

Extraordinary



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COMMUNICATION SERVICE TAX BILL, 2019

ARRANGEMENT OF CLAUSES

Clauses

1. Imposition of Communication Service Tax
2. Persons liable to pay the tax
3. Rate of the tax
4. Collection of the tax and payment into the Federation Account
5. Submission of tax return and time for payment of the tax
6. Payment of interest and outstanding tax
7. Recovery of the Tax interest or penalty due
8. distraint for Liability
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10. "Records, related matters" offences and penalties
11. Objections and Appeals
12. Evidence in proceedings
13. Jurisdiction
14. Directive and Powers of the Minister and the FIRS
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16. Interpretation
17. Citation

A BILL

FOR

AN ACT TO PROVIDE FOR THE COMMUNICATION SERVICE TAX AS A
VERITABLE TOOL FOR ECONOMIC DIVERSIFICATION AND FOR RELATED
MATTERS

Sponsored by Senator Mohammed Ali Ndume

[] Commencement

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

- 1 1.-(1) There shall be imposed, charged payable and collected a Imposition of
2 monthly Communication Service Tax to be levied on charges payable by a Communication
3 user of an Electronic Communication Service other than private Electronic Service Tax
4 Communication Services.
- 5 (2) The tax shall be levied on Electronic Communication Services
6 supplied by Service Providers.
- 7 (3) For the purpose of this clause, the supply of any form of
8 recharges shall be considered as a charge for usage of Electronic
9 Communication Service.
- 10 (4) The Tax shall be levied on the following Electronic
11 Communication Services:
12 (a) Voice Calls;
13 (b) SMS;
14 (c) MMS;
15 (d) Data usage both from Telecommunication Services Providers
16 and Internet Service Providers;
17 (e) Pay per View TV Stations, etc.
- 18 2.-(1) The tax shall be paid together with the Electronic Persons Liable
19 Communication Service charge payable to the service provider by the to pay the Tax
20 consumer of the service.

	1	(2) The tax is due and payable on any supply of Electronic
	2	Communication Service within the time period specified under sub-clause (5)
	3	of whether or not the person making the supply is permitted or authorized
	4	provide Electronic Communication Services.
Rate of the Tax	5	3. The rate of the tax is 9% of the charge for the use of the
	6	communication service.
Collection of the tax and payment into the Federation Account	7	4.-(1) The Federal Inland Revenue Service (FIRS) established under
	8	section 1 of the Federal Inland Revenue Service (Establishment) Act, 2007
	9	shall be responsible for collection and remittance of tax, any interest and
	10	penalty paid under this Bill.
	11	(2) The FIRS shall pay the tax collected together with any interest and
	12	penalty into the Federation Account.
Submission of tax return and time for payment of the tax	13	5.-(1) All service providers shall file a tax return to account for the tax.
	14	(2) The tax return shall be in a form prescribed by the FIRS and shall
	15	state the amount of tax payable for the period and any related matters that may
	16	be required.
	17	(3) The return and the tax due to the accounting period to which the
	18	tax return relates shall be submitted and paid to the FIRS not later than the last
	19	working day of the month immediately after the month to which the tax return
	20	and payment relates.
	21	(4) The FIRS may extend the period within which the tax return may
	22	be submitted and payment made on application in writing by a service
	23	provider, where good cause is shown by the applicant.
	24	(5) The extension shall be communicated to the applicant in writing
	25	and shall state the circumstances under which the tax return shall be submitted
	26	for the particular period.
	27	(6) A service provider who without justification fails to submit to the
	28	FIRS the tax return by the date is liable to a pecuniary penalty of N50,000.00
	29	and a further penalty of N10,000.00 for each day the return is not submitted.

1	6.-(1) Subject to clause 6 (6) a service provider who fails to pay	Payment of
2	the tax by the due date shall pay monthly interest on the tax due at a rate of	Interest and
3	One hundred and Fifty per cent of the average of the prevailing commercial	Outstanding tax
4	Banks lending rate as published by the Central Bank of Nigeria.	
5	(2) For the purpose of sub-clause of this clause (1) any part of one	
6	month shall be deemed to be one month.	
7	(3) Subject to clause 6 (6) where the interest payable under sub-	
8	clause (1) is not paid within one month after the due date, interest shall be	
9	paid on the unpaid interest at the same rate and in the same manner on the	
10	unpaid tax.	
11	7.-(1) A tax or penalty of any interest due under this Bill which	Recovery of tax,
12	remain unpaid after the due date may be recovered by the FIRS as a debt.	interest or penalty
13	(2) An amount shown as the tax on a bill or invoice for Electronic	due
14	Communication Service usage is recoverable as tax from the person who	
15	issues the bill or invoice whether or not-	
16	(a) Tax is chargeable on the Electronic Communication Service	
17	Usage; or	
18	(b) The person who issues the bill or invoice is a person authorized	
19	to provide Electronic Communication Service under this Bill.	
20	(3) Where a body either corporate or unincorporated which is liable	
21	for the payment of the tax, of any penalty on interest that arises under the	
22	Bill, defaults in payment, in whole or in part after written demand, the	
23	directors, partners and the person in control of the body are jointly and	
24	severally liable to pay the sum due.	
25	(4) Where tax penalty of interest is payable and due under this Bill	
26	the FIRS may apply to the Court for an order that compels an individual or	
27	business-	
28	(a) from whom money is due or is accruing to the person required	
29	to apply the, interest or penalty, or	
30	(b) who holds money for or on account of the person required to	

Distrain for
Liability

1 pay the tax interest or penalty to pay to the FIRS that money or so much of it as
2 sufficient to discharge the tax interest or penalty payable and due.

3 **8.-(1)** Where tax, penalty or interest due under this Bill remains
4 unpaid after the time by which this Bill required it to be paid, the FIRS may
5 apply to the court by motion on notice to the person from whom the payment is
6 due for an order to levy distress-

7 (a) on the goods, chattels and effects of that person; and

8 (b) on-

9 (i) the assets, property, building, factory, machinery, plant, tools,
10 means of transport, accessories and all equipment used for the provision of
11 communication service, by that person;

12 (ii) the commodity or items found in the premises or land owned by, in
13 use or in possession of that person on behalf of or in trust for that person.

14 (2) The distress order issued in sub-clause (1) shall be executed on the
15 assets of the person specified in the order and the FIRS shall take possession of
16 the property so specified in sub-clause (1) to the exclusion of all liabilities.

17 (3) In furtherance of the levy of distress, a person authorized in
18 writing by the FIRS may execute the order of distress on the goods and assets
19 specified under sub-clause (1) and where necessary, may break open any
20 building or place in the daytime for the purpose.

21 (4) The authorized person may seek the assistance of a police officer
22 in the execution of the order of distress.

23 (5) The property distained shall be kept for Fourteen days at the cost
24 of the owner and if the amounts due in respect of the tax interest or penalties,
25 cost and charges for and incidental to the distress are not paid, the property
26 distained may be sold on the orders of the court.

27 (6) Where distained property is sold, there shall be paid out the
28 proceed of the sale-

29 (a) The cost of charges of-

30 (i) The distress,

1 (ii) Maintenance of the distress,
 2 (iii) the sale; and
 3 (b) The amount due in respect of the tax, interest and penalties and
 4 any residue that remains after these payments shall be paid to the owner of
 5 the property but payment to the owner is subject to the prior interest of the
 6 FIRS which has precedence over the other interests.

7 (7) Where property seized in the execution of the distress warrant is
 8 under mortgage, bill of sale, charged by way of security for debt, or is in any
 9 way encumbered, the interest of the FIRS has precedence over all the
 10 interests.

11 **9.** Where tax, penalty or interest is due under the Act from a person
 12 who is subject to liquidation or bankruptcy proceedings, the liquidation,
 13 receiver or other persons responsible for winding up the affair of the debtor
 14 shall not distribute the assets until full payment has been made of the Tax,
 15 penalty or interest due under this Bill.

Recovery in
 respect of person
 under liquidation

16 **10.** The relevant sections of the Value Added Tax Act shall apply to
 17 the management of this Tax with necessary modification.

Records, related
 matters offences
 and penalties

18 **11.** The relevant sections of the Value Added Tax Act shall apply in
 19 matters of objections and appeals related to this tax.

Objections and
 Appeals

20 **12.-(1)** A certificate issued by the FIRS that-

Evidence in
 Proceedings

21 (a) a tax returns required under this Bill has not been submitted or
 22 has not been returned as required by the NCC on the specified date; or

23 (b) Tax shown as due in any tax return or assessment made under
 24 this Bill has not been paid, is sufficient evidence in civil or criminal
 25 proceedings of that fact unless the contrary is proved.

26 (2) A photocopy of a document furnished to the FIRS or an officer
 27 of NCC under the requirement of this Bill and certified by the FIRS is
 28 admissible as evidence in civil or criminal proceedings to the same extent as
 29 the original.

30 (3) A statement or other information contained in a document

	1	produced by a computer is admissible as evidence in civil or criminal
	2	proceedings if it is certified as correct by the FIRS unless the contrary is
	3	proved.
Jurisdiction	4	13. The Federal High Court shall have jurisdiction to try offenders
	5	under this Bill.
Directive and powers of the Minister and the FIRS	6	14.-(1) The Minister and the FIRS may make policy and
	7	administrative directives considered necessary for the effective
	8	implementation of this Bill.
	9	(2) The Minister and the FIRS may request any person in writing to
	10	provide security that the FIRS considers adequate for the protection of the
	11	revenue.
	12	(3) The Minister and the FIRS in collaboration with the Ministry of
	13	Communication and the Nigeria Communication Commission shall-
	14	(a) appoint an agent who will establish both electronic and physical
	15	monitoring mechanisms to monitor, analyze, verify, save all necessary data and
	16	information, both electronic and physical (Soft copies and hard copies from the
	17	electronic and physical platforms of all the communication service providers
	18	for the purpose of accurate computation of taxes due to the government);
	19	(b) ensure at all times that the FIRS, the ministry of communication,
	20	NCC and the agents appointed to monitor the communication service providers
	21	are given unfettered physical and electronic access to the network nodes of the
	22	service provider network at an equivalent point in the network where the
	23	network provides billing systems are connected;
	24	(c) ensure that the monitoring agent appointed by the government
	25	links their electronic systems, devices, software's, hardware's to the electronic
	26	system devices, software, hardware, etc. of the communication service
	27	providers at the point in their network systems where the billing systems are
	28	connected for real time and accurate analysis and data collection for correct
	29	computing of actual tax due to the government;
	30	(d) ensures that the agent appointed by the government to monitor the

1 service providers uses a common platform for the purpose of monitoring
2 revenues under this Bill as well as revenues accruing from levies.

