

THE ELDERLY PERSONS (PROTECTION OF RIGHTS) BILL, 2016

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A BILL

FOR

AN ACT TO REGULATE THE ESTABLISHMENT, REGISTRATION, PROVISION
AND MANAGEMENT OF SERVICES AND RESIDENTIAL FACILITIES FOR
ELDERLY PERSONS AND FOR RELATED MATTERS

Sponsored by Hon. Abubakar Amuda-Kannike G.

[] Commencement

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

1 1. The objects of the Act are to:

Objects of the Bill

2 (a) maintain and promote the well-being, safety and security of
3 elderly persons;

4 (b) maintain and protect the rights of elderly persons;

5 (c) regulate the registration, establishment and management of
6 services and management of residential facilities for elderly persons;

7 (d) outlaw the neglect of elderly persons; and

8 (e) guard against the abuse of elderly persons.

9 2.-(1) The general principles set out in this section shall guide:

General principles of the Bill

10 (a) the implementation of every policy and legislation applicable to
11 elderly persons, including this Act; and

12 (b) all proceedings, actions and decisions by any organ of the state
13 in any matter concerning an elderly person.

14 (2) All proceedings, actions or decisions in a matter concerning an
15 elderly person must:

16 (a) respect, protect, promote and fulfill elderly persons' rights and
17 their best interests;

18 (3) The rights and principles set out in this Act, subject to any
19 lawful limitation shall;

20 (b) respect the elderly person's inherent dignity;

1 (c) treat the elderly person fairly and equitably; and

2 (d) protect the elderly person from discrimination on any ground,
3 including health status or disability of the elderly person.

4 (4) In handling any matter concerning an elderly person, the approach
5 shall be one which:

6 (a) is conducive to conciliation and problem-solving rather than a
7 confrontational one; and

8 (b) avoids delay in decision or action to be taken.

Guiding principles
for provision of
services

9 3. Any service provided for the purpose of administering this Act
10 shall:

11 (a) recognise the status of elderly persons especially the less
12 privileged ones;

13 (b) recognise the multi-dimensional needs of elderly persons and
14 thereby promote inter-sectoral collaboration;

15 (c) ensure access to information through adult education and other
16 means;

17 (d) promote the development and basic care of elderly persons in rural
18 and urban areas;

19 (e) promote the prevention of exploitation of elderly persons;

20 (f) promote the respect and dignity of elderly persons;

21 (g) ensure that elderly persons especially the less privileged, receive
22 priority in the provision of basic services;

23 (h) ensure rehabilitation and the provision of assisted devices to
24 elderly persons; and

25 (i) ensure, that services and facilities are accessible to elderly persons.

Implementation
of Bill

26 4.-(1) All persons, officials, employees and representatives of
27 government departments and other institutions must respect, protect and
28 promote the rights of elderly persons contained in this Act.

29 (2) All organs of government, authorities and persons, exercising
30 legislative, executive or judicial powers that ordinarily charged with the

1 responsibility of observing and applying the fundamental objectives and
2 directive principle of state policy set out in Section 13 of the 1999
3 Constitution shall conform to, observe and be responsible for administering
4 the provisions of this Act.

5 (3) Recognising that amidst competing social and economic needs,
6 such organs of government provided in subsection (2) must take adequate
7 and reasonable measures to the extent of their available resources to achieve
8 the realization of the objects of this Act.

9 (4) To achieve the implementation of this Act in the manner
10 contemplated in subsections (1) - (3), all organs of state must synergize in
11 coordination and integration of services that may be delivered to elderly
12 persons.

13 5. The Minister may, from time to time, by notice in the Gazette,
14 prescribe:

Establishment of
and compliance
with national
guidelines and
standards

15 (a) guidelines and standards including accounting measures,
16 compliance measures that shall define the conventional manner and kind of
17 services that may be provided to elderly persons and under which those
18 services must be monitored and evaluated.

19 (b) penalties for failure to comply with the prescribed guidelines
20 and standards.

