the disclosure relates from continuing  
15 or occurring in the future;

16 (b) refer the matter to the Inspector-General of Police or any other  
17 person or body having power to investigate the matter; or

18 (c) take disciplinary action, or commence or enable disciplinary  
19 proceedings to be commenced, against a person responsible for the matter.

20 (2) Before taking action under subsection (1)(a) or (c) of this section,  
21 the proper authority shall afford a person against whom, or in respect of whom,  
22 the action is to be taken the opportunity to make a submission, either orally or in  
23 writing, in relation to the matter.

Information to  
be notified of  
action taken

24 **16.-(1)** If a protected disclosure is made to a proper authority, the  
25 proper authority shall, subject to section 17 of this Act, not more than three  
26 months after the disclosure is made, notify the person who made the disclosure  
27 of the action taken or proposed to be taken in relation to the disclosure.

28 (2) A person who has made a protected disclosure under this Act may  
29 request the proper authority to whom the protected disclosure was made to  
30 provide a report on the progress made in dealing with the matter in relation to

1 which the disclosure was made.

2 (3) If an investigation into a matter in relation to which the  
3 protected disclosure was made is not complete, the proper authority to  
4 whom the disclosure was made may provide a progress report to the person  
5 who requested a report on the current status of the investigation.

6 (4) If an investigation into a matter in relation to which the  
7 protected disclosure was made is complete, the proper authority who carried  
8 out the investigation shall provide a final report to the person who requested  
9 a report stating:

10 (a) the outcome of the investigation and any action the proper  
11 authority has taken or proposes to take as a result of the investigation; and

12 (b) the reason for taking the action that has been taken or that is  
13 proposed to be taken.

14 17.-(1) A proper authority shall not, in a notification or report  
15 under section 16 of this Act, give information that, in its opinion, would be  
16 likely to adversely affect:

Limitation on  
notification of  
informant

17 (a) the safety of a person;

18 (b) the investigation of an offence or possible offence; or

19 (c) necessary confidentiality about the existence or identity of a  
20 person who has made a protected disclosure other than the person being  
21 given the information.

22 (3) For the avoidance of doubt, information prohibited from  
23 disclosure under section 64 of the Corrupt Practices and Related Offences  
24 Act, 2003 (Act No. 6 of 2003) shall not be given or disclosed under section 16  
25 of this Act.

26 18.-(1) The Anti-Corruption Commission and the Economic and  
27 Financial Crimes Commission are not required to comply with sections 14

Limitation on  
obligations of  
certain persons

28 (1), 15 and 16 of this Act if the disclosure relates to a matter that is a  
29 function of the Anti-Corruption Commission or the Economic and  
30 Financial Crimes Commission, as the case may be, to:

1 (a) to investigate, inquire into or deal with, or  
2 (b) take any other step with respect to,  
3 under any other written law, whether on the complaint of a person or on its own  
4 motion

5 (2) If a protected disclosure is made:

6 (a) to a prescribed person; and

7 (b) the disclosure relates to a matter which it is a function of the person  
8 to investigate, inquire into, deal with, or take any other step with respect to,  
9 under another written law, whether on the complaint of a person or on that  
10 person's own motion, sections 14 (1) and 15 of this Act do not apply to that  
11 prescribed person in relation to that disclosure.

12 (3) If a prescribed person has a duty under a written law other than this  
13 Act to make a progress report to a person who has made a complaint to it:

14 (a) section 15 of this Act does not apply to the prescribed person; and

15 (b) the progress report shall be made to a person who made the  
16 protected disclosure to that prescribed person under this Act as if the disclosure  
17 were the making of a complaint under that written law.

18 (4) In this section:

19 "complaint" includes an allegation, application, charge, motion, objection,  
20 petition, report, request or summons.

#### 21 PART IV - REFERRAL OF PROTECTED DISCLOSURE

Definition of  
referral authority

22 19. In this Part, "referral authority" means the proper authority to  
23 which a protected disclosure is referred under this Part.