3 (4) A service provider who refuses to provide access to its relevant
4 network for Government or its appointed agent as specified in sub-clause (4)

5 (b) and (c) commits an offence and is liable to pay a penalty of five
6 per cent of the annual gross revenue of the last admitted financial statement
7 of the service, provider after the first thirty days and if the situation persists
8 after ninety days, the Nee may revoke the operating licence of that service
9 provider.

10 (5) The Monitoring mechanisms referred to in sub- clause (4) (a)
11 shall not be operated or attached in such locations or points in the service
12 providers network where it will be capable to actively or passively record,
13 monitor, or tap into the content of any incoming or outgoing electronic
14 communication traffic, including voice, video or data existing discreetly or
15 on a converged platform whether local or international.

16 (6) A service provider who has an objection to a request for the
17 introduction of an equipment or software to the physical node of its network
18 as provided under sub-clause (4) (b) and (c) shall within seven days of
19 receipt of the request, report same in writing stating reasons for the objection
20 to the report to the FIRS Ministry of communication, Nee and the
21 government appointed agent, if after 14 days settlement period from the date
22 of the report made by the service provider, the arising issues are not
23 amicably resolved by the joint meeting of the FIRS, ministry of
24 communication, Nee, the government appointed agent and the service
25 provider, the service' provider shall within seven days of the expiration of
26 the approved 14 days settlement period i.e. 21 days from the date of receipt
27 of the request apply to the High court for a determination of the objective
28 stating reasons for the objection, to the request. if the High court upholds the
29 request for the introduction of an equipment to the physical node of the
30 service providers network.

	1	(7) The service providers will be deemed as having refused to provide
	2	access to its network for government or its appointed agent as specified in sub-
	3	clause (4) (b) and (c), and has therefore committed an offence and is liable to
	4	pay a penalty of five percent of the annual gross revenue of the last audited
	5	financial statement of the service provider after the first 30 days and if the
	6	penalty is not paid after ninety days the Nee may revoke the operating license
	7	of that service provider.
Regulations	8	15. The Minister and the FIRS may by legislative instrument make
	9	regulations for the purpose of giving effect to the provisions of this Bill and
	10	may in particular make regulations to prescribe-
	11	(a) the form of the tax return; and
	12	(b) the records to be kept in respect of the tax.
Interpretation	13	16. In this Bill unless the context otherwise requires:
	14	"Accounting period" means one calendar month;
	15	"Charge of electronic communication service usage" means:
	16	(a) the amount chargeable by a service provider for electronic
	17	communication service usage other than the amount for Value Added Tax,
	18	National Health Insurance Levy;
	19	(b) when the charge for electronic communication service usage is for
	20	money consideration, the open market value excluding the Value Added tax
	21	and the National Health Insurance Levy;
	22	(c) where the charge for electronic communication service usage is
	23	partly for money consideration, the open market value excluding the value
	24	added tax and the National Health Insurance Levy;
	25	(d) in the case of promotion, protocol, personal use, bonus, gift and
	26	similar supplies. The charge shall be the open market value excluding VAT and
	27	National Health Insurance;
	28	"electronic communication services" includes a service providing electronic
	29	communication, a close user group service, a private electronic

- 1 communication service, a radio communication service, and a value added
2 service";
- 3 "Service provider" means a person permitted or authorized under the
4 Electronic Communication Act 2008 (Act 775) and Electronic
5 Communications Regulations, 2011 (L 1, 1991) to provide electronic
6 Communication services";
- 7 "Closed user group service" means electronic Communications Service,
8 used by a closed user group, operated without interconnection to a public
9 electronic communications network enabling electronic communications to
10 persons other than the members of that group";
- 11 "Federal Inland Revenue Service (FIRS)" means chairman of FIRS or any
12 officer, staff, persons, personnel of the FIRS designated or appointed by the
13 FIRS and acting for or on behalf of the FIRS;
- 14 "Federal Ministry of Communication" means the minister of
15 communication or any officers, staff or personnel of the Federal Ministry of
16 Communication or person(s) designated or appointed by the Federal
17 Ministry of communication and acting for or on behalf of the Ministry of
18 communication;
- 19 "The Nigerian Communication Commission (NCC)" means the Director
20 General of NCC or any officer, staff or personnel of the NCC or personnel
21 designated or approved by NCC and acting for or on behalf of the NCC;
- 22 "Agent appointed by Government" means organization or company
23 appointed by the government to establish a monitoring mechanism and
24 monitor the communication service providers for the purpose of computing
25 taxes due the government under this Bill;
- 26 "Court" means the District, Circuit or High Court;
- 27 "Prescribed" means by regulations made under this Bill;
- 28 "Service" Means Communication Service;
- 29 "Tax return" means the records kept and required to be submitted to the FIRS

1 to account for the Communication Service Tax imposed under clause 1 of this
2 Bill;
3 "Electronic Communication" means any communication through the use of
4 Wire, radios, optical or electromagnetic transmission emissions or receiving
5 system or any part of these and includes interconnection;
6 "electronic connection Network" means any wire, radio, optical or
7 electromagnetic transmission emission or receiving system, or any part of
8 these, used for the provision of electronic communication services; and
9 "Interconnection" means the linking of public electronic communications
10 network and services to allow the users or one public electronic
11 communications service to communicate with users of another public
12 electronic communication service;
13 "Open market value" means the value of a supply of electronic Communication
14 service determined under paragraph (a) of the interpretation of "charge payable
15 for electronic communications service usage" if the supplier, user or any other
16 person concerned in the transaction were completely independent of each other
17 and did not in any way influence the transaction";
18 "private electronic Communication service" means electronic communication
19 service used with one enterprise or anybody corporate with which it is
20 affiliated, to satisfy its internal needs and operated without interconnection to a
21 public electronic 'communication' to persons other than within the enterprise or
22 the body corporate; and
23 "Recharge" includes any plan scheme or form by which users receive
24 additional electronic communication services from service providers;
25 "Supply" means any means by which a user receives electronic communication
26 services from a service provider";
27 "User" means a customer or a subscriber of electronic communication network
28 or service or broadcasting service and includes a customer that is an operator or
29 provider of electronic communications network or service; and
30 "Value added tax" means a form of consumption tax that is placed on a product

1 or services whenever value is added at a stage of production and at final sale.

2 **18.** This Bill may be cited as the Communication Service Tax Bill, Citation

3 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for Communication Service Tax as veritable tool
for diversification of the Nigerian economy.

SOCIAL ASSISTANCE BILL, 2019

ARRANGEMENT OF ACT

Sections

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3. Objects of Act

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 39. Citation

A BILL

FOR

AN ACT TO PROVIDE FOR THE RENDERING OF SOCIAL ASSISTANCE TO EXPECTANT MOTHERS AND YOUNG PERSONS; TO PROVIDE FOR THE PROCESS OF SUCH ASSISTANCE AND TO ESTABLISH THE NIGERIAN SOCIAL ASSISTANCE AGENCY TO PROVIDE FOR THE PROSPECTIVE ADMINISTRATION OF SOCIAL ASSISTANCE IN NIGERIA AND FOR OTHER MATTERS CONNECTED THEREWITH

Sponsored by Senator Chimaroke Nnamani

[] Commencement

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

1 CHAPTER 1 - INTERPRETATION, APPLICATION AND OBJECTS OF ACT

2 1. In this Act, unless the context indicates otherwise-

Interpretation t

3 "Agency" means the Nigerian Social Assistance Agency established by
4 section 16 of this Act;

5 "applicant" means a person who applies for social assistance in respect of
6 himself for herself or on behalf of another person in terms of this Act;

7 "beneficiary" means a person who receives social assistance in terms of
8 sections 6, 7, 8, 9;

9 "Board" means the Governing Board established for the Agency under
10 section 17 of this Act;

11 "Expected mothers" means pregnant woman;

12 "Member" means a member of the Board and includes the Chairman,
13 Managing Director and Executive Directors;

14 "prescribed" means prescribed by regulation;

15 "primary care giver" means a person older than 16 years, whether or not
16 related to a child, who takes primary responsibility for meeting the daily
17 care needs of that child;

	1	"regulation" means a regulation made in terms of this Act;
	2	"social assistance" means a social grant including social relief of distress;
	3	"young persons" means persons below the age of 18 years;
Application and implementation of Act	4	2.-(1) This Act applies to Nigeria Citizens.
	5	(1) The Agency is responsible for the administration of social
	6	assistance in terms of chapter 3 and in terms of any function delegated to it in
	7	terms of section 29.
	8	(2) The Agency must offer all reasonable maternal assistance from
	9	conception to delivery, free early and compulsory primary and secondary
	10	education to children, free school feeding program, free health services
	11	(3) The Agency must, out of moneys appropriated by National
	12	Assembly for this purpose or with funds donated for this purpose, publish and
	13	distribute to beneficiaries and potential beneficiaries, brochures in all official
	14	languages of the country setting out in understandable language the rights,
	15	duties, obligations, procedures and mechanisms contemplated in this Act, as
	16	well as contact details of the Agency or anyone acting on its behalf.
Objects of Act	17	3. The objects of this Act are to-
	18	(a) provide for the administration of social assistance in accordance
	19	with section 2(2);
	20	(b) make provision for social assistance and to determine the
	21	qualification;
	22	(c) ensure that minimum norms and standards are prescribed for the
	23	delivery of social assistance;
	24	(d) Provide for the establishment of an inspectorate for social
	25	assistance.
	26	CHAPTER 2 - SOCIAL ASSISTANCE
Provision of Social grants	27	4. The Minister must, with the concurrence of the Minister of
	28	Finance, out of moneys appropriated by the National Assembly for that
	29	purpose, make available-
	30	(a) Free maternal Care;