21 6. In accordance with the rights contemplated in Chapter II of the
22 1999 Constitution as well as other statutory provisions of the Federal
23 Republic of Nigeria, less privileged elderly persons shall not be denied the
24 right to:

Rights of elderly
persons

25 (a) first refusal in accessing public facilities and utilities;

26 (b) have access to basic care;

27 (c) participate in community life in any position appropriate to
28 their interests and capabilities;

29 (d) establish and participate in the development of organizations
30 and programmes for elderly persons; and

	1	(e) access opportunities that promote their optimal level of social,
	2	physical, mental and emotional wellbeing.
Rights of elderly persons in residential facilities	3	7. An elderly person residing in a residential facility has the right to:
	4	(a) appoint a representative to act on his or her behalf;
	5	(b) have reasonable access to assistance and visitation;
	6	(c) keep and use personal possessions;
	7	(e) be informed about the financial status of the residential facility and
	8	changes in management;
	9	(f) participate in social, religious and community activities of his or
	10	her choice;
	11	(g) privacy;
	12	(h) his or her own physician if he or she can afford it; and
	13	(i) be given at least 30 days' notice of a proposed transfer or discharge.
Support for services delivered by individuals, public and non-governmental organizations	14	8. The Minister:
	15	(a) may provide financial rewards to service providers that provide
	16	social services to elderly persons from funds appropriated by the legislature for
	17	that purpose;
	18	(b) may for the purposes of subsection 1(a), prioritize needs and
	19	services for elderly persons;
	20	(c) may in the prescribed manner enter into contracts with service
	21	providers to ensure that the services contemplated in subsection 1(b) of this
	22	section are provided;
	23	(d) shall prescribe conditions for granting social welfare packages
	24	and financial rewards, including accounting measures, compliance measures
	25	and guidelines and standards; and
	26	(e) shall prescribe penalties for failure to comply with the prescribed
	27	conditions contemplated in subsection 1(d) of this section.
Services at residential facilities for less privileged elderly persons	28	9. The following services may be provided at residential facilities,
	29	namely:
	30	(a) 24-hour care and support services;

- 1 (b) care and supervision services to elderly persons who are
2 suffering from dementia and related diseases;
3 (c) rehabilitation services;
4 (d) respite care services;
5 (e) provision of beds for the temporary accommodation of less
6 privileged elderly persons;
7 (f) sport and recreational activities
8 (g) public education on issues of ageing, including dementia;
9 (h) implementation and monitoring of outreach programmes;
10 (i) training of volunteer caregivers to deal with less privileged
11 elderly persons; and
12 (j) counseling services to persons and family members who need
13 these services.

14 **10.-(1)** Any person who abuses an elderly person commits an
15 offence and is liable upon conviction to a fine or to imprisonment for a
16 period not exceeding one year, or to both.

Prohibition of
abuse elderly
persons and
special measure
to combat abuse
of elderly persons

17 (2) Any conduct or lack of appropriate action, occurring within any
18 relationship where there is an expectation of trust, which causes harm or
19 distress or is likely to cause harm or distress to an elderly person constitutes
20 abuse of an elderly person.

21 (3) For the purposes of subsection (2), 'abuse' includes physical,
22 sexual, psychological and economic abuse and:

23 (a) 'physical abuse' means any act or threat of physical violence
24 towards an elderly person;

25 (b) 'sexual abuse' means any conduct that violates the sexual
26 integrity of an elderly person;

27 (c) 'psychological abuse' means any pattern of degrading or
28 humiliating conduct towards an elderly person, including:

29 (i) repeated insults, ridicule or name calling;

30 (ii) repeated threats to cause emotional pain; and

(iii) repeated invasion of an elderly person's privacy, liberty, integrity or security;

(d) 'economic abuse' means:

(i) the deprivation of economic and financial resources to which an elderly person is entitled under any law;

(ii) the unreasonable deprivation of economic and financial resources which the elderly person requires out of necessity; or

(iii) the disposal of household effects or other property that belongs to the elderly person without the elderly person's consent.

(4) If a court, after having convicted a person of any crime or offence, finds that the convicted person has abused an elderly person in the commission of such crime or offence, such finding must be regarded as an aggravating circumstance for sentencing purposes.

11.-(1) A person or organization who wishes to operate a residential facility shall apply to the Minister for registration, in the prescribed manner,

(2) (a) No person or organization shall operate a residential facility unless such facility has been duly registered with the Ministry.

(b) subsection 2(a) does not apply to a private residence in which an elderly person is looked after by a family member.

(3) After consideration of an application under subsection (1) the Minister may:

(a) grant the application subject to such conditions as the Minister may determine, and direct that a Temporary Registration Certificate specifying those conditions be issued to the applicant in the prescribed form; or

(b) refuse the application.

