

# A BILL

## FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION OF A PROGRAMME TO ENABLE CERTAIN PERSONS TO RECEIVE PROTECTION IN RELATION TO CERTAIN INQUIRIES, INVESTIGATIONS OR PROSECUTIONS, 2015

*Sponsored by Ron. Nkeiruka Onyejeocha*

[ ] Commencement

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

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1. -(1) A Witness Protection Programme (hereinafter referred to as "the Programme") is established.

Establishment of witness protection programme and administration

(2) The Programme shall be administered by the National Judicial Council (hereinafter referred to as "the Council").

(3) A specialized protection unit (hereinafter referred to as "the Protection Unit") shall be established to provide protection to person included in the Programme.

(4) The Council, among other responsibilities, shall-

(a) decide on admissions to and removals from the Programmes;

(b) decide on the type of protection measures to be applied taking into consideration any recommendation of the Protection Unit;

(c) make budgetary submissions for the Programme's financing;

(d) prepare an annual report on the Programme's general operations, performance and effectiveness in a manner which does not prejudice the effectiveness or security of the Programme; and

(e) perform any other activity necessary for the implementation of the Programme.

(4) The Council shall be independent in adopting appropriate decisions and applying protection measures.

Other protected  
persons

1                   2. For the purpose of this Bill, Subject to the determination of the  
2 Council, the provisions of this Bill may apply to family member or a person  
3 whose life or safety is at risk because of his or her relationship or close  
4 association to the protected person.

Confidentiality

5                   3.-(1) All information relating to a person, who is protected on the  
6 Programme shall be handled with the highest level of confidentiality.

7                   (2) The Council, Protection Unit and any other agency or individual,  
8 who possesses knowledge of the protection measures or has participated in the  
9 preparation, issuance, or execution thereof, shall keep the records confidential.

10                  (3) Disclosure of any information relating to the programme or the  
11 protection measures shall be punishable as a serious crime except as authorized  
12 and necessary to provide protection to the person

Cooperation with  
institutions

13                  4.-(1) State institution shall cooperate with the Council about any  
14 matter relating to implementing and administering the programme.

15                  (2) In implementing the Programme, the Council may enter into  
16 agreement with an individual, a private institution and non-governmental  
17 organization to make use of their service.

admission  
procedure

18                  5.-(1) Admission to the Programme is initiated by a written request  
19 from an investigator, a prosecutor, or a judge.

20                  (2) The request shall be forwarded without delay to the Council with  
21 all the information required under section 7 and a detailed opinion on the need  
22 or the lack thereof of admission to the Programme.

23                  (3) The Council shall process the request and reach a decision without  
24 undue delay.

Admission  
criteria

25                  6. Admission to the programme shall be based on the following  
26 factors-

27                  (a) the seriousness of the crime for which the cooperation of the  
28 protected person is solicited;

29                  (b) the importance of the protected person's testimony where there is

1 no alternative source of that evidence for the investigation or prosecution of  
2 the crime;

3 (c) the gravity of the threat to the security of the protected person;

4 (d) the protected person's ability to adjust to the Programme having  
5 regard to his or her maturity, judgment, other personal characteristics and  
6 the family relationships of the protected person.

7 7.-(1) Admission to the Programme shall be decided solely by the  
8 Council and requires the informed consent of the witness to-

Decision for  
admission

9 (a) the nature of the risk to the security of witness;

10 (b) the danger to the community if the witness is admitted to the  
11 Programme;

12 (c) the nature of the inquiry, investigation or prosecution involving  
13 the witness and the importance of the witness in the matter;

14 (d) the value of the information or evidence given or agreed to be  
15 given or of the participation by the witness;

16 (e) the likelihood of the witness being able to adjust to the  
17 Programme, having regard to the witness's maturity, judgment and other  
18 personal characteristics and the family relationships of the witness;

19 (f) alternate methods of protecting the witness without admitting  
20 the witness to the Programme; and

21 (g) such other factors as the National Judicial Council (NJC)  
22 deems relevant.

23 (2) Admission to the Programme shall not be used as reward for the  
24 protected person's cooperation in criminal investigations and prosecutions  
25 or to obtain financial benefits.

26 8.-(1) Protection measures decided by the Council shall be  
27 proportional to the level of risk and may include-

Protection  
measures

28 (a) physical protection;

29 (b) relocation;

30 (c) change of identity;

1 (d) any other measure necessary to ensure the safety of the protected  
2 person.