1	(b) Free health services;	
2	(c) Compulsory free early, primary and secondary education;	
3	(d) Free school feeding program;	
4	5. -(1) A person is entitled to the appropriate social assistance if he	Eligibility for
5	or she-	social assistance
6	(a) is eligible in terms of section 6, 7, 8, 9;	
7	(b) subject to section 17, is resident in Nigeria;	
8	(c) is a Nigerian citizen or is a member of a group or category of	
9	persons prescribed by the Minister, with the concurrence of the Minister of	
10	Finance, by notice in the Gazette;	
11	(d) complies with any additional requirements or conditions	
12	prescribed in terms of subsection (2)	
13	(e) proof of and measures to establish or verify identity, gender,	
14	age, citizenship,	
15	(2) The Minister may prescribe additional requirements or	
16	conditions in respect of-	
17	(a) forms, procedures and processes for interventions;	
18	(b) measures to prevent fraud and abuse.	
19	6. A Mother is, eligible for free maternal care from conception to	Free maternal
20	delivery.	care
21	7. A mother and child is eligible for free health services be it from	Free health services
22	public or private health providers at the expense of the Agency till the child	
23	attains 18 years.	
24	8. Despite the provision s of the compulsory free education Act	Compulsory free
25	2000 a child is eligible for a Compulsory free early, primary and secondary	early primary and
26	education.	secondary education
27	Free school feeding program;	
28	9. A Child eligible for a free square meal a day in both early years,	
29	primary and secondary school age.	

	1	CHAPTER 3 - ADMINISTRATION OF SOCIAL ASSISTANCE
Application for social assistance	2	10.-(1) Any person who wishes to apply for social assistance
	3	contemplated in sections 6 to 9 must do so in the prescribed manner.
	4	(2) In considering an application made in terms of subsection (1), the
	5	Agency may conduct an investigation and request additional information.
	6	(3) (a) If the applicant qualifies for social assistance in terms of this
	7	Act, the Agency must render relevant social assistance;
	8	(b) If the applicant does not qualify for social assistance in terms of
	9	this Act, the Agency must in writing at the applicant's address or other point of
	10	contact stated in the application, inform the applicant-
	11	(i) that he or she does not qualify for social assistance in terms of this
	12	Act;
	13	(ii) the reasons why he or she does not qualify; and
	14	(iii) of his or her right of appeal contemplated in section 18 and of the
	15	mechanism and procedure to invoke that right.
	16	(4) No person may divulge any personal information of an applicant
	17	furnished in respect of an application except-
	18	(a) to a person who requires it in order to perform a function in terms
	19	of this Act;
	20	(b) when required to do so by law or by an order of court; or
	21	(c) with the consent of the applicant.
	22	(5) If any information supplied by a beneficiary to the Agency in an
	23	application for a grant materially changes after that beneficiary has submitted
	24	that application, he or she must as soon as is reasonably possible after that
	25	change occurs, inform the Agency thereof.
Appeal	26	11.-(1) If an applicant disagrees with a decision made by the Agency
	27	in respect of a matter regulated by this Act, that person or a person acting on his
	28	or her behalf may, within 90 days of his or her gaining knowledge of that
	29	decision, lodge a written appeal with the Minister against that decision, setting
	30	out the reasons why the Minister should vary or set aside that decision.

1 (2) The Minister may, after considering the appeal and the
2 Agency's reasons for the decision-

3 (a) confirm, vary or set aside that decision; or

4 (b) appoint an independent tribunal to consider the appeal in
5 accordance with such conditions as the Minister may prescribe by notice in
6 the Gazette, and that tribunal may, after consideration of the matter vary or
7 set aside that decision.

8 **12.-(1)** A person is guilty of an offence if such person, when
9 applying for social assistance, furnishes information which he or she knows
10 to be untrue or misleading in a material respect or makes a representation
11 which to his or her knowledge is false, in order that he or she or another
12 person may-

False
representations

13 (a) obtain or retain social assistance to which he or she is not
14 entitled in terms of this Act; or

15 (b) obtain social assistance in excess of that to which he or she is
16 entitled in terms of this Act.

17 (2) If any person receives social assistance knowing that he or she
18 is not entitled thereto, or is not entitled to the full amount which he or she is
19 receiving, and he or she fails to inform the Agency thereof, he or she is guilty
20 of an offence.

21 (3) A beneficiary who knowingly fails to inform the Agency of any
22 material change of information with respect to his or her change of status
23 which renders such a person ineligible is guilty of an offence.

24 **13.-(1)** The Agency may, in the performance of its functions,
25 inquire into any matter-

Power of Agency
to investigate

26 (a) subpoena any Person who can furnish information of material
27 importance concerning the matter under investigation, or who is reasonably
28 assumed to have under his or her control a book, document or thing that may
29 have a bearing on the investigation, to appear within a reasonable period
30 before it and to furnish such information or to produce such book, document

1 or thing, as the case may be;

2 (b)through its representative administer an oath to that person or
3 cause that person to make an affirmation if that person was or could have been
4 subpoenaed in terms of paragraph (a) and he or she is present at the enquiry;

5 (c) through its representative cross-examine any person referred to in
6 paragraph (b).

7 (2) A subpoena to appear before the Agency must be in the prescribed
8 form and must be served on the person by registered mail or in the manner in
9 which it would have been served had it been a subpoena issued by the clerk of a
10 magistrate's court.

11 (3) The rules with regard to privilege, which are applicable in the case
12 of a person who has been subpoenaed to give evidence or to produce a book,
13 document or thing before a court of law, apply in respect of the examination of a
14 person and the production of a book document or thing contemplated in
15 subsection (1).

16 GENERAL PROVISIONS

Delegation

17 **14. -(1)** The Minister may in writing-

18 (a) delegate to the Director-General, the Agency, a staff any power
19 conferred upon the Minister by this Act, except the power to make regulations;

20 (b) authorise the Director-General, the agency, a staff to perform any
21 duty imposed upon the Minister by this Act.

22 (2) The Director-General may in writing-

23 (a) delegate to a staff any officer of the Agency any power delegated
24 to him in terms of subsection 1(a);

25 (b) authorise that staff or officer to perform any duty which he or she
26 has been authorised to perform in terms of subsection 1(b).

27 (3) Any person to whom a power has been delegated or who has been
28 authorised to perform a duty in terms of subsections (1) or (2), must exercise
29 that power or perform that duty subject to the conditions determined by the
30 person who effected the delegation or granted the authorisation.

1 (4) Any delegation of a power or authorisation to perform a duty
2 under subsection 1-

3 (a) does not prevent the person who effected the delegation or
4 granted the authorisation from exercising that power or performing that duty
5 himself or herself;

6 (b) may at any time be amended or withdrawn in writing by the
7 person who effected the delegation or granted the authorization.

8 NIGERIAN SOCIAL SECURITY AGENCY

9 **15.-(1)** The Nigerian Social Assistance Agency is hereby Establishment
of Agency
10 established.

11 (2) The Agency-

12 (a) shall be a body corporate with perpetual succession and a
13 common seal;

14 (b) may sue and be sued in its corporate name.

15 (3) The Agency shall have its head office in Abuja and branch
16 offices in the 36 states of the Federation and the Federal Capital Territory
17 Abuja

18 **16.-(1)** There is hereby established for the Agency a Governing Establishment of
Government
Council of the
Agency
19 Board (in this Act referred to as "the Board"), which shall consist of-

20 (a) a chairman;

21 (b) Six members one each from the six Geo-political zones;

22 (c) a representative of the Federal Ministry of Finance;

23 (d) a representative of the Federal Ministry of Justice;

24 (e) the Executive secretary; and

25 (f) two Executive Directors.

26 (2) The Chairman and other members of the Board shall-

27 (a) be appointed by the President, Commander-in-Chief Armed
28 Forces, subject to the confirmation of the Senate;

29 (b) be persons of proven integrity and ability.

30 (3) The members of the Board referred to in paragraph (d) of

	1	subsection (i) of this Section shall be part-time members.
	2	(4) The supplementary provision set out in the schedule to this Act
	3	shall have effect with respect to the proceedings of the Board and the other
	4	matters contained therein.
Tenure of office	5	17.-(1) Subject to the provisions of this Act a member of the Board,
	6	other than an ex-officio member, shall hold office for a term of 4 years at the
	7	first instance and may be reappointed for a further term of 4 years and no more.
	8	(2) A member of the Board other than ex-officio members, may resign
	9	his appointment by notice, in writing under his hand addressed to the President
	10	Commander-in-Chief of the Armed Forces.
Cessation of Membership of the Board	11	18.-(1) notwithstanding the provisions of section 18 of this Act, a
	12	person shall cease to hold office as a member of the Board if-
	13	(a) he becomes bankrupt, suspends payment or compounds with his
	14	creditors;
	15	(b) he is convicted of a felony or any offence involving dishonesty or
	16	fraud;
	17	(c) he becomes of unsound mind, or incapable of carrying out his
	18	duties;
	19	(d) he is guilty of a serious misconduct in relation to his duties;
	20	(e) in the case of a person possessed of professional qualification, he
	21	is disqualified or suspended, other than at his own request, from practicing his
	22	profession in any part of the world by an order of a competent authority made in
	23	respect of that member; or
	24	(f) he resigns his appointment by a letter addressed to the President,
	25	Commander-in-Chief of the Armed Forces
	26	(2) Where a vacancy occurs in the membership of the Board, it shall
	27	be filled by the appointment of a successor to hold office for the remainder of
	28	the term of office of his predecessor, so however, that the successor shall
	29	represent the same interest and shall be appointed by the President,

1 Commander-in-Chief of Armed Forces subject to the confirmation of the
2 Senate.

3 **19.** members of the Board shall be paid such remunerations and Allowances of
4 allowances as the Federal Government may, from time to time, determine Members
5 for the chairman and members of statutory board generally

6 **20.** The objects of the Agency are to- Objects of Agency

7 (a) act, eventually, as the sole agent that will ensure the efficient
8 and effective management, administration and payment of social assistance;

9 (b) serve as an agent for the prospective administration and
10 payment of social assistance; and

11 (c) render services relating to such payments.