(4) The grant of a Temporary Registration Certificate to an applicant under subsection (1) confers authority on the applicant to operate a Residential facility for a period not exceeding 12 months.

(5) At the expiration of the period specified in the Temporary Registration Certificate or upon notice in the prescribed form by the applicant

Registration of
residential
facilities and
prohibition on
operation of
unregistered
facilities

1 to the Minister that the conditions in the Temporary Registration Certificate
2 have been complied with, whichever comes first, the Minister may consider
3 the grant of a Permanent Registration Certificate to the applicant.

4 (6) Upon failure to comply fully with the conditions specified in
5 the Temporary Registration Certificate within the stipulated time, the
6 applicant may apply for extension of the Temporary Registration Certificate
7 and the Certificate may be extended for a further period not exceeding 12
8 months under the same conditions, and no more.

9 (7) Temporary registration contemplated in subsection (3) (a) may
10 not be extended for more than 12 months under the same conditions.

11 (8) The Minister may at any time after one month's notice of the
12 Minister's intention to do so, and after consideration of any representations
13 received by him or her during that month, amend or cancel a registration
14 certificate issued under subsection (3) (a).

15 (9) (a) The amendment or cancellation of the registration
16 certificate shall be effected by notice to the holder thereof, and take effect on
17 a date specified in the notice;

18 (b) The date specified in the notice may not be earlier than three
19 months for Permanent registration and one month for Temporary
20 registration after the date of the notice, unless the Minister and the holder of
21 the Registration certificate have agreed otherwise.

22 (10) A Registration certificate under this section may not be
23 transferred to any other person or organization.

24 (11) If the registration of a residential facility has been cancelled
25 under subsection (8), or if the operator of a residential facility wishes to
26 close down such facility for any reason, the operator must take reasonable
27 steps to ensure that before the closure of the facility, the elderly persons in
28 that facility are transferred and accommodated in another registered
29 residential facility or with persons or organizations who, in the opinion of a

1 social worker, are fit and proper persons to accommodate the elderly persons.

2 (12) Any person who contravenes the provisions of this section, or of
3 a condition imposed thereunder, commits an offence and is liable upon
4 conviction to a fine or to imprisonment for a period not exceeding one year, or
5 to both.

Compliance with
conditions for
registration of
residential
facilities

6 12.-(1) If there is reason to believe that any of the conditions
7 contemplated under this Bill have not been complied with, the Minister may
8 order specific measures to be adopted to facilitate compliance with those
9 conditions.

10 (2) The operator of a registered residential facility shall, at all
11 reasonable times, report to the Minister any circumstances which may result in
12 their inability to comply fully with any condition contemplated in the Bill.

13 (3) If the registration of a residential facility has been cancelled under
14 section 12 (5), or if the operator of a residential facility wishes to close down
15 that residential facility, the operator must:

16 (a) prior to any decision to close down that residential facility, consult
17 with the Minister or the Minister's representative on the matter;

18 (b) furnish the Minister with a full report on the accommodation of the
19 less privileged elderly persons concerned required under section 12 (7); and

20 (c) handover to the Ministry all assets bought with Government
21 funds.

22 (4) Any person who fails to comply with subsection (3) of this Section
23 is guilty of an offence liable to a fine or to imprisonment for a period not
24 exceeding one year, or to both a fine and such imprisonment.

Admission to
residential
facilities

25 13.-(1) No person shall discriminate directly or indirectly against an
26 elderly person applying for admission to a residential facility.

27 (2) If a person is refused admission to a residential facility, the
28 operator of that residential facility must, on the request of that person, give
29 reasons in writing for such refusal.

30 (3) (a) An elderly person may not be admitted to a residential facility

1 without the person's consent, unless his or her mental condition renders him
2 or her incapable of giving such consent, in which case:

3 (i) a person authorised to give such consent under any law, or

4 (ii) by order of a court, may give the required consent.

5 (4) In the absence of a person contemplated in:

6 (a) subsection (3) (a) (i), the required consent may be given by the
7 spouse or partner of the elderly person concerned or, in the absence of such
8 spouse or partner, an adult child or sibling of the elderly person, in the
9 specific order as listed; or

10 (ii) subsection (3) (a) (ii), the required consent may be given by the
11 Minister.

12 (5) The consent required under subsection (3) may only be given
13 after a registered medical practitioner, has certified that any delay in the
14 admission of the elderly person might result in his or her death or
15 irreversible damage to his or her health.