Referral of  
protected  
disclosure by  
proper authority

24 20.-(1) A proper authority to which a protected disclosure is made  
25 under section 4 of this Act, or referred under section 21 of this Act, may refer  
26 the protected disclosure to a referral authority if the disclosure relates:

27 (a) the conduct of the referral authority or a public officer of the  
28 referral authority; or

29 (b) the conduct of a proper authority, including itself, or another  
30 matter, that the referral authority has the power to investigate or remedy.

1 (2) The power of a proper authority to investigate or remedy  
2 conduct that is the subject of a protected disclosure is not limited by a  
3 referral of the disclosure under subsection (1) of this section.

4 (3) A proper authority shall not refer a protected disclosure to  
5 another proper authority if it considers that there is an unacceptable risk that  
6 a reprisal would happen because of the referral.

7 (4) In considering whether there would be an unacceptable risk, the  
8 proper authority shall, if practicable, consult with the person who made the  
9 protected disclosure.

10 (5) This section does not affect any other law under which a proper  
11 authority is expected to refer a report, complaint, information or evidence to  
12 another authority.

13 21 -(1) The Presiding Officer of a Legislative House to whom a  
14 protected disclosure is made under section 4 (3) of this Act may refer the  
15 disclosure to another proper authority if the Presiding Officer considers that  
16 the referral authority has power to investigate or remedy the conduct or other  
17 matter that is the subject of the disclosure.

Referral of  
protected  
disclosure by  
Presiding Officer  
of Legislative  
House

18 (2) A Legislative House may, notwithstanding a referral under  
19 subsection (1) of this section, deal with the protected disclosure.

20 22.-(1) Section 21 of this Act does not limit the immunities,  
21 powers, privileges or rights of a Legislative House or of its members or  
22 committee in relation to a protected disclosure made to a Presiding Officer.

Referral does not  
limit immunities  
a Legislative  
House

23 (2) In this section:

24 "committee" means a committee of the Legislative House, whether or not a  
25 standing committee.

#### 26 PART V - IMMUNITY AND PROTECTION

27 23. A person who makes a protected disclosure to a proper  
28 authority under this Act:

Immunity for  
protected disclosure

29 (a) does not incur civil or criminal liability for doing so; and

30 (b) is not, for doing so, liable:

- 1 (i) to any disciplinary action under a written law,  
2 (ii) to be dismissed,  
3 (iii) to have his services dispensed with or otherwise terminated, or  
4 (iv) for any breach of a duty of secrecy or confidentiality or any other  
5 restriction on disclosure, whether or not imposed by a written law, applicable to  
6 the person.

Offence of  
reprisal

7 **24.-(1)** A person who takes or threatens to take detrimental action  
8 against another person because a person has made, or intends to make, a  
9 protected disclosure under this Act commits an offence and is liable on  
10 conviction to a fine of five hundred thousand naira or imprisonment for a term  
11 of three years or to both.

12 (2) A person who:

13 (a) attempts to commit an offence created by subsection (1) of this  
14 section; or

15 (b) intending that an offence created by subsection (1) be committed,  
16 incites another person to commit that offence,  
17 commits an offence and is liable on conviction to a fine of five hundred  
18 thousand naira or imprisonment for a term of three years or to both.

Remedies for  
acts of  
victimisation

19 **25.-(1)** A person who takes or threatens to take detrimental action  
20 against another person because a person has made, or intends to make, a  
21 protected disclosure under this Act commits an act of victimisation which may  
22 be dealt with as a tort.

23 (2) Proceedings in tort under subsection (1) of this section may be  
24 taken against the perpetrator of an act of victimisation or an employer of the  
25 perpetrator.

26 (3) In proceedings against an employer of the perpetrator of an act of  
27 victimisation, it is a defence for the employer to prove that the employer:

28 (a) was not knowingly involved in the act of victimisation;

29 (b) did not know and could not reasonably be expected to have known  
30 about the act of victimisation; and

1 (c) could not, by the exercise of reasonable care, have prevented  
2 the act of victimisation.

3 (4) Notwithstanding any other provision of this Act, this section  
4 has no retrospective effect and no proceeding may be taken under this  
5 section in relation to an act of victimisation that occurred before the  
6 commencement of this Act.

