

# A BILL

## FOR

AN ACT TO ESTABLISH THE FEDERAL CAPITAL TERRITORY HIV/AIDS CONTROL AGENCY (FACA) AND MATTERS CONNECTED THEREWITH

*Sponsored by Hon. Uzoma Nkem Abonta*

[ ] Commencement

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

PART I - ESTABLISHMENT, MEMBERSHIP ETC

1.-(1) There is hereby established for the Federal Capital Territory, Abuja, an Agency to be known as the Federal Capital Territory HIV/AIDS Control Agency (hereinafter referred to as "The Agency") to exercise the functions and powers, and pursue the objectives assigned to it by this Act.

(2) The Agency Shall:

(a) Be a body Corporate with perpetual succession and a common seal with power to sue and be sued in its corporate name; and

(b) Have power to own, hold, acquire and dispose of its interest in property whether movable or immovable.

2. Composition of the Board:

(1) The Agency shall have a twenty-one (21) member Governing Board, which shall consist of:

(a) Chairman;

(b) Vice Chairman;

(c) Seven representatives from the Civil Society Organisations in the following order:

(i) Two from Faith Based Networks Le a Muslim & a Christian;

(ii) Two from Network of People Living with HIV/AIDS in Nigeria (NEPWHAN), FCT Chapter;

(iii) One from National Youth Network on HIV/AIDS

Composition and Proceeding

- 1 (NYNETHA), FCT Chapter;
- 2 (iv) One from National Council of Women Society (NCWS) FCT
- 3 Chapter;
- 4 (v) One from Civil Society on HIV/AIDS in Nigeria (CiSHAN), FCT
- 5 Chapter;
- 6 (vi) One from FCT Council of Chiefs.
- 7 (d) One representative each from the FCT Administration of not less
- 8 than Directorate Cadre from the following:
- 9 (i) Health and Human Services Secretariat;
- 10 (ii) Agriculture and Rural Development Secretariat;
- 11 (iii) Education Secretariat;
- 12 (iv) Social Development Secretariat;
- 13 (v) Information Unit;
- 14 (vi) Legal Services Secretariat.
- 15 (e) The Programme Manager of the Agency shall be a
- 16 Member/Secretary of the Board.
- 17 (2) The FCT Minister shall be the Chairman of the Board and shall
- 18 appoint all other members of the Board.
- 19 (3) The Secretary Health and Human Services Secretariat shall be the
- 20 Vice Chairman.
- 21 (4) At least one third of members of the Board shall be women.
- 22 (5) The Board members shall serve a tenure of two (2) years and may
- 23 be eligible for re-appointment for a further term of two (2) years only.
- 24 (6) Notwithstanding the provisions of subsection (2.05) of this
- 25 section, a member of the Board may at any time be removed from office by the
- 26 Hon. Minister for inability to discharge the functions of his office, whether
- 27 arising from infirmity of mind or body or any other just cause.
- 28 (7) Members of the Board shall be paid such allowances or benefits as
- 29 the Minister may from time to time approve.

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## PART II - FUNCTIONS AND POWERS

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3. The functions of the Agency shall include the following:

Functions

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(a) Designing and implementing FCT Action Plan for the prevention and control of HIV/AIDS;

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(b) Designing and Prosecuting an intense Multi-sectoral approach to HIV/AIDS prevention and control;

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(c) Providing support to the planning, implementation and management of HIV/AIDS to line Secretariats, NGOs, CBOs, CSOs and Area Councils;

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(d) Providing necessary support to other stakeholders in their efforts to prevent and control HIV/AIDS;

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(e) Coordinating an FCT Sentinel Surveillance on the incidence and prevalence of HIV/AIDS and promote Operational Research on intervention strategies;

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(f) Promoting multi-disciplinary collaboration and networking among all stakeholders including The Civil Society Organisation against HIV/AIDS;

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(g) Building capacity of all stakeholders involved in the control and prevention of HIV/AIDS at all levels;

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(h) Implementing all decisions of the board;

21

(i) Production of quarterly reports on HIV/AIDS prevention and control activities to the Board, partners and all stakeholders.

23

(2) In addition to the functions of the Agency as provided in subsection I of this section, the Agency shall have powers to:

25

(a) Demand and obtain relevant information, data and report on matters relating to the prevention and control of the human immune-deficiency virus/acquired immune deficiency syndrome from all stakeholders;

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(b) liaise with relevant establishments within and outside Nigeria in pursuance of the functions of the Agency;

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1 (c) carry out resource mobilization and other activities as are  
2 necessary or expedient for the performance of its functions under this law; and  
3 make quarterly reports to the Board.