16 (6) The operator of a residential facility must take all reasonable
17 steps to obtain the elderly person's consent.

18 (5) Notwithstanding subsection (3) of this section, an elderly
19 person who is capable of understanding must be informed of the intended
20 admission even if his or her mental condition renders him or her incapable of
21 giving the required consent under that subsection.

22 (6) The operator of a residential facility into which an elderly
23 person is admitted as a result of consent given under subsection (3) must
24 notify the Ministry or its relevant department of the admission within 48
25 hours after such admission.

26 (7) On receipt of the notice referred to in subsection (6), the
27 Ministry or its relevant department may constitute such a multi-disciplinary
28 team as may be prescribed in order to assess and to confirm or reject the
29 admission contemplated in that subsection.

30 (8) A person who contravenes the provisions of this section

Monitoring of
registered
residential
facilities

1 commits an offence and is liable upon conviction to a fine or to imprisonment
2 for a period not exceeding one year, or to both.

3 **14.-(1)** A social worker in the services of the government, any social
4 worker or person designated by the Minister or Director shall at any time, and,
5 if requested to do so:

6 (a) visit and monitor a registered residential facility in order to ensure
7 compliance with this Act;

8 (b) interview any elderly person cared for or accommodated in such
9 residential facility;

10 (c) either with or without the assistance of a health care provider
11 enquire into the well-being of any such elderly person;

12 (d) direct any person who has in his or her possession or custody any
13 book or document relating to such residential facility, to submit such book or
14 document to him or her for inspection;

15 (e) submit a report to the Minister or Director on the outcome of the
16 inspection; and;

17 (f) provide the operator of the residential facility with a report on the
18 findings of the inspection.

19 (2) A social worker or designated person exercising any power under
20 subsection (1) shall, at the request of the management of the residential facility
21 in question or the person who has control over the place in question, as the case
22 may be, produce a certificate issued by the Minister or Director stating that he
23 or she is such a social worker or designated person.

24 (3) A social worker or designated person may issue a compliance
25 notice to the operator concerned if a provision of this Act has not been complied
26 with.

27 (4) A compliance notice remains in force until the relevant provision
28 of this Act has been complied with and the social worker or designated person
29 has issued a compliance certificate in respect of that notice.

30 (5) A person commits an offence if that person:

1 (a) obstructs or hinders a social worker or designated person in the
2 performance of his or her functions;

3 (b) refuses to give a social worker or designated person access to an
4 elderly person cared for or accommodated in a residential facility referred to
5 in subsection (1); or

6 (c) refuses or fails to comply with a direction under subsection (1)

7 (d).

8 **15.-(1)** The operator of a registered residential facility must within
9 60 days after the end of the financial year of that residential facility submit to
10 the Minister a report covering that financial year in respect of:

Report to Minister
by operators of
residential facilities

11 (a) compliance with:

12 (i) the prescribed service standards, and

13 (ii) the prescribed measures to prevent and combat abuse of elderly
14 persons; and

15 (b) the provisions of the prescribed service level agreements
16 concluded during that financial year.

17 (2) If the operator of a registered residential facility fails to submit
18 a report under subsection (1), the Minister may:

19 (a) give notice to that operator that if such report is not submitted
20 within 30 days after the date of that notice, the registration may be
21 withdrawn; and

22 (b) if such report is not submitted within 30 days after the date of
23 the notice given under subsection (2) (a) of this section, withdraw such
24 registration after giving one month's notice of the intention to do so.

25 **16.** The provisions of this Bill must not be construed as limiting,
26 amending, repealing or otherwise altering any policy or legislation on
27 domestic violence, or as exempting any person from any duty or obligation
28 imposed by such policy or prohibiting any person from complying with the
29 policy or legislation.

Effect of Bill on
domestic violence

Recognizing
elderly persons
in need of care
and protection

1 17.-(1) Any person who is involved with an elderly person in a
2 professional capacity and who on personal observation concludes that the
3 elderly person is in need of care and protection must report such conclusion to
4 the Ministry or its relevant department.

5 (2) Any person other than a person in subsection (1) who is of the
6 opinion that an elderly person is in need of care and protection may report such
7 opinion to a social worker.

8 (3) The Minister or relevant government department or the social
9 worker to whom a report has been made must investigate the matter.