7 26.-(1) A person may present to the Public Complaints Commission a complaint that he has been subjected to an act of  
8 victimization in contravention of section 25 of this Act. Compensation  
for victimisation

10 (2) Where a complaint is presented under subsection (1) of this  
11 section and the act of victimization to which the person is subjected to:

12 (a) is the termination of the person's employment, he shall be paid  
13 such compensation for any loss he has suffered, as the authority or tribunal  
14 hearing the complaint determines to be just and equitable;

15 (b) is dismissal, he shall be paid such compensation as shall be  
16 prescribed by regulations made under this Act.

17 (3) Compensation may be paid under this section even if a  
18 prosecution in relation to an offence under section 25 of this Act has not been  
19 brought, or cannot be brought.

20 27.-(1) A person receiving, investigating, or otherwise dealing  
21 with a protected disclosure under this Act, shall regard and deal with as  
22 secret and confidential: Duty as to secrecy  
and confidentiality

23 (a) the identity of the person making the protected disclosure and  
24 the disclosure made; and

25 (b) any statement given, or document, information or thing  
26 provided to the person in the course of carrying out an investigation, except  
27 that any statement given, or document, information or thing provided, in  
28 furtherance of an investigation, or any legal or disciplinary proceedings,  
29 shall not be regarded as being inconsistent with the obligation for secrecy  
30 and confidentiality.

1 (2) A person shall not make a disclosure that might identify or tend to  
2 identify a person as the person who has made a protected disclosure under this  
3 Act unless the person who made the protected disclosure consents to the  
4 disclosure that might identify or tend to identify him;

5 (3) A person who contravenes subsection (1) of this section commits  
6 an offence and is liable on conviction to a fine of five hundred thousand naira or  
7 imprisonment for a term of three years or to both.

Preservation of  
confidentiality

8 28.-(1) Without prejudice to section 27 of this Act, if a person gains  
9 any other confidential information because of the person's involvement in the  
10 administration of this Act, the person shall not make a record of the  
11 information, or intentionally or recklessly disclose the information to anyone,  
12 other than as provided under subsection (4) of this section.

13 (2) A person who contravenes subsection (1) of this section commits  
14 an offence and is liable on conviction to a fine of five hundred thousand naira or  
15 imprisonment for a term of three years or to both.

16 (3) A person gains information because of his involvement in the  
17 administration of this Act if the person gains the information, including  
18 receiving information relating to a protected disclosure for a proper authority,  
19 because of being involved, or an opportunity given to him by being involved, in  
20 the administration of this Act.

21 (4) A person may make a record of confidential information or  
22 disclose it to another person:

23 (a) for the purposes of this Act;

24 (b) to discharge a function under another Act, including the  
25 investigation of matters disclosed by a protected disclosure;

26 (c) for a proceeding in a court or tribunal;

27 (d) if the person to whom the confidential information relates  
28 consents in writing to the making of the record or disclosure of the information;

29 (e) if:

30 (i) the person cannot reasonably obtain the consent of the person to



1 whom the confidential information relates, and

2 (ii) making the record or disclosing the information is unlikely to  
3 harm the interests of the person to whom the confidential information relates  
4 and is reasonable in all the circumstances;

5 (f) if there are reasonable grounds to believe that making the record  
6 or disclosing the information is necessary to:

7 (i) prevent or reduce the risk of injury to any person or damage to  
8 any property;

9 (ii) provide for the safety or welfare of a person; or

10 (g) if authorised under regulations made under this Act or under  
11 any other law.

12 (5) This section does not affect an obligation a person may have  
13 under the principles of natural justice to disclose information to a person  
14 whose rights would otherwise be adversely affected.

15 (6) In this section, "confidential information":

16 (a) includes information:

17 (i) disclosed by a protected disclosure,

18 (ii) about an individual's personal affairs, and

19 (iii) that, if disclosed, may be detrimental to a person; and

20 (b) does not include information publicly disclosed in a protected  
21 disclosure made to a court, tribunal or other body that may receive evidence  
22 under oath, unless further disclosure of the information is prohibited by law.