3 (2) In support of the programme, the Council may request the courts  
4 to implement protection measures during court testimony such as closed  
5 sessions, use of pseudonym, and vide conference to allow the witness to testify  
6 from a more secure location or to obscure or distort the witness's face or voice.

7 (3) The Council may also decide on the provision of support  
8 measures, to enable a witness integrate in the programme.

Memorandum of  
understanding

9 9.-(1) Protected Persons shall be admitted to the programme upon  
10 signing a Memorandum of Understanding with the Council.

11 (2) The memorandum provides notice of voluntary conditions that  
12 will apply at the Programme and shall include-

13 (a) the terms or conditions for inclusion to the Programme;

14 (b) all the general categories of protection measures described in  
15 section 8(1) that are authorized;

16 (c) financial and other material support;

17 (d) an agreement by the witness to comply with all directions given by  
18 the Council, including physical and psychological examinations;

19 (e) an agreement by the protected person not to compromise the  
20 Programme's integrity or security.

21 (f) an agreement by the protected person to disclose all legal liabilities  
22 and financial obligations along with an agreement by the protected person as to  
23 how those obligations and liabilities shall be satisfied;

24 (g) an agreement by the protected person to disclose to the Council  
25 any prior or pending criminal, civil, or bankruptcy proceedings, as well as  
26 knowledge of any such proceedings that may arise once he or she is accepted  
27 into the Programme; and

28 (h) the conditions allowing the Council to remove the protected  
29 person from the Programme.

1                   10.-(1) The Council shall remove a protected person from the  
2 Programme under the following conditions- Removal from  
the Programme

3                   (a) the protected person renounces in writing any further  
4 protection;

5                   (b) the need for protection measures ceases to exist.

6                   (2) The Council may remove a witness or person from the  
7 Programme under the following conditions-

8                   (a) the protected person has violated the terms of the memorandum  
9 of understanding;

10                  (b) the protected person gave, knowingly, false or misleading  
11 information to the investigation, prosecution or Council;

12                  (c) the protected person engages in conducts that jeopardizes the  
13 Programme's integrity, fails to follow the programme's rules or comply with  
14 all reasonable requests and instruction of the protection unit;

15                  (d) the protected person commits a crime;

16                  (e) the protected person refuses to cooperate with the judicial  
17 process and refuses, publicly, to testify whenever required.

18                  11.-(1) In the case of an imminent threat or danger to the protected Emergency  
measures  
19 person, the Council may adopt the measure described in section 8 on a  
20 provisional basis.

21                  (2) These measures shall cease after the cessation of the emergency  
22 or a decision by the Council that the witness is ineligible for admission to the  
23 Programme.

24                  (3) The adoption of emergency measures does not imply admission  
25 to the Programme.

26                  12. The Council or the Protection Unit is authorized to enter into International  
Cooperation  
27 confidential agreements with relevant foreign authorities, international  
28 criminal courts or tribunals and other regional or international entities  
29 relating to the relocation of protected persons and other protector measures.

Budget	1	13.-(1) The Funding of the programme shall be based on a budget
	2	prepared by the Council subject to the approval of the National Assembly.
	3	(2) The funds of the programme shall be drawn directly from the
	4	Consolidated Revenue Fund of the Federation and paid into an account
	5	established for that purpose.
Grievance procedure	6	14. A confidential procedure for filing and resolving grievances of
	7	protected persons and staff of the protection unit shall be instituted.
Offences	8	15. A person who contravenes any provision of this Bill is guilty of an
	9	offence and shall be liable on conviction to a fine not less than Five Hundred
	10	Thousand Naira (N500,000) or a term of imprisonment not less than three years
	11	or both.
Regulations	12	16. The Council may make regulations for the purpose of giving
	13	effect to this Bill.
Interpretation	14	17. In this Bill, unless the context otherwise requires:
	15	"Council" means National Judicial Council, established under section 153 (1)
	16	(i) of the 1999 Constitution.;
	17	"Programme" means the Witness Protection Programme established under
	18	section 1;
	19	"Protected person" means witness or a person admitted to protection under the
	20	Bill;
	21	"Protection unit" means the Nigeria Police Force or any security agency
	22	established for the purpose of this Bill;
	23	"State Institutions" means Ministry, Agency, Departments of Government.
Citation	24	18. This Bill may be cited as the Witness Protection Programme Bill,
	25	2015.

#### EXPLANATORY MEMORANDUM

The Bill seeks to provide for the conditions and procedures for ensuring special protection on behalf of the state to persons in possession of important information, who are facing potential risk or intimidation arising from their cooperation with prosecution.