10 (4) If the report is substantiated by the investigation, the Minister or
11 relevant government department or the social worker concerned may take
12 anyone or more of the following actions:

13 (a) facilitate the removal of the elderly person concerned to a hospital,
14 in case of injury, or to a shelter;

15 (b) make a report to a law enforcement office requesting the latter to
16 act under section 20;

17 (c) take such other steps as may be prescribed to ensure adequate
18 provision for the basic needs and protection of the elderly person concerned; or

19 (d) if the elderly person concerned is the victim of an offence or crime,
20 assist the elderly person to lay a complaint with the relevant law enforcement
21 agency.

22 (5) An elderly person who is in need of care and protection is one who:

23 (a) has his or her income, pension or assets taken against his or her will
24 or who suffers any other economic abuse;

25 (b) has been removed from his or her property against his or her will or
26 who has been unlawfully evicted from any property occupied by him or her;

27 (c) has been neglected or abandoned without any visible means of
28 support;

29 (d) lives or works on the streets or begs for a living;

30 (e) abuses or is addicted to a substance and without any support or

1 treatment for such substance abuse or addiction;

2 (f) lives in circumstances likely to cause or to be conducive to
3 seduction, abduction or sexual exploitation;

4 (g) lives in or is exposed to circumstances which may harm that
5 elderly person physically or mentally; or

6 (h) is in a state of physical, mental or social neglect.

7 **18.-(1)** A person who suspects that an elderly person has been
8 abused, is likely to be abused or suffers from an abuse-related injury must
9 immediately notify the Ministry or relevant department or the relevant law
10 enforcement office of his or her suspicion.

Notification of
abuse of elderly
persons

11 (2) A person is not liable in respect of any notification given in
12 good faith under subsection (1) of this section.

13 (3) A person who fails to comply with subsection (1) of this section
14 is commits an offence.

15 (4) On receipt of a notification under subsection (1):

16 (a) the Minister or relevant department shall investigate the matter
17 and if the suspicion is substantiated by the investigation, section 17 (4) shall
18 apply; and

19 (b) the law enforcement officer must inform the Minister or
20 relevant department of the alleged abuse or, if he or she is satisfied that it will
21 be in the best interest of the elderly person if the alleged offender is removed
22 from the home or place where the elderly person resides, act under section
23 20.

24 (5) Subsection (4) (a) applies with the necessary changes if the
25 Minister or relevant department receives information contemplated in
26 subsection (4) (b).

27 **19.-(1)** A law enforcement officer to whom a report contemplated
28 in section 18 (4) (b) has been made or who is satisfied that it will be in the
29 best interests of the elderly person if the alleged offender is removed from
30 the home or place where the elderly person resides, must issue a written

Written notice to
alleged offender

1 notice which:

2 (a) specifies the names, surname, residential address, occupation and
3 status of the alleged offender;

4 (b) calls upon the alleged offender to leave the home or place where
5 the elderly person resides and refrain from entering such home or place or
6 having contact with the elderly person until the court hearing specified in
7 subsection (1)(c);

8 (c) calls upon the alleged offender to appear at a court having
9 jurisdiction on a date and at a time specified in the written notice to advance
10 reasons why he or she should not be permanently prohibited from entering the
11 home or place where the elderly person resides.

12 Provided that the date so specified must be the first court day after the day upon
13 which the notice is issued; and

14 (d) contains a certificate under the hand of the law enforcement
15 officer that he or she has handed the original of such written notice to the
16 alleged offender and that he or she has explained to the alleged offender the
17 importance thereof.

18 (2) The law enforcement officer must immediately forward a
19 duplicate original of the written notice to the court.

20 (3) The mere production to the magistrates' court of the duplicate
21 original referred to in subsection (2) of this section is prima facie proof of the
22 issue of the original thereof to the alleged offender and that such original was
23 handed to the offender.

24 (4) Section 55 of the Criminal Procedure Act, 1977 (Act 51 of 1977)
25 applies, with the necessary changes, to a written notice handed to an alleged
26 offender under subsection (1).

27 (5) The court before which an alleged offender appears, may
28 summarily inquire into the circumstances which gave rise to the issuing of the
29 notice.