Power of the  
Agency

4 4. The Agency shall have the power to:

5 (a) Do all things which by this Act or any other enactment or  
6 administrative directives are required or permitted to be done by the Agency;

7 (b) Monitor any matter that may affect the functions of the Agency;

8 (2) Subject to any limitation imposed by law, the Agency may  
9 delegate any of its powers to any member or official of the Agency and  
10 authorize any such member or official to perform any of its functions.

power to borrow

11 5. Subject to the approval of the Minister of the FCT, the Agency may  
12 from time to time, borrow by way of overdraft or otherwise, such sums as it  
13 may require for the effective discharge of its functions under this Act.

Power to  
accept gifts

14 6. -(1) The Agency may accept any gift, grant or donation of land,  
15 money or other property from any person upon such terms and conditions  
16 (acceptable to the Agency), if any, as may be specified by the person making  
17 the gift or donation.

18 (2) The Agency shall not accept any gift or donation if the conditions  
19 attached thereto by the person making the gift or donation are inconsistent with  
20 the functions of the Agency.

Power to obtain  
information

21 7. -(1) For the purpose of carrying out the functions conferred on the  
22 Agency under this Act, the Programme Manager, or any employee of the  
23 Agency duly authorized in that behalf:

24 (a) shall have a right of access to all relevant HIV/AIDS status data  
25 from any institution/facility within the FCT; and

26 (b) demand and obtain relevant information, data and report on  
27 matters relating to the prevention and control of HIV/AIDS from all  
28 stakeholders;

29 (c) it shall be the duty of any person required to furnish information  
30 pursuant to subsection (1) of this section to comply with the notice within the

1 period specified in the notice or where no period is specified, within a  
2 reasonable period.

3 PART III - SECRETARIAT AND STAFF OF THE AGENCY SECRETARIAT

4 8. The Agency shall be headed by a Programme Manager who  
5 shall be the Chief Executive of the following Divisions:

Secretariat and  
Staff of the Agency

6 (a) Research, Monitoring and Evaluation;

7 (b) Programming;

8 (c) Administration and Finance.

9 The Agency shall also have the following units under the Divisions:

10 (i) Preventive and Health Promotion;

11 (ii) Care and Support;

12 (iii) Planning, Research and Statistics;

13 (iv) Monitoring and Evaluation;

14 (v) Communication Mobilisation;

15 (vi) Administration and Finance;

16 (vii) Procurement;

17 (viii) Legal;

18 (ix) Such other units as may be determined by the Board and  
19 approved by the Minister for the proper functioning/performance of the  
20 Agency.

21 9.-(1) The Board shall with the approval of the Minister appoint a  
22 Programme Manager for the Agency who shall have the following  
23 minimum qualifications:

Appointment of  
the Programme  
Manager

24 (a) not less than 5 years relevant field experience;

25 (b) First degree in social sciences, Humanities and Medicine.

26 (2) The Programme Manager shall be:

27 (a) The Chief Executive of the Agency;

28 (b) responsible for the day-to-day administration of the Agency;

29 (c) Subject to the supervision of the Board and be answerable to it;

30 and

1 (d) The Secretary of the Board;

2 (e) The Programme Manager shall hold office in the first instance for  
3 a period of four (4) years and may be re-appointed for a further period of four  
4 (4) years and no more, on such terms and conditions as may be specified in his  
5 letter of appointment.

6 (3) The Programme Manager shall hold office on such terms as to  
7 emoluments and otherwise as may be specified in his letter of appointment.

Agency

8 10.-(1) The terms and conditions of service including remuneration,  
9 allowances and benefits of officers and employees of the Agency shall be  
10 determined by the Board.

11 (2) Notwithstanding subsection (1) of this section, the Agency may  
12 appoint a person to any office on the terms, which preclude the grant of a  
13 pension, gratuities or retirement benefits.

Power to exercise  
disciplinary  
control

14 11. The Agency shall have powers to exercise disciplinary control  
15 over its staff as it may deem necessary for the discharge of its functions under  
16 this Law and in accordance with the Public Services Rules. Service in the  
17 Agency shall be approved service for the purpose of the Pension Act, and  
18 accordingly officers and other persons employed in the Agency shall be  
19 entitled to pension, gratuities and other retirement benefits as are prescribed  
20 thereunder. For the purpose of the application of the Pension Reform Act, any  
21 powers exercisable there under by the Minister of Finance or other regulations  
22 thereof, is hereby vested and shall be exercisable by the Board and not any  
23 other person or authority.