12 **21.-(1)** The Agency must-

13 (a) administer social assistance accordance with the provision of Functions of
14 section 3 of this bill and perform any function delegated to it under that Act; Agency

15 (b) collect, collate, maintain and administer such information as is
16 necessary for the payment of social security, as well as for the central
17 reconciliation and management of payment of transfer funds, in a national
18 data base of all applicants for and beneficiaries of social assistance;

19 (c) establish a compliance and fraud mechanism to ensure that the
20 integrity of the social assistance system is maintained; and

21 (d) render any service in accordance with an agreement or a
22 provision of any applicable law as contemplated in subsection (4).

23 **(2)** The Agency may-

24 (a) with the concurrence of the Minister enter into an agreement
25 with any person to ensure effective payments to beneficiaries, and such an
26 agreement must include provisions contemplated in subsection (3).

27 (b) do anything necessary for the realisation of the Agency's
28 objects.

29 **(3)** The agreement contemplated in subsection (2) (a) must include
30 provisions to ensure-.

- 1 (a) the effective, efficient and economical use of funds designated for
- 2 payment to beneficiaries of social security;
- 3 (b) the promotion and protection of the human dignity of applicants
- 4 for and beneficiaries of social Assistance ;
- 5 (c) the protection of confidential information held by the Agency;
- 6 (d) honest, impartial, fair and equitable service delivery;
- 7 (e) mechanisms to regulate community participation and
- 8 consultation; and
- 9 (f) financial penalties for non-compliance with the provisions of the
- 10 agreement.

11 PART IV - STAFF OF THE COMMISSION.

Appointment
of Executive
Secretary, etc.

- 12 **22.**-(1) There shall be for the Agency, an Executive secretary and two
- 13 Executive Directors who shall-
- 14 (a) have such qualification and experience as are appropriate for a
- 15 person required to perform functions of that office under this Act;
- 16 (b) be the Chief executive and accounting officer of the Agency; and.
- 17 (c) hold office on such terms and conditions as to emolument,
- 18 conditions of service as may be specified in his letter of appointment.
- 19 (2) The Managing Director shall, subject to the general direction of
- 20 the Board, be responsible-
- 21 (a) for the day to day administration of the Agency;
- 22 (b) for keeping the books and proper records of the proceedings of the
- 23 Board; and
- 24 (c) for-
- 25 (i) the administration of the Secretariat of the Board; and
- 26 (ii) the general direction and control of all other employees of the
- 27 chairman.
- 28 (3) The Board shall have to-
- 29 (a) employ either directly or on secondment from any civil or public
- 30 service, in the Federation or a State such number of employees as may, in the

1 opinion of the Board, be required to assist the Board in the discharge of any
2 of its functions under this Act; and

3 (b) pay to persons so employed such remuneration (including
4 allowances) as the Board may determine.

5 **23.**-(1) Service in the Agency shall be approved service for the Service in the
6 purposes of the Pension Act. Agency to be
pensionable

7 (2) The officers and other persons employed in the agency shall be
8 entitled to pensions, gratuities and other retirement benefits as are enjoyed
9 by persons holding equivalent grades as appropriate.

10 (3) Nothing in subsections (1) and (2) of this Section shall prevent
11 the appointment of a person to any office on terms which preclude the grant
12 of pension and gratuity in respect of that office.

13 (4) For the purposes of the application of the provisions of the
14 Pensions Act, any power exercisable there under by the Minister or other
15 authority of the Government of the Federation, other than the power to make
16 laws is hereby vested in and shall be exercisable by the Agency, and not by
17 any other person or authority.

18 **24.**-(1) The Agency shall establish and maintain a fund from which Funds of Agency
19 it shall defray expenses and the sources of the fund shall-

20 (a) money appropriated by the National Assembly;

21 (b) grants made to the Agency by a designated institution;

22 (c) donations or contributions received by the Agency with the
23 approval of the Minister, subject to subsection (3);

24 (d) fees for services rendered to any designated institution in terms
25 of a service agreement.

26 (2) The Agency must utilize its funds to defray expenses incurred
27 by it in the performance of its functions.

28 (3) The Agency must utilise the donations and contributions
29 referred to in subsection (1) (c) in accordance with the conditions, if any,
30 imposed by the donor or contributor concerned, but those conditions shall

	1	not be inconsistent with the objects of the Agency as contained in this Act or
	2	any other law.
Expenditure of the Agency	3	25. The Agency shall apply the proceeds of the fund established
	4	pursuant to section 14 of this Act to-
	5	(a) the cost of administration of the Agency;
	6	(b) the payment of salaries, fees, remuneration, allowances, pensions
	7	and gratuities payable to the members of the Board specified in section 6 of this
	8	Act or any Committee of the Board and the employees of the Agency;
	9	(c) the payment for all contracts, including mobilization, fluctuations,
	10	variations, legal fees and cost on contract administration;
	11	(d) the payment for all purchases; and
	12	(e) undertaking such other activities as are connected with all or any
	13	of the functions of the Agency under this Act.
Gifts to the Agency	14	26. -(1) The Agency may accept gifts of land, money or other property
	15	on such terms and condition that may be specified by the person or organization
	16	making the gift.
	17	(2) The Agency shall not accept any gift if the conditions attached by
	18	the person or organization making the gift are inconsistent with the functions of
	19	the Agency under this Act.
Power to borrow money	20	27. The Agency may, with the consent of the President, Commander-
	21	in-Chief of the Armed Forces, borrow, on such terms and conditions as the
	22	Agency may require in the exercise of its functions under this Act.
Annual Estimates and Expenditure	23	28. -(1) The Board shall, not later than 30th September in each year,
	24	submit to the President, Commander-in-Chief of the Armed Forces an estimate
	25	of the expenditure and income of the Agency during the next succeeding year.
	26	(2) The Board shall cause to be kept proper accounts of the Agency in
	27	respect of each year and proper records in relation thereto and shall cause the
	28	accounts to be audited not later than 6 months after the end of each year by
	29	auditors appointed from the list in accordance with the guidelines supplied by
	30	the Auditor-General for the Federation.

Quarterly Report

Annual Report

Office and Premise
of the Agency
Cap. 202 LFN

Directives by the
President
Commander-in-
Chief of the Armed
Forces

Limitation of
Suits against
Agency,
Cap. 379 LFN

	1	against any Officer or employee of the Agency.
Service of Documents	2	33. A notice, summons or other document required or authorised to
	3	be served upon the Agency under the provisions of this Act or any other law or
	4	enactment may be served by delivering it to the Managing Director or by
	5	sending it by registered post and addressed to the Managing Director at the
	6	principal office of the Commission.
Restriction on execution against property of the Agency	7	34.-(1) In any action or suit against the Agency, no execution or
	8	attachment of process against the Agency unless not less than three months'
	9	notice of the intention to execute or attachment has been given to the Agency
Indemnity of Officers	10	35. A member of the Board, the Managing Director, any officer or
	11	employee of the Agency shall be indemnified out of the assets of the Agency
	12	against any proceeding, whether civil or criminal, in which judgment is given
	13	in this favour or in which he is acquitted, if any such proceeding is brought
	14	against him in his capacity as a member of the Board, the Managing Director,
	15	officers or employee of the Agency.
Regulations	16	36. The Agency may, with the approval of the President, Commander-
	17	in-Chief of the Armed Forces, make regulations, generally for the purposes of
	18	giving full effect to this Act.
Offences	19	37. A person is guilty of an offence if he or she-
	20	(a) hinders or obstructs the Agency in the performance of his or her
	21	functions in terms of this Act;
	22	(b) refuses or fails to comply with a requirement or request which the
	23	Agency has lawfully set or made in the performance of his or her functions in
	24	terms of this Act;
	25	(c) intentionally furnishes the Agency with false or misleading
	26	information;
	27	(d) has been subpoenaed under section 12 and fails or refuses,
	28	without sufficient cause, to-
	29	(i) appear at the time and place specified in the subpoena;
	30	(ii) remain in attendance until excused by the person presiding at the

1 enquiry from further attendance; or

2 (iii) take an oath or to make an affirmation as a witness.

3 **38.** A person convicted of an offence in terms of this Act is liable, Penalties
4 unless different provision is specifically made, to a fine or imprisonment for
5 a period not exceeding 15 years, or to both a fine and such imprisonment.

6 **39.** This Bill may be cited as the Social Assistance Bill, 2019. Citation

7 SCHEDULE

8 *Section 16 (4)*

9 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD ETC.

10 *Proceedings of the Board*

11 1.-(1) Subject to this Act and section 27 of the Interpretation Act,
12 the Board may make standing orders regulating its proceedings or those of
13 any of its Committees.

14 (2) The Board shall meet whenever it is summoned by chairman is
15 required to do so by notice given to him by not less than 4 other members, he
16 shall summon a meeting of the Board to be held within 14 days from the date
17 on which the notice is given.

18 2.-(1) the Board may appoint one or more Committees to carry out,
19 on behalf of the Board such functions as the Board may determine.

20 (2) A Committee appointed under this paragraph shall consist of
21 such number of persons as may be determined by the Board and a person
22 shall hold office on the Committee in accordance with the terms of his
23 appointment.

24 (3) A decision of a Committee of the Board shall be of no effect
25 until it is confirmed by the Board.

26 *Miscellaneous*

27 3.-(1) The fixing of the seal of the Committee shall be
28 authenticated by the signature of the Chairman and the Secretary to the
29 Board.

30 (2) A document purporting to be a document duly executed under

1 the seat of the Commission shall be received in evidence and shall, unless and
2 until the contrary is proved, be presumed to be so executed

3 (3) The validity of any proceedings of the Board or of a Committee
4 shall not be adversely affected by-

5 (a) a vacancy in the membership of the Board or Committee;

6 (b) a defect in the appointment of a member of the Board or
7 Committee; or

8 (c) reason that a person not entitled to do so took part in the
9 proceedings of the Board or Committee.