30 (6) The court may, after having considered the circumstances which

1 gave rise to the issuing of the written notice and after having heard the
2 alleged offender:

3 (a) issue an order prohibiting the alleged offender from entering the
4 home or place where the elderly person resides or from having any contact
5 with the elderly person, or both from entering such home or place and having
6 contact with the elderly person, for such period of time as the court deems
7 fit;

8 (b) order that the alleged offender may enter the home or the place
9 where the elderly person resides or have contact with the elderly person
10 upon such conditions as would ensure that the best interests of the elderly
11 person are served;

12 (c) order that the alleged offender will be responsible for the
13 maintenance of his or her family during the period contemplated in
14 paragraph (a); or

15 (d) make such other order with regard to the matter as the court
16 deems fit.

17 (7) Misuse of a power referred to in subsection (1) by a law
18 enforcement officer constitutes grounds for disciplinary proceedings
19 contemplated in statutory provisions, against such officer.

20 (8) A person commits an offence if that person:

21 (a) has been issued with a written notice contemplated in
22 subsection (1) and:

23 (i) refuses to leave the home or place where the elderly person
24 resides, or

25 (ii) has contact with the elderly person in contravention of the
26 written notice; or

27 (b) contravenes or fails to comply with an order of the court issued
28 under subsection (6) or with any condition contained in such order, and is
29 liable upon conviction to a fine or to imprisonment for a period not
30 exceeding one year, or to both fine and.

1 Procedure for bringing alleged abuser of elderly person before the Court.

2 **20.-(1)** If a social worker or a health care provider or public
3 prosecutor submits or makes a written statement under oath or affirmation to
4 the court, and in such statement it is alleged that any person within the
5 jurisdiction of the court abuses an elderly person, social worker or a health care
6 provider or public prosecutor, subject to subsection (2) of this section, request
7 the court to issue a summons informing such first-mentioned person of the
8 allegations against him or her and calling upon the person to appear, at a time
9 and place specified therein, before the court.

10 (2) A person may not under subsection (1) of this section request the
11 court to issue a summons unless he or she has obtained from the social worker
12 or health care provider a report on the alleged abuse of the elderly person
13 concerned.

14 (3) If on the grounds of a statement under oath or affirmation referred
15 to in subsection (1) of this section the court has reason to suspect that a social
16 worker or health care provider will be prevented or prohibited from going into
17 or entering upon the place where the elderly person concerned resides to make
18 the necessary investigation for the purposes of a report referred to in subsection

19 (2) of this section, or if such social worker or health care provider has
20 been prevented or prohibited from doing so, the court may on the application of
21 the public prosecutor issue a warrant authorizing the social worker or health
22 care provider to go into or enter upon that place to make such investigation.

23 (4) The court may in a warrant issued under subsection (3) authorise
24 the social worker or health care provider to take a police official with him or her
25 for the purposes of an investigation referred to in subsection (3).

26 (5) The Administration of Criminal Justice Act, Penal Code Act and
27 Criminal Code Act apply, in relation to the form and manner of service of
28 summonses in criminal cases in lower courts, the time to be allowed to a person
29 summoned to appear, and the manner in which persons who have been
30 summoned to appear may be dealt with if they fail to appear or to remain in

1 attendance, as required, in respect of summonses issued under this section.

2 (6) A person commits an offence and is liable upon conviction to a
3 fine or to imprisonment for a period not exceeding one year, or to both, if that
4 person:

5 (a) obstructs or hinders a social worker or a health care provider in
6 the performance of his or her functions under this section; or

7 (b) refuses to furnish to a social worker or a health care provider
8 any information in connection with the alleged abuse of an elderly person at
9 his or her disposal which such officer requires for the purposes of an
10 investigation referred to in subsection (3).

11 21.-(1) Subject to this section, a court before whom any person is
12 brought under section 20 shall investigate into the genuineness or otherwise
13 of the allegations contained in the summons in question.

Investigation into
abuse of elderly
person

14 (2) A public prosecutor or any other person designated by the court
15 for the purpose must appear at the enquiry and may call witnesses and cross-
16 examine any other witnesses giving evidence at the enquiry.

17 (3) The person against whom the allegations in question were
18 made, may give evidence and he or she, or his or her legal representative,
19 may cross-examine any witnesses called under subsection (2) and may call
20 witnesses and must be given the opportunity to advance reasons why an
21 order should not be issued under subsection (8) of this section.

22 (4) Subject to anything to the contrary contained in this Bill, the
23 law relating to administration of criminal justice applies including in respect
24 of subpoenas, the calling and examination of witnesses for the purposes of
25 or at the enquiry, the taking of evidence and the production of documents
26 and other articles thereat, and the payment of allowances to witnesses.