24 PART IV - FINANCIAL PROVISIONS

Fund of the  
Agency

25 12.-(1) The Agency shall establish and maintain a fund: "The fund"  
26 which shall consist of:

27 (a) the initial take-off grant from the FCT Administration;

28 (b) such as may be provided by the FCT Administration by way of  
29 annual subvention or otherwise;

30 (c) fees and other charges received by the Agency pursuant to this Act;

1 (d) subject to section II of this Act, all other sums accruing to the  
2 Agency by way of grants, gifts, testamentary dispositions, endowments  
3 bequests and donations made to the Agency;

4 (e) Income from any investment or other property acquired by or  
5 vested in the Agency; and

6 (f) such other sum as may accrue from time to time to the Agency

7 (2) The fund shall be managed in accordance with rules prescribed  
8 by the Public Financial Regulations.

9 13.-(1) The Agency shall, not later than 30th June, in each year,  
10 submit to the Minister an estimate of its expenditure and income (including  
11 estimates of expected payments into the Fund) during the next succeeding  
12 year.

Accounts and  
Audits

13 (2) The Agency shall keep proper accounts in a form which  
14 conforms to the acceptable accounting standards, and proper records in  
15 relation thereto and the accounts shall be audited as provided in subsection  
16 (3) of this section.

17 (3) The accounts of the Agency shall be audited at the end of each  
18 calendar year by auditors appointed by the FCT Administration from the list  
19 and in accordance with the Financial Guidelines and the fees of the auditors  
20 and the expenses for the audit generally shall be paid from the fund.

21 14. The Agency shall, not later than the first quarter of the  
22 preceding year, submit to the Minister, a report on the activities of the  
23 Agency and its administration during the immediate preceding year and  
24 shall include in the report, the audited accounts of the Agency and the  
25 auditor's report thereon.

Annual Reports

#### 26 PART V - REGULATIONS AND SUPPLEMENTARY PROVISIONS

27 15. The Minister may make regulations for the effective operation  
28 of this Act and the due administration thereof.

Regulations

29 16.-(1) The Agency shall have a Common Seal soon after its  
30 establishment.

Common Seal

1 (2) The Common Seal of the Agency shall be authenticated by the  
2 Secretary of the Board or by any other person authorized by the Agency to act  
3 in that behalf.

Re-Action  
Notice

4 17.-(1) No suit shall be commenced against the Agency, Board,  
5 Programme Manager, staff and other employees of the Agency before the  
6 expiration of a period of one month after written notice of intention to  
7 commence the suit shall have been served upon the Agency by the intending  
8 Plaintiff or his agent and the notice shall clearly and explicitly state:

9 (a) the cause of action;

10 (b) the particulars of the claim; and

11 (c) the relief which he claims.

12 (2) The notice referred to in subsection (1) of this section and any  
13 summons, notice or other documents required or authorized to be served upon  
14 the agency to the Programme Manager.

Legal  
Representations

15 18. -(1) In any suit by or against the Agency, the Agency shall be  
16 represented by the Legal Secretariat of the FCTA or any other legal practitioner  
17 appointed by the Board in that respect.

18 (2) In this section, "suit" includes any legal action commenced or  
19 instituted by or against the agency.

20 (3) Arbitration.

Indemnity for  
employees of  
the Agency

21 19. Every member, agent or staff of the Agency shall be indemnified  
22 out of the assets of the Agency against any liability incurred by him in  
23 defending any proceedings, whether civil or criminal, in which judgment is  
24 given in his favour or in which he is acquitted if any such proceedings is  
25 brought against him in his capacity as such member, agent or staff as aforesaid.

Interpretation

26 20. In this Act unless the context otherwise requires:

27 "CBOs" means community based organisations;

28 "CSOs" means Civil Society organizations;

29 "FCT" means the Federal Capital Territory;

30 "Member of the Board" means a member of the Board appointed by the



- 1 Minister, and includes the Chairman of the Board;  
2 "Prescribe" means prescribed by regulations;  
3 "Programme Manager" means the Programme Manager and Chief  
4 accounting Officer of the Agency;  
5 "Secretary of the Board" means the Programme Manager.

6           21. This Bill may be cited as the Federal Capital Territory   Citation  
7 HIV/AIDS Control Agency Bill, 2015.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Federal Capital Territory HIV/AIDS Control Agency (FACA) to exercise the functions and powers, and pursue the objectives assigned to it by this bill