10 (4) Notwithstanding anything contained in any other law or
11 enactment, no suit shall lie against any member of the Board, the Managing
12 Director or any other officer or employee of the Agency for any act done in
13 pursuance or execution of this Act or any other law or enactment, or of any
14 alleged neglect or default in the execution of this Act or such law or enactment,
15 duty or authority, shall lie or be instituted in any court unless-

16 (a) it is commenced within three months next after the Act, neglect or
17 default complained of; or

18 (b) in the case of a continuation of damage or injury, within six
19 months next after the leasing thereof.

20 (5) Any sum of money which by the judgment of any court has been
21 awarded against the Agency shall be subject to any direction given by the court,
22 where no notice of appeal against the judgment has been given be paid from the
23 fund of the Agency.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the rendering of social assistance to expectant mothers and young persons; to provide for the process of such assistance and to establish the Nigerian Social Assistance Agency to provide for the prospective administration of social assistance in Nigeria.

FOR

Sponsored by Senator Aliyu Magatakarda Wamakko

[] Commencement

20 (d) a representative of civil society organizations;

	1	(e) a representative of the Federal Ministry of Education;
	2	(f) a representative of the Ministry of Interior;
	3	(g) a representative of the Ministry of Justice;
	4	(h) a representative of the Ministry of Youth;
	5	(i) a representative of the Ministry of Finance;
	6	(j) the Secretary.
	7	(2) Members of the Board, other than the Chairman and Secretary,
	8	shall be part-time members.
	9	(3) The provisions of the first schedule to this Act shall apply with
	10	respect to the proceedings of the Board and other matters mentioned therein.
Tenure of Office	11	3.-(1) The chairman and members of the Board, other than the ex-
	12	officio members, shall hold office for a term of 4 years in the first instance and
	13	may be reappointed for a further term of 4 years and no more.
	14	(2) Notwithstanding the provisions of the subsection (1) of this
	15	section, a member of the Board shall cease to hold office as a member if:
	16	(a) he resigns his appointment as a member of the Board by a notice
	17	under his hand addressed to the President through the Chairman;
	18	(b) he is convicted of a felony or any offence involving dishonesty or
	19	corruption;
	20	(c) he becomes incapable of carrying out the functions of his office
	21	arising from infirmity of mind or body; or
	22	(d) the President is satisfied that it is not in the interest of the
	23	Commission or in the interest of the public for the person to continue in the
	24	office and notifies the member in writing to that effect.
	25	(3) If a member of the Board dies or resigns or otherwise vacates his
	26	office before the expiration of the term for which he is appointed, a fit and
	27	proper person shall be appointed for the remainder of the term of office of the
	28	predecessor, and shall represent the same interest.
Emolument, etc.	29	4. The Chairman and members of the Board shall be paid such
	30	emoluments, allowances and incidental expenses as the Revenue Mobilization

1 Allocation and Fiscal Commission may, from time to time, approve.

2 PART II - FUNCTIONS AND POWERS OF THE COMMISSION

3 **5.** The Commission shall-

Functions of the
Commission

4 (a) formulate policy guidelines and strategies for the successful
5 eradication of child destitution in Nigeria;

6 (b) organize mass sensitization campaign to enlighten the society
7 on the dangers of child destitution throughout Nigeria;

8 (c) advise the Federal Government on the funding and orderly
9 rehabilitation of victims of child destitution;

10 (d) identify and coordinate the activities of stakeholders who are
11 directly involved in the practice of all forms of institutionalized child
12 destitution with a view to reforming it;

13 (e) collate and prepare after consultation with States and Local
14 Governments and other relevant stakeholders, periodic master plans for the
15 total eradication of child destitution in Nigeria including areas of possible
16 intervention in early childhood care and development centers;

17 (f) recommend to the Federal Government the possibilities of co-
18 opting identified Destitute Children Education Centers into the Federal
19 Government Compulsory Free Universal Basic Education;

20 (g) make recommendation on how to fund the Destitute Children
21 Education Centers, on the basis of specified fee per child for each center as
22 the Commission deem fit;

23 (h) present periodic progress reports on the implementation of the
24 Commission to the President through the Minister;

25 (i) coordinate the implementation of the provisions of this Act with
26 relevant non-governmental organizations and multilateral Agencies;

27 (j) liaise with donor agencies and other developmental partners on
28 matters relating to the program;

29 (k) carry out such other activities that are relevant and conducive to
30 the effective discharge of its functions under this Act.

Powers of the
Commission

- 1 **6.** The Commission shall have powers to-
- 2 (a) draw up generally acceptable guidelines on how to eradicate child
- 3 destitution;
- 4 (b) draw up an acceptable curriculum of activities for destitute
- 5 children;
- 6 (c) disburse funds and monitor proper utilization;
- 7 (d) do anything which in the opinion of the Commission is necessary
- 8 to ensure efficient performance of its functions under this Act.

9 PART III - STAFF OF THE COMMISSION

Appointment
of the Secretary
and other staff
of the Commission

- 10 **7.**-(1) there shall be for the Commission a Secretary who shall-
- 11 (a) be appointed by the President;
- 12 (b) be responsible for the day-to-day administration of the
- 13 Commission;
- 14 (c) possess skills and 10 years cognate experience.
- 15 (2) The Chairman, in addition to chairing the Board, shall also be the
- 16 chief executive of the Commission.
- 17 (3) The Secretary shall, subject to the general control of the Board, be
- 18 responsible for:
- 19 (a) The execution of the policies and decisions of the Board and its
- 20 day-to-day operations and administration;
- 21 (b) keeping records of proceedings of the Board;
- 22 (c) the direction and control of all other employees.
- 23 (4) The Secretary shall hold office-
- 24 (a) for 4 years in the first instance and may be reappointed for a
- 25 further term of 4 years and no more; and
- 26 (b) on such terms and conditions as to emoluments and otherwise as
- 27 may be specified in his letter of appointment.

Other Staff of
the Commission

- 28 **8.**-(1) The Board shall have power to appoint for the Commission
- 29 such other employees as it may deem necessary for the efficient performance of
- 30 its functions under this Act and shall have power to pay persons so employed

1 such remuneration (including allowances) as the Commission may
2 determine with the approval of the Revenue Mobilization Allocation and
3 Fiscal Commission.

4 (2) The power of the Commission under subsection (1) of this
5 section shall include the power to:

6 (a) Promote and control staff as may appear to the Commission
7 necessary and expedient;

8 (b) Dismiss, terminate, consider the resignation or withdrawal of
9 appointment and exercise disciplinary control over the staff of the
10 commission, other than the Secretary.

11 (3) The Board may delegate to the Secretary, generally or
12 specifically, the power to appoint such categories of staff of the commission
13 as the commission may from time to time specify.

14 **9.-(1)** It is hereby declared that service in the Commission shall be Staff Pension
15 approved service for the purpose of the Pension Reforms Act, 2014, and
16 accordingly, staff and employees of the Commission shall be entitled to
17 pension, gratuities and other retirement benefits as prescribed under the Act.

18 (2) Without prejudice to the provisions of subsection (1) of this
19 section, nothing in this Act shall prevent the appointment of person to any
20 office on terms which preclude the grant of pension, gratuity or any other
21 retirement benefit in respect of that office.

22 **10.** The Commission may subject to the provision of this Act, be Staff Regulation
23 guided by extant Civil Service Rules and Financial Regulations in
24 determining staff regulations relating generally to the conditions of service
25 of its employees and without prejudice to the generality of the foregoing,
26 such regulations may provide for-

27 (a) The appointment, promotion and disciplinary control
28 (including dismissal) of employees of the Commission; and

29 (b) appeals by such employees against dismissal or other
30 disciplinary measures.

	1	PART IV - FINANCIAL PROVISION
Funds of the Commission	2	11. -(1) The Commission shall establish and maintain a fund which
	3	shall consist of-
	4	(a) Initial takeoff grant from the federal government;
	5	(b) annual subvention from the government;
	6	(c) States counterpart funding to be deducted at source at 0.5% of their
	7	statutory allocation;
	8	(d) 1.0% of the Education Tax Fund and UBEC Fund;
	9	(e) subject to section 12 of this Act, all other sums accruing to the
	10	Commission by way of grants-in-aid, gift, testamentary dispositions,
	11	endowments and donations made to the Commission;
	12	(f) such other sums as may accrue from time to time, to the
	13	Commission.
	14	(2) The Commission shall from time to time apply the proceeds of the
	15	fund established pursuant to subsection (1) of this section:
	16	(a) to the cost of administration of the Commission;
	17	(b) to the payment of the salaries, fees or other remuneration or
	18	allowance payable to the officers and employees of the Commission, so
	19	however that no payment of any kind under this paragraph (except such as may
	20	be expressly authorized under any other enactment or regulation in force) shall
	21	be made to any such person who in receipt of emoluments from the government
	22	of the Federation or of a State;
	23	(c) to reimbursing members of the board for such expenses as may be
	24	expressly authorized by the Commission in accordance with rates approved by
	25	the Board;
	26	(d) for the maintenance of any property vested in the Commission;
	27	and
	28	(e) for and in connection with all or any of the functions of the
	29	Commission under this Act.

1 **12.-(1)** The Commission may accept any grant or donation of land, Power to accept
2 money or other property from any person or organization upon such terms Donations Grant
3 and conditions as are acceptable to the extant laws of the federation.

(2) The Commission shall not accept any grant or donation if the condition attached thereto by the person or organization making the grant or donation are inconsistent with the functions of the Commission.

7 **13.-**(1) The Commission shall, not later than 30th September in Annual Estimates
8 each year, submit to the presidency an estimate of its expenditure and and Account
9 income (including estimate of expected payments into the fund of the
10 Commission) during the next succeeding year.

(2) The Commission shall keep proper accounts in a form which conforms to acceptable accounting standards, and proper records in relations thereto and the account shall be audited as provided in subsection (3) of this section.

(3) The accounts of the Commission shall be audited at the end of each calendar year by auditors appointed in accordance with the guidelines supplied by Auditor-General for the Federation and fees of the auditors and the expenses for the audit generally shall be paid from the fund of the Commission.