27 (5) The report referred to in section 20 (2) must be submitted to the
28 court and the court may direct a surgeon, a psychiatrist, a clinical
29 psychologist or any other relevant medical personnel to examine the elderly
30 person concerned and to furnish the court with a report on the findings of

1 such examination.

2 (6) The contents of a report submitted or furnished under subsection
3 (8) must be disclosed to the person against whom the allegations were made,
4 and if the person so desires, the person must be given an opportunity to cross-
5 examine the person who made the report, in relation to any matter arising out of
6 the report, and to disprove any allegation made.

7 (7) If, after consideration of the evidence and of any report submitted
8 or furnished under provisions of this section, it appears to the court that any
9 allegation in the summons is correct, the court may:

10 (a) authorise the person concerned to accommodate or care for the
11 elderly person concerned under such conditions as the court may impose; or

12 (b) prohibit that person from accommodating or caring for any elderly
13 person for such period, but not exceeding 10 years, as may be determined by
14 the court.

15 (8) Any person who contravenes or fails to comply with any condition
16 imposed under subsection (7) (a) of this section or who contravenes or fails to
17 comply with subsection (7) (b) commits an offence and is liable upon
18 conviction to a fine or to imprisonment for a period not exceeding five years, or
19 to both.

Keeping of
register of abuse
of elderly persons

20 22.-(1) The Minister shall in the prescribed manner keep a register of
21 persons convicted of the abuse of an elderly person or of any crime or offence
22 contemplated under this Bill.

23 (2) A person whose name appears in the register contemplated in
24 subsection (1) of this section may not in any way:

25 (a) operate or be employed at any residential facility;

26 (b) provide any other support service to an elderly person.

Delegation

27 23.-(1) The Minister may:

28 (a) delegate to any officer of the Ministry or relevant department any
29 power conferred upon the Minister by this Bill, except the power to make
30 regulations; and

1 (b) authorise any such officer to perform any duty imposed upon
2 the Minister by this Bill.

3 (2) The Minister may, with the concurrence of the state governor:

4 (a) delegate to the member of the State Executive Council of that
5 state responsible for social development any power conferred upon the
6 Minister by this Bill, except the power to make regulations; and

7 (b) authorise that Member of the Executive Council to perform any
8 duty imposed upon the Minister by this Bill.

9 (3) The Member of the Executive Council of a state responsible for
10 social development may:

11 (a) delegate to any officer of the state government concerned any
12 power delegated to that Member under subsection (2);

13 (b) authorise any such officer to perform any duty which that
14 Member is authorised to perform under subsection (2).

15 (4) The Director may:

16 (a) delegate to any other officer of the Department any power
17 conferred upon the Director by this Bill; and

18 (b) authorise any such officer to perform any duty imposed upon
19 the Director-General by this Bill.

20 (5) The Director may, with the concurrence of the relevant
21 Director-General of a local government administration:

22 (a) delegate to the Head of Department of the state government
23 responsible for social development any power conferred upon the Director
24 by this Bill; and

25 (b) authorise that Head of Department to perform any duty
26 imposed upon the Director-General by this Bill.

27 (6) A Head of Department may:

28 (a) delegate to any other officer of the state government concerned
29 any power delegated to the Head of Department under subsection (5); and

30 (b) authorise any such officer to perform any duty which the Head

1 of Department is authorised to perform under subsection (5).

2 (7) Any person to whom any power has been delegated or who has
3 been authorised to perform a duty under this section must exercise that power
4 or perform that duty subject to such conditions as the person who effected the
5 delegation or granted the authorisation considers necessary.

6 (8) Any delegation of a power or authorization to perform a duty
7 under this section:

8 (a) must be in writing;

9 (b) does not prevent the person who effected the delegation or granted
10 the authorization from exercising that power or performing that duty himself or
11 herself; and

12 (c) may at any time be withdrawn in writing by that person.