23 29.-(1) A person who makes a protected disclosure under this Act  
24 and:

Loss of protection  
of the Act

25 (a) fails, without reasonable excuse, to assist a person investigating  
26 a matter to which the disclosure relates by supplying the person with any  
27 information requested, whether orally or in writing, by the person in such  
28 manner, and within such period, as is specified by the person making the  
29 request; or

30 (b) discloses information contained in a protected disclosure

1 otherwise than under this Act, forfeits the protection given by section 23 of this  
2 Act.

3 (2) Where a court is considering whether a person has pursuant to  
4 subsection (1) of this section forfeited the protection of section 23 of this Act  
5 and is of the opinion that the failure or disclosure-

6 (a) has not materially prejudiced the public interest served by the  
7 appropriate disclosure; and

8 (b) is of a minor nature,  
9 it may make an order restoring, in whole or in part, the protection afforded  
10 under section 23 of this Act, and such consequential orders as are necessary to  
11 give effect to the order.

12 PART VI - PROTECTION OF EMPLOYEES MAKING PROTECTED

13 DISCLOSURES

Right of appeal  
or review of  
employee

14 30.-(1) An employee who, under any other law, has a right to appeal  
15 against, or apply for a review of, any of the following actions:

16 (a) disciplinary action taken against the employee;

17 (b) the appointment or transfer of the employee or another employee  
18 to a position as an employee; or

19 (c) unfair treatment of the employee,  
20 may, whether or not the Act specifies grounds for the appeal or review, also  
21 appeal against the action or apply to have the action set aside because he was  
22 subjected to an act of victimization for making a protected disclosure.

23 (3) Subsection (2) of this section applies even if the decision on the  
24 hearing of the appeal or review is in the form of a recommendation.

Relocation of  
employee

25 31.-(1) An employee may make an application to his employer for  
26 relocation on the ground that:

27 (a) it is likely that he will be subjected to an act of victimization if he  
28 continues in his existing work location; and

29 (b) the only practical way to remove or substantially remove the  
30 danger of an act of victimization is to relocate the employee.

1 (2) If the employer considers that the ground is established, he  
2 may:

3 (a) direct that the employee be relocated within the employee's  
4 department or to another department; and

5 (b) do or authorize the doing of anything necessary or convenient  
6 to relocate the public officer..

7 (3) An employer shall not give a direction under subsection (2) of  
8 this section without the agreement of:

9 (a) the employee; and

10 (b) if the relocation is to another department, the chief executive of  
11 that department.

12 PART VIII - OVERSIGHT ROLE

13 32. In this Part-

Definition under  
this Part

14 "proper authority" means a person to whom a protected disclosure has been  
15 made in accordance with section 4 (3) of this Act, but does not include the  
16 National Judicial Council or the Presiding Officer of a Legislative House..

17 33.-(1) The Public Complaints Commission is the oversight  
18 agency for the purposes of this Act.

Promoting  
compliance with  
this Act

19 (2) The oversight agency shall-

20 (a) monitor the management of protected disclosures, including:

21 (i) monitoring compliance with this Act,

22 (ii) collecting statistics about protected disclosures, and

23 (iii) monitoring trends in relation to protected disclosures;

24 (b) review the way in which proper authorities deal with protected  
25 disclosures generally, or particular protected disclosures;

26 (c) perform an educational and advisory role, including:

27 (i) promoting the objects of this Act,

28 (ii) providing advice about protected disclosures, and

29 (iii) providing, or co-ordinating the provision of, education and  
30 training programmes about protected disclosures.

- 1 (3) The oversight agency shall assist public authorities and public  
2 officers to comply with this Act and the standards established under section 34  
3 of this Act.
- Standards 4 34.-(1) The oversight agency shall establish standards setting out  
5 minimum standards of conduct and integrity to be complied with by a person to  
6 whom a protected disclosure may be made under section 4 (3) of this Act and  
7 the way in which proper authorities are to deal with protected disclosures.
- 8 (2) Without limiting subsection (1) of this section, the standards may  
9 provide for procedures relating to:
- 10 (a) the way in which proper authorities are to facilitate the making of  
11 protected disclosures;
- 12 (b) the way in which proper authorities are to perform their functions  
13 under this Act;
- 14 (c) the protection of persons from acts of victimisation taken by  
15 proper authorities and employers; and
- 16 (d) the provision by proper authorities to the oversight agency of  
17 statistical information about protected disclosures.
- 18 (3) The oversight agency may amend, repeal or replace the standards.
- 19 (4) Before establishing, amending, repealing and replacing the  
20 standards, the oversight agency shall take-
- 21 (a) into account the independence that any particular proper authority  
22 has under a written law;
- 23 (b) reasonable steps to consult with the proper authority to which a  
24 particular standard may apply and such other persons as it considers it  
25 desirable and practicable to consult.
- 26 (5) A failure to consult under subsection (4) of this section does not  
27 affect the validity of the standards.
- 28 (6) The oversight agency shall publish the standards as a Notice in the  
29 Federal Gazette and, as soon as practicable after making the standards, ensure  
30 that they are published on the oversight agency's website.