20 **14.-(1)** The Commission shall, not later than six months after the Annual Reports
21 end of each year, submit to the presidency, a report on the activities of the
22 Commission and its administration during the preceding year and shall
23 include in the report the audited accounts of the Commission and the
24 comments thereon.

25 PART V - LEGAL PROCEEDINGS

26 **15.**-(1) The provisions of the Public Protection Act shall apply in
27 relation to any suit instituted against any officer or employee of the
28 Commission.
Limitations of suits against the Commission
Cap. 380 LFN,
1990

29 (2) No suit shall be commenced against a member of the Board, the
30 Secretary, officer or employee of the Commission before the expiration of a

	1	period of one month after written notice of intention to commence the suit shall
	2	have been served upon the Commission by the intending plaintiff or his agent.
	3	(3) The notice referred to in Subsection (2) shall state the cause of
	4	action, particulars of the claims, the name and place of abode of the intending
	5	plaintiff and the relief which he claims.
Service of Documents	6	16. A notice, summons or any other document required or authorized
	7	to be served upon the Commission under the provisions of this Bill or any other
	8	law or enactment may be served by delivering it to the Secretary at the principal
	9	office of the Commission.
Restriction on execution against property of the Commission	10	17.-(1) No execution or attachment of process shall be issued against
	11	the Commission in any action or suit without the consent of the Attorney-
	12	General of the Federation.
	13	(2) Any sum of money which may arise from the judgment of any
	14	court against the Commission shall, subject to any direction given, be paid
	15	from the general reserve fund of the Commission.
Indemnity of Officers	16	18. A member of the Board, the Secretary, any officer or employee of
	17	the Commission shall be indemnified out of the assets of the Commission
	18	against any proceeding, whether civil or criminal, in which judgment is given
	19	in his favor, or in which he is acquitted, if any such proceeding is brought
	20	against him in his capacity as member of the Board, the Secretary, officer or
	21	employee of the Commission.
Interpretation	22	19. In this Act unless the context otherwise requires-
	23	"Commission" means the National Commission on Child Destitution in
	24	Nigeria;
	25	"Child Destitution" means the system of sending out children to beg on the
	26	street;
	27	"Minister" means the Minister in charge of Education;
	28	"President" means President and Commander-in-Chief of the Armed Forces,
	29	Federal Republic of Nigeria.

20. This Bill may be cited as the National Commission on Child Destitution in Nigeria (Establishment, etc.) Bill, 2019.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

Proceedings of the Board

1.- (1) Subject to this Bill, the Board may make standing orders regulating its proceedings or those of any of its committees.

(2) The quorum of the Board shall be the Chairman, or the person presiding at the meeting, and seven other members of the Board, one of whom shall be ex-officio member, and the quorum of any committee of the Board shall be as determined by the Board.

2.-(1) The Board shall meet whenever it is summoned by the chairman and if the chairman is required to do so by notice given to him by not less than 7 other members; he shall summon a meeting of the Board to be held within 24 days from the date on which the notice is given.

(2) Where the Board desires to obtain the advice of any person on a particular matter, the Board may coopt him to the Board for such period as it deems fit, but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

Committee

3.-(1) The Board may appoint one or more committees to carry out, on behalf of the Board such functions as the Board may determine.

(2) The committee appointed under this paragraph shall consider such number of persons as may be determined by the Board and a person shall hold office in the Committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.

4.-(1) The fixing of the seal of the Commission shall be

1 authenticated by the signature of the Chairman or any other member of the
2 Board generally or specifically authorized by the Board to act for that purpose.

3 (2) Any contract or instrument which, if made or executed by a person
4 not being a body corporate, would not be required to be under seal, may be
5 made or executed on behalf of the Commission by the Secretary or any person
6 generally or specifically authorized by the Board to act for that purpose.

7 (3) A document purporting to be a document duly executed under the
8 seal of the Commission shall be received in evidence and shall, unless and until
9 the contrary is proved, be presumed to be so executed.

10 5. The validity of any proceedings of the Board or of a committee shall
11 not be adversely affected by-

12 (a) a vacancy in the membership of the Board or committee;

13 (b) a defect in the appointment of a member of the Board or
14 committee; or

15 (c) reason that a person not entitled to do so took part in the
16 proceedings of the Board or committee.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the 'National Commission on Child Destitution' in Nigeria to serve as an intervention program to eradicate the practice of Child Destitution in Nigeria.

A BILL

FOR

AN ACT TO PROVIDE FOR THE ENHANCEMENT AND REGULATION OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES, PROTECT PERSONS WITH MENTAL HEALTH NEEDS AND ESTABLISHMENT OF NATIONAL COMMISSION FOR MENTAL AND SUBSTANCE ABUSE SERVICES, FOR THE EFFECTIVE MANAGEMENT OF MENTAL HEALTH IN NIGERIA AND FOR OTHER RELATED MATTERS

Sponsored by Senator Oloriegbe, Yahaya Ibrahim

[] Commencement

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

1 PART I - OBJECTIVE AND APPLICATION

2 1. The Objectives of this Act are to-

Objective

3 (a) provide direction for a coherent, rational and unified response
4 to the challenges relating to the delivery of mental health and substance
5 abuse services in Nigeria;

6 (b) protect the rights and freedoms of persons with mental ill-
7 health and substance use related disorders;

8 (c) ensure a better quality of life through access to an integrated,
9 well-planned, effectively organised and efficiently delivered mental health
10 care and substance abuse service in Nigeria;

11 (d) provide a legal framework for the regulation of mental health
12 and substance abuse related service delivery in Nigeria; and

13 (e) protect persons with mental and substance abuse disorders from
14 discrimination, victimization and unfair treatment by employers, academic
15 institutions and other agencies.

16 2. The provisions of this Act shall apply to mental health and 17 substance abuse practitioners, mental health service providers and mental

Application

	1	health and substance abuse treatment facilities in Nigeria.
	2	PART II - ESTABLISHMENT, FUNCTION AND POWERS OF THE NATIONAL
	3	COUNCIL FOR MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES
Establishment of the National Commission for Mental Health and Substance Abuse Services	4	3.-(1) There is established a Commission to be known as the National
	5	Commission for Mental health and Substance Abuse Services (in this Act
	6	referred to as "the Commission").
	7	(2) The Commission-
	8	(a) shall be a body corporate with perpetual succession and a common
	9	seal;
	10	(b) may sue and be sued in its corporate name; and
	11	(c) may acquire, hold and dispose of any property for the purpose of
	12	carrying out any of its functions under this Act.
Object of the Commission	13	4. The object of the Commission is to:
	14	(a) Propose mental health and substance abuse policies and facilitate
	15	their implementation;
	16	(b) Implement mental health and substance abuse policy;
	17	c) Promote mental health and facilitate the provision of humane care
	18	including treatment and rehabilitation in a least restrictive environment; and
	19	(d) Promote a culturally appropriate, affordable, and accessible and
	20	equitably distributed, integrated and specialised mental health care that will
	21	involve both the public and the private sectors.
Functions and powers of the Commission	22	5. The Commission shall-
	23	(a) Formulate, develop, implement and review policies and
	24	guidelines on mental health and substance abuse related issues in consultation
	25	with all relevant stakeholders;
	26	(b) develop a comprehensive and integrated national plan and
	27	program on mental health and substance abuse related issues;
	28	(c) conduct regular monitoring and evaluation in support of policy
	29	formulation and planning on mental health and substance abuse related issues;
	30	(d) promote and facilitate collaboration among agencies and

1 disciplines for the implementation of policies, plans of mental health and
2 substance abuse related programs;

3 (e) provide overall technical supervision and ensure compliance
4 with policies, programs and projects within the comprehensive framework
5 of the National Mental Health Care Delivery System;

6 (f) collaborate with health care system at the primary, secondary
7 and tertiary levels and specialised services to provide mental health service
8 as necessary;

9 (g) protect the rights and responsibilities of persons with mental
10 and substance use disorder;

11 (h) collaborate with relevant regulatory bodies to ensure
12 compliance with accreditation and other standards of mental healthcare.

13 (i) Collaborate with other healthcare service providers to ensure
14 the best care for persons with mental and substance use disorders;

15 (j) Ensure and guarantee the fundamental human rights and safety
16 of persons with mental and substance use disorder against discrimination
17 and stigmatization;

18 (k) Ensure that in-patient mental health care services are of an
19 equitable standard to physical in-patient care;

20 (l) as much as possible facilitate access to educational, vocational
21 leisure opportunities for patients receiving mental health and substance
22 abuse disorder care;

23 (m) create inter-agency committees, project task forces, and other
24 groups as may be necessary for the implementation of policies and programs
25 under this Act;

26 (n) serve as a clearing house to the Ministry of Health, for the
27 licensing, developing and implementation of minimum standards for the
28 delivery of Mental health and Substance Abuse Services in health facilities
29 providing Mental health or Substance Abuse Services in Nigeria;

30 (o) have the power to impose administrative sanctions from time to

- 1 time on defaulting facilities;
- 2 (p) have the power to enter, search and seal any facility subject to the
- 3 provisions of this Act;
- 4 (q) have powers to enforce compliance with the provisions of this Act;
- 5 and
- 6 (r) perform such other duties or functions as may be necessary for the
- 7 effective implementation of this Act;
- 8 (s) shall take steps to enlighten and inform mental health and
- 9 substance abuse service users of their rights;
- 10 (t) the commission in carrying out their duties shall ensure integrated
- 11 multi disciplinary services.
- 12 **6.-(1)** There is established for the Commission a Governing Board (in
- 13 this Act referred to as "the Board").
- 14 (2) The Board shall consist of the following-
- 15 (a) the chairperson shall be a retired mental health service provider
- 16 with considerable experience in the field of mental health;
- 17 (b) the Chief Executive/ Executive Secretary of the Commission shall
- 18 be a qualified and practicing Psychiatrist of not less than 10 years' experience
- 19 as a Consultant Psychiatrist and not less than level 15;
- 20 (c) a representative of the public sector, who shall be a Medical
- 21 Director of one of the Federal Neuropsychiatric Hospitals in Nigeria;
- 22 (d) the President (or his representative) of the Association of
- 23 Psychiatrists in Nigeria;
- 24 (e) the President (or his representative) of the Association of
- 25 Psychiatric Nurses of Nigeria;
- 26 (f) the President (or his representative) of the National Association of
- 27 Clinical Psychologists of Nigeria;
- 28 (g) the chairman (or his representative) of the Association of medical
- 29 Social Workers of Nigeria;
- 30 (h) the President (or his representative) of the National Association of

Governing
Board of the
Commission

1 Occupational Therapists;
2 (i) representative of the Human Rights Commission;
3 (j) representative of the National Primary Health Care
4 Development Agency not less than a Director; and
5 (k) minister of health to appoint three other members (one service
6 user and two non-governmental organisations), one of which shall be a
7 woman; one of the NGOs shall represent those involved in advocacy,
8 promotion and rehabilitation, while the other shall represent service user
9 (clients') groups.