Regulations

13 24.-(1) The Minister may make regulations regarding:

14 (a) any matter which may or shall be prescribed under this Bill;

15 (b) the form of any application, authority, certificate, consent, notice,
16 order, register, process or subpoena which is to or may be made, granted, given,
17 issued or kept under this Act, and any other form required in administering this
18 Bill;

19 (c) the procedure to be followed and the conditions which may be
20 imposed in connection with the registration of residential facilities, and the
21 minimum standards with which such residential facilities are to comply;

22 (d) the books, accounts and registers which are to be kept by the
23 operators or managers of residential facilities, the manner in which such books,
24 accounts and registers are to be kept and dealt with, and the returns and reports
25 to be furnished in connection with such facilities;

26 (e) the records to be kept by any person who cares for or
27 accommodates for remuneration, whether by way of money or goods, any
28 elderly or frail person in any place other than a residential facility;

29 (f) measures to:

30 (i) prevent, combat and deal with the abuse of elderly persons,

1 (ii) be taken to advance persons disadvantaged by unfair
2 discrimination,

3 (iii) promote the rights of residents of residential facilities,

4 (iv) promote the rights of elderly persons that are not in residential
5 facilities;

6 (g) the form and content of service level agreements between the
7 residents and the residents' committee of a residential facility;

8 (h) the minimum norms and standards for admission of persons to
9 residential facilities;

10 (i) service standards;

11 (j) the keeping of registers under section 23; and

12 (k) generally, any other ancillary or incidental administrative or
13 procedural matter that it is necessary to prescribe for the proper
14 implementation of this Bill.

15 (2) The regulations may provide that any person who contravenes
16 or fails to comply with a regulation commits an offence and is liable on
17 conviction to a fine or to imprisonment not exceeding one year or to both
18 fine and imprisonment.

19 (3) Any regulation made under subsection (1) which affects the
20 Nigeria Police must be made after consultation with the relevant Ministry,
21 Department or Agency.

22 (4) Any regulation made under subsection (1) which deals with the
23 size or value of services and subsidies and with the criteria for eligibility of
24 services must be made with the concurrence of the Minister of Finance.

25 (5) Before the Minister makes any regulation under this section,
26 the Minister must publish a draft of the proposed regulation in the Gazette
27 together with a notice calling on interested persons to make submissions in
28 writing, within a period stated in the notice of not less than 30 days from the
29 date of publication of the notice.

30 (6) The Minister must submit to the legislature, the draft

1 regulations contemplated in subsection (5) and comments received under that
2 subsection before final publication.

3 (7) The Minister may, if circumstances necessitate the immediate
4 publication of a regulation, publish that regulation without consultation as
5 contemplated in subsection (5).

6 Interpretation

Interpretation

7 25. In this Act:

8 'abuse' means abuse contemplated in section 22 (2);

9 'care' means physical, psychological, social or material assistance to an elderly
10 person, and includes services aimed at promoting the quality of life and general
11 well-being of an elderly person;

12 'caregiver' means any person who provides care;

13 'Department' means the Department charged with the responsibility of Social
14 Works and Development;

15 'Director' means the Director or Head of the Department charge with the
16 responsibility of social works and development;

17 'less privileged elderly person' means an elderly person in need of 24-hour care
18 due to a physical, economic or mental condition which renders him or her
19 incapable of caring for himself or herself;

20 'health care provider' means a health care provider defined by the National
21 Health Insurance Bill;

22 'Minister' means the Minister charged with the responsibility of Women and
23 Social Development;

24 'elderly person' means a person who, in the case of a male, is 65 years of age or
25 elderly and, in the case of a female, is 60 years of age or elderly;

26 'operator' means a person who operates a residential facility;

27 'prescribed' means prescribed by regulation;

28 'regulation' means any regulation made under section 25;

29 'residential facility' means a building or other structure used primarily for the
30 purposes of providing accommodation and of providing a 24 hour service to

- 1 elderly persons;
- 2 'respite care' means a service offered specifically to a frail elderly person and
- 3 which is aimed at the provision of temporary care and relief;
- 4 'service' means any activity or programme designed to meet the needs of an
- 5 elderly person;
- 6 'shelter' means any building or premises maintained or used for the
- 7 reception, protection and temporary care of an elderly person in need of care
- 8 and protection;
- 9 'social worker' means a person registered as a social worker under statutory
- 10 provisions and in the employment or service of government or a registered
- 11 social welfare organization.

12 26. This Bill may be cited as the Elderly Persons (Protection of Short Title

13 rights) Bill, 2016.

EXPLANATORY MEMORANDUM

This Bill seeks to regulate the establishment, registration, provision and management of services and residential facilities for elderly persons to ensure the proper attention and care of elderly persons and to promote the well-being, safety and security of elderly persons. It also prohibits discrimination against and abuse of elderly persons.