1                   35.-(1) The oversight agency shall, as soon as practicable after the  
2                   end of each financial year, prepare a report on the operation of this Act  
3                   during that year and give a copy of the report to the Attorney-General.

Annual report by  
oversight agency

4                   (2) A report prepared under subsection (1) of this section may  
5                   include, in relation to the financial year to which it relates, information about  
6                   the following:

7                   (a) the performance of the oversight agency's functions under this  
8                   Act;

9                   (b) the performance by public sector entities of the requirements of  
10                  this Act, including any requirements of standards established under section  
11                  34 of this Act; and

12                  (c) other matters which may be prescribed under regulations.

13                  (3) A report prepared under subsection (1) of this section shall  
14                  include statistical information about protected disclosures.

15                  36.-(1) The chief executive of a public authority shall-

Obligations of  
chief executives  
of public authorities

16                  (a) designate the occupant of a specified position with the public  
17                  authority as the person responsible for receiving protected disclosures;

18                  (b) provide protection from detrimental action or the threat of acts  
19                  of victimisation against an employee of the public authority who makes a  
20                  protected disclosure;

21                  (c) ensure that the public authority complies with this Act;

22                  (d) ensure that the public authority complies with the standards  
23                  established by the oversight agency under section 34 of this Act;

24                  (e) prepare and publish internal procedures relating to the public  
25                  authority's obligations under this Act; and

26                  (f) provide information annually to the oversight agency on:

27                   (i) the number of protected disclosures received by the designated  
28                   officer of the public authority over the report period,

29                   (ii) the results of any investigations conducted as a result of the  
30                   disclosures and the action, if any, taken as a result of each investigation, and

1 (iii) such other matters as are prescribed.

2 (2) Internal procedures prepared under subsection (1)(e) of this  
3 section shall be consistent with Guidelines prepared by the oversight agency  
4 under section 37 of this Act.

5 (3) Subsection (1) does not apply to the National Judicial Council or  
6 to the Presiding Officer of a Legislative House.

Guidelines

7 37.-(1) The oversight agency shall:

8 (a) prepare Guidelines on internal procedures relating to the functions  
9 of a proper authority under this Act; and

10 (b) ensure that all proper authorities have copies of the Guidelines.

11 (2) The Guidelines shall be published in the Federal Gazette.

12 PART IX - MISCELLANEOUS

False or  
misleading  
disclosure

13 38.-(1) A person who makes a statement to a proper authority  
14 intending that it be acted on as a protected disclosure and in the statement, or in  
15 the course of inquiries into the statement, intentionally gives information that  
16 he:

17 (a) knows is false or misleading; or

18 (b) is reckless about whether it is false or misleading in a material  
19 particular,

20 commits an offence and is liable on conviction to a fine of five hundred  
21 thousand naira or imprisonment for a term of three years or to both.

22 (2) For the purposes of subsection (1) of this section, a statement is  
23 made to a proper authority if, were the statement truly a protected disclosure, it  
24 is disclosed to a proper authority for the purposes of section 4(3) of this Act.

25 (3) A person who makes a statement in contravention of this section is  
26 not protected by this Act in respect of that statement, whether or not it is truly a  
27 protected disclosure.

Other laws not  
excluded

28 39. The protection given by this Act is in addition to, and does not  
29 derogate from, any privilege, protection, or immunity existing apart from this  
30 Act.