10 7.-(1) The Executive secretary shall have a single term of five
11 years;

Tenure of office
of members of
the Board

12 Other members of the board including the Chairman shall hold office-

13 (a) for a term of four years which may be renewed for a further term
14 of four years and no more; and

15 (b) on such terms and conditions as may be specified in his letter of
16 appointment.

17 (2) Notwithstanding the provisions of sub-section (1) of this
18 section, the office of a member of the Board shall become vacant, where-

19 (a) his term of office has expired;

20 (b) he develops any illness that makes him incapable of carrying
21 out his duties;

22 (c) he becomes bankrupt;

23 (d) he is convicted of a felony or of any offence involving
24 dishonesty or corruption;

25 (e) he resigns his office by notice in writing under his hand
26 addressed to the President;

27 (f) he ceases to hold the office on the basis of which he becomes a
28 member of the Board;

29 (g) he dies; and,

30 (h) he possessed a professional qualification on the basis of which

Appointment
and functions
of the Chief
Executive of the
Mental Health
and Substance
Abuse Commission

1 he was a member and he is disqualified or suspended, other than at his own
2 request, from practicing his profession in any part of Nigeria by the order of
3 any competent authority made in respect of him personally;

4 (i) He no longer holds the position on the basis of which he was
5 appointed as a member as a result of resignation, completion of tenure, removal
6 from office or for any reason.

7 (3) Where a vacancy occurs in the Commission, the president shall
8 appoint a successor who shall represent the same interest as that member
9 whose exit created the vacancy.

10 (4) The resignation mentioned under sub-section (2) (e) of this section
11 shall be effective on the receipt of the letter by the President.

12 **8.-(1)** There shall be a Chief Executive who shall be the Accounting
13 Officer of the Mental Health and Substance Abuse Commission and the
14 Secretary to the Board.

15 (2) The Chief Executive shall be appointed by the President on the
16 recommendation of the Minister

17 (3) The Chief Executive shall hold office for a single term of five
18 years and on the terms and conditions specified in the letter of appointment.

19 (4) The Chief Executive is responsible for coordination of the
20 planning, organization, administration, monitoring and evaluation of mental
21 health and substance abuse services in the country.

22 (5) The Chief Executive shall perform any other functions determined
23 by the Board.

24 (6) The Chief Executive may delegate a function to an officer of the
25 Commission but shall not be relieved from the ultimate responsibility for the
26 performance of the delegated function.

27 (7) The Chief Executive shall provide the Minister through the Board
28 with technical advice on mental health that may be required.

29 (8) The Chief Executive shall have a secretariat with designated
30 personnel to assist with the running of the Council

1	9.-(1) The Board shall meet at least once every three months for the	Meeting of the Board
2	dispatch of business at the times and in the places determined by the	
3	chairperson.	
4	(2) The chairperson shall, at the request in writing of not less than	
5	one-third of the membership of the Board, convene an extraordinary	
6	meeting of the Board at the place and time determined by the chairperson.	
7	(3) The quorum at a meeting of the Board is six members of the	
8	Board or a greater number determined by the Board in respect of an	
9	important matter.	
10	(4) The chairperson shall preside at meetings of the Board and in	
11	the absence of the chairperson, a member of the Board elected by the	
12	members present from among their number shall preside.	
13	(5) Matters before the Board shall be decided by a majority of the	
14	members present and voting and in the event of equality of votes, the person	
15	presiding shall have a casting vote.	
16	(6) The Board may co-opt a person to attend a meeting of the Board	
17	but that person shall not vote on a matter for decision at the meeting. (7)The	
18	proceedings of the Board shall not be invalidated by reason of a vacancy	
19	among the members or a defect in the appointment or qualification of a	
20	member.	
21	(8)Subject to this section, the Board may determine the procedure	
22	for its meetings.	
23	10.-(1) The Board may establish committees consisting of	Establishment of committees
24	members of the Board or non-members or both to perform a function.	
25	11.-(1) Members of the Board and members of a committee of the	Allowances
26	Board shall be paid the allowances approved by the government	
27	12.-(1) The Commission shall:	Establishment of an integrated Mental Health Service Delivery
28	(a) utilise existing facilities at the primary, secondary, and tertiary	
29	levels of health care;	
30	(b)promote the principle of integrated multi-disciplinary services	

	1	at the primary, secondary, and tertiary levels of health care, in communities,
	2	facilities, prisons, children's homes, educational establishments and other
	3	areas of need to:
	4	(i) promote mental health,
	5	(ii) prevent and treat mental disorder,
	6	(iii) rehabilitate and counsel persons with mental disorder.
Appointment of other staff of the Commission	7	13.-(1) The Commission may from time to time, appoint or second
	8	such number of staff for the efficient performance of its functions under this
	9	Act.
	10	(2) The staff of the Commission appointed under subsection (1) of this
	11	section, shall be appointed on such terms and conditions as the Commission
	12	may determine in line with the guidelines for similar appointments in the
	13	public service of the Federation.
	14	(3) The Commission may make rules relating to the Conditions of
	15	service of staff of the Commission, including rules that may provide for-
	16	(a) appointment, promotion and disciplinary control of all staff of the
	17	Commission;
	18	(b) appeals by staff against disciplinary measures; and
	19	(c) such other matters that are necessary for the efficient performance
	20	of its functions under this Act.
Service in the Commission	21	14.-(1) Service in the Commission shall be Pensionable under the
	22	Pension Reforms Act, 2014 and accordingly staff of the Commission shall, in
	23	respect of their services, be entitled to such pension and retirement benefits as
	24	are prescribed for person with equivalent grades in the public service of the
	25	Federation.
	26	(2) Notwithstanding the provisions of subsection (1) of this section,
	27	the Commission may appoint a person to an office on such terms and
	28	conditions which preclude the grant of pension in respect to that office.

1 PART III - MENTAL HEALTH REVIEW TRIBUNAL

2 15.-(1) There is established by the Board a Mental Health Review
3 Tribunal. Mental Health
Review tribunal

4 (2) The Board shall, through the Mental and Substance Abuse
5 Council, for the purpose of dealing with applications and reference by and in
6 respect of patient under this Act constitute for each State or group of States,
7 such number of Mental Health Review Tribunals, as it shall approve.

8 16.-(1) The Board shall appoint members of the Tribunal. Composition of
the Tribunal

9 (2) The Tribunal at each sitting consists of-

10 (a) a chairperson who is a legal practitioner of not less than ten
11 years standing nominated by the Attorney General,

12 (b) a consultant psychiatrist,

13 (c) Three other persons; a medical social worker, a clinical
14 psychologist, psychiatric nurse practitioner, or an occupational therapist, at
15 least one of whom is a woman; and

16 (d) a service user.

17 17.-(1) The Tribunal shall function in protecting the interests of Functions of the
Tribunal
18 patients who are subject to the provisions of this Act.

19 (2) The Tribunal shall hear and investigate complaints in respect of
20 persons detained under this Act.

21 (3) The Tribunal shall review and monitor:

22 (a) cases of involuntary admissions and treatment processes;

23 (b) long-term stay voluntary admissions; and

24 (c) treatments that require a second opinion.

25 (4) The Tribunal, after necessary consultation with experts, shall
26 provide guidance on minimizing intrusive and irreversible treatments,
27 seclusion or restraint; also to ensure that informed consent is obtained and
28 approve requests for intrusive or irreversible treatments.

29 (5) The Tribunal shall in the performance of its function determine
30 its own procedures.

	1	(6) The Tribunal shall ensure that all its proceedings are properly
	2	recorded and documented.
Discharge by the tribunal	3	18. -(1) The Tribunal may direct the discharge of a person detained
	4	under this Act despite a previous order of a court or Tribunal except in the case
	5	of a serious offence and may make the recommendations that it considers
	6	necessary to the head of the facility.
	7	(2) The Tribunal shall direct the discharge of a patient where it is
	8	satisfied:
	9	(a) that the patient is no longer suffering from mental disorder;
	10	(b) that it is not necessary in the interest of the health or safety of the
	11	patient or for the protection of other persons that the patient should continue to
	12	be detained;
	13	(c) that the patient if released is not likely to act in a manner
	14	dangerous to the patient or to others; and
	15	(d) that admission is no longer the least restrictive form of treatment
	16	for the patient.
Review of orders	17	19. The Tribunal may review a previous decision made by it.
Application for review	18	20. -(1) An application may be made to the Tribunal by or in respect of
	19	a person detained under this Act.
	20	(2) The application may request:
	21	(a) a review of the conditions under which that person is detained,
	22	(b) a discharge, or
	23	(c) any other appropriate action to be taken with respect to the
	24	circumstances of the mental disorder of that person.
	25	(3) The Tribunal shall review the case and respond to the applicant
	26	within twenty-one days except where the application is against a new
	27	admission, in which case the response shall be within three days.
	28	(4) Where a person is not satisfied with the decision of the Tribunal,
	29	that person may seek redress in a court of appeal.