1                   40.-(1) The Attorney-General shall carry out a review of the      Review of the  
2      operation of this Act three years after the commencement of this Act, and      operations of  
3      shall, for purposes of the review, have regard to:      this Act

- 4                   (a) the attainment of the purposes of this Act;  
5                   (b) the administration of this Act; and  
6                   (c) such other matters as appear to him to be relevant.

7                   (2) The Attorney-General shall prepare and submit to the  
8      President, a report based on the review made under subsection (1) of this  
9      section.

10                  41. The Attorney-General may make regulations prescribing all      Regulations  
11      matters that are required or are necessary for giving effect to the purposes of  
12      this Act.

13                  42. In this Act, except the context otherwise requires:      Interpretation  
14      "Anti-Corruption Commission" means the Anti-Corruption Commission  
15      established under section 3 of the Corrupt Practices and Related Offences  
16      Act 2003 (2003 No. 6);

17      "Attorney-General" means Attorney-General of the Federation and Minister  
18      of Justice;

19      "detrimental action" includes action causing, comprising, or involving:

- 20                  (a) injury, damage, or loss;  
21                  (b) intimidation or harassment;  
22                  (c) adverse discrimination, disadvantage, or adverse treatment in  
23      relation to a person's career, profession, employment, trade, or business; or  
24                  (d) a reprisal;

25      "Economic and Financial Crimes Commission" means the Economic and  
26      Financial Crimes Commission established under section 1 of the Economic  
27      and Financial Crimes Commission (Establishment, etc.) Act 2004 (2004  
28      No. 1);

29      "employee" includes a public officer and a worker of a public sector  
30      contractor;

1 "employer" includes the Government of the Federation and a public sector  
2 contractor;

3 "environment" has the meaning given to it in the Environmental Impact  
4 Assessment Act (Cap. E121 LFN 2004);

5 "Fiscal Responsibility Commission" means the Fiscal Responsibility  
6 Commission established under section 1 of the Fiscal Responsibility Act, 2007  
7 (Act No. 31 of 2007);

8 "Legislative House" means the Senate or the House of Representatives;

9 "oversight agency" means the oversight agency named under section 32 of this  
10 Act;

11 "prescribed person" means a person prescribed by the Attorney-General as a  
12 proper authority under section 9 of this Act;

13 "public authority" means-

14 (a) a Ministry, a department, an office, or an agency, of the  
15 Government of the Federation;

16 (b) a Legislative House;

17 (c) a prescribed person; or

18 (d) any other body that is established for a public purpose under a  
19 written law;

20 "protected disclosure" has the meaning given to it in section 3 of this Act;

21 "public officer" means an officer in the service of the Federation and includes-

22 (a) a Minister of the Government of the Federation;

23 (b) a member of a Legislative House;

24 (c) a judicial officer;

25 (d) a police officer;

26 (e) a person authorised under a written law to execute or serve any  
27 process of a court or tribunal for remuneration;

28 (f) a member, officer, or employee of a public authority;

29 (g) the holder of:



1 (i) an office that is established for a public purpose under a written  
2 law; or

3 (ii) an office that is established by a Minister; and

4 (h) any other person holding office under the Government of the  
5 Federation;

6 "public sector contractor" means:

7 (a) a person who, other than as an employee, contracts with a public  
8 authority to supply goods or services to or on behalf of the authority or the  
9 Government of the Federation or as directed in accordance with the contract;

10 (b) a person who, other than as an employee, contracts with a  
11 public authority or the Government of the Federation to perform a public  
12 function; or

13 (c) a subcontractor or employee of a person referred to in paragraph  
14 (a) or (b) of this subsection and each person who contracts with another  
15 person for the execution of the whole or part of the requirements of a  
16 contract referred to in those paragraphs; and

17 "whistle blower" means a person who makes a protected disclosure.

18 43. This Bill may be cited as the Whistle Blower's Protection Bill, Short title  
19 2017.

#### EXPLANATORY MEMORANDUM

This Bill seeks to encourage and facilitate whistle blowing, to regulate the receiving, investigating and otherwise dealing with disclosures by Whistle Blowers, and to protect Whistle Blowers from reprisals and other adverse actions.