1	21. Section (9) shall apply to the Tribunal except that the	Meetings of the Tribunal
2	chairperson, the psychiatrist and one other member constitute a quorum for	
3	the Tribunal and the Tribunal shall meet as required.	
4	22. The chairperson of the Tribunal shall submit an annual report	Annual report of Tribunal
5	of the Tribunal to the Minister through the Board	
6	23. Members of the Tribunal shall be paid allowances approved by	Allowances for Tribunal members
7	government	
8	PART IV - RIGHTS OF PERSONS WITH MENTAL AND SUBSTANCE USE	
9	RELATED DISORDERS AND RESPONSIBILITIES OF GOVERNMENT	
10	REGARDING PROVISION OF EFFECTIVE MENTAL HEALTH AND	
11	SUBSTANCE ABUSE SERVICES	
12	24. Rights of Persons in need of mental health and substance abuse	
13	services Without prejudice to the provisions of this Act, persons in need of	
14	mental and substance abuse services, shall-	
15	<i>Non-discrimination</i>	
16	(1) (a) exercise their civil, political, economic, social, religious,	
17	educational and cultural rights, without any discrimination on the ground of	
18	physical disability, age, gender, race, language, religion, ethnicity or	
19	nationality of the patient;	
20	(b) be entitled to the fundamental human rights and freedoms as	
21	provided for in the Constitution.	
22	(2) irrespective of the cause, nature or degree of past or present	
23	mental disorder have the same fundamental rights as a fellow citizen.	
24	(3) as a tenant or employee who develops mental disorder, not be	
25	(a) evicted from the place of residence of that person, or	
26	(b) dismissed from the place of employment of that person on the	
27	basis of mental disorder.	
28	<i>Basic human Rights</i>	
29	(4) A person with mental and substance use disorder has the right to	
30	enjoy a decent life as normal and as full as possible which includes, the right	

1 to education, vocational training, leisure, recreational activities, full
2 employment and participation in civil, economic, social, cultural and political
3 activities and any specific limitations on these rights shall be in accordance
4 with an assessment of capacity.

5 (5) A person with mental and substance use disorder is entitled to
6 humane and dignified treatment at any time with respect to personal dignity
7 and privacy.

8 (6) A person with mental and substance use disorder in a treatment
9 facility, has:

10 (a) the right to wear personal clothes while in a treatment facility and
11 to maintain personal belongings subject to space, limitations, and appropriate
12 treatment plan;

13 (b) the right to have access to and spend personal money for personal
14 purchases unless the mental capacity of the person does not allow that;

15 (c) the right to information provided by newspapers and other media
16 provided it is not in conflict with appropriate treatment plan;

17 (d) the right to be informed within twenty-four hours of admission to a
18 facility of their rights in a form and language which the patient understands and
19 how to exercise such rights, but where the patient is mentally incapacitated, the
20 legal representative or the caregiver shall be entitled to such information;

21 (e) the entitlement to a legal practitioner of his choice and where he
22 cannot afford the services of a legal practitioner, the Legal Aid Council of
23 Nigeria or National Human Right Commission shall provide legal assistance to
24 the patient;

25 *Standards of Treatment*

26 A person with mental and substance use disorder shall:

27 (7) receive treatment of the same quality and standard in a safe and
28 conducive environment as any other person with physical health conditions;

29 (8) Receive the highest attainable standard of mental healthcare.

30 (9) receive treatment, which addresses holistically their needs

- 1 through a multi disciplinary care plan approach;
- 2 (10) receive treatment in the least restrictive environment and
- 3 restrictive manner;
- 4 (11) be protected from torture, cruel, inhuman and degrading
- 5 treatment;
- 6 (12) receive aftercare programs and rehabilitation, where possible,
- 7 in the community in order to facilitate their social inclusion;
- 8 (13) shall have access to psychotropic drugs and any other
- 9 biopsychosocial interventions at different levels of care as appropriate.
- 10 (14) actively participate in the formulation of the multi disciplinary
- 11 treatment plan;

12 *Access to information*

- 13 (15) A patient shall be informed about their mental state of health
- 14 and the multi disciplinary services available to cater for their needs, the
- 15 treatment options available and their treatment plan;
- 16 (16) Where the patient is incapable of understanding the treatment,
- 17 the personal representative of that patient shall have access to this
- 18 information.
- 19 (17) Shall have access to the information collected about them
- 20 unless, in the opinion of the mental health professional, revealing such
- 21 information may cause harm to the person's health or put at risk the safety of
- 22 others;
- 23 (18) be entitled to contest any decision to withhold any information
- 24 pursuant to paragraph (20) of this sub-section, either personally or through a
- 25 legal practitioner of his choice;

26 *Privacy and autonomy*

- 27 (19) The rights of a person with mental disorder include freedom to
- 28 receive in private, visits from a legal practitioner, relatives and any other
- 29 visitors, unless the attending psychiatrist or head of the facility considers it
- 30 unsafe;

1 (20) give free and informed consent, where possible, before any
2 treatment or care is provided and such consent shall be recorded in the patient's
3 clinical record;

4 (21) notwithstanding the provision of paragraph (23) of this section,
5 the patient shall have the right to withdraw consent;

6 (22) have the right to confidentiality of all information about
7 themselves, illness and treatment in whatever form stored and such
8 information shall not be disclosed to third parties without their consent unless-

9 (a) there is a life-threatening emergency when information is urgently
10 required to save lives,

11 (b) it is in the interest of public safety,

12 (c) it is ordered by a court of competent jurisdiction, or

13 (d) the person requesting for such information is entitled by law to
14 receive it;

15 (23) be entitled to effective participation in the development of
16 mental health legislation, including their carer and legal practitioner; and

17 (24) not be subjected to solitary confinement.

18 *Employment Rights*

19 (25) An employer shall not terminate the employment of a worker
20 merely on the grounds of present or past mental disorder or while the worker is
21 receiving treatment for mental disorder;

22 (26) Where an employer has reasonable cause to believe that a worker
23 is suffering from mental disorder severe enough to affect the work output of the
24 worker, the employer may assist the worker to seek medical advice in
25 accordance with the prescribed procedure;

26 (27) The employer may engage the worker at a level where the worker
27 can best perform for medical reasons but where the worker is found to be unfit
28 for employment the employer may terminate the contract of employment of the
29 worker in accordance with the prescribed procedure;

30 (28) A worker aggrieved by a medical report provided in accordance

1 with this Act may seek redress from the Mental Health review Tribunal.

2 **25.**-(1) Every public healthcare facility should have provision for Establishment
3 integrated mental and substance use treatment at all levels for the purposes of Mental Health
4 of effective implementation of the provisions of this Act. and Substance
Abuse Services

5 (2) Such a facility should meet the minimum standard specified in
6 the national mental and substance abuse guideline/policy

7 (3) Notwithstanding subsection (1) of this section, the Minister
8 may designate any hospital with requisite facilities as mental health
9 facilities.

10 (4) Notwithstanding subsection (1) of this section, the Minister
11 shall ensure the implementation of section 12 subsection(1)a

12 **PART V - TREATMENT, ADMISSION AND DISCHARGE OF PATIENTS**

13 **26.**-(1) The Commission shall set minimum standards for Programmes
14 programmes for the treatment of Mental and Substance Use related for Treatment
15 disorders.

16 (2) The Commission shall maintain and periodically publish list of
17 licensed treatment centres in Nigeria.

18 **27.**-(1) This part applies to any patient referred to in any section of Consent to
19 this Act. Treatment and
Treatment of
children (minors)

20 (2) The following forms of medical treatment for mental and
21 substance abuse related disorders shall require consent:

22 (a) any surgical operation for destroying brain tissue or for
23 destroying the function of the brain tissue; and

24 (b) such other forms of treatment requiring explanation of known
25 risks to the patient to enable the patient to decide whether or not to accept
26 such form of treatment.

27 (3) A patient shall not be given any form of treatment unless:

28 (a) the responsible medical officer or a registered medical
29 practitioner has certified in writing that the patient is capable of
30 understanding the nature, purpose, any likely effects of the treatment and

1 has consented to it; or

2 (b) the medical officer referred to in paragraph (a) of this subsection
3 certifies in writing that the patient has not consented to the treatment for reason
4 of incapacitation or other, but that having regard to the likelihood of its
5 alleviating or preventing a deterioration of his condition, the treatment should
6 be given.

7 (4) A patient may, at any time before the completion of treatment for
8 which he had previously given consent, withdraw such consent in writing if he
9 so desires.

10 (5) Subsections (2) (a) and (b) of this section shall not apply to any
11 treatment:

12 (a) which is immediately to save 'the patient's life or ensure their
13 safety;

14 (b) which (not being irreversible) is immediately necessary to prevent
15 a deterioration of his condition;

16 (c) which (not being irreversible or hazardous) is immediately
17 necessary to alleviate serious suffering by, the patient; or

18 (d) which (not being irreversible or hazardous) is immediately
19 necessary and represents the minimum interference necessary to prevent the
20 patient from violence or being a danger to himself or toot hers.

21 (6) In all circumstances the responsible medical officer shall consider
22 the condition of the patient, the need to obtain consent from the nearest relative,
23 periods of lucid intervals and his/her personal moral decision to obtain consent.

24 (7) Mental health care of a Child:

25 (a) A child receiving psychiatric treatment shall as much as possible,
26 be treated in a least restrictive environment;

27 (b) In cases where they may require admission, children shall be
28 admitted separately from adults, and their developmental needs shall be taken
29 care of as necessary;

30 (c) Parents or guardians of children under the age of eighteen years

1 undergoing psychiatric treatment shall represent them in matters;
2 concerning the mental well-being of the children including consent to
3 treatment. In event the parent's position is not in the best interest of the child,
4 a temporary guardianship should be appointed. The guardianship may be
5 related to the child or professionally assigned;

6 (d) Special provision will be made for the admission of children
7 whose conduct may at any time be harmful to themselves or other patients;

8 (e) Irreversible treatments such as sterilisation or psycho surgery
9 for mental disorders shall not be administered to any child with mental ill
10 health or intellectual disability;

11 (f) The opinions of children shall be taken into consideration in
12 issues of their care including treatment, depending on their age and their
13 capacity.

14 (g) The rights of the minors receiving mental health care will be in
15 line with their rights in the Child Rights Act and the health provisions of the
16 African charter on the rights of a child to which Nigeria is a signatory;

17 (h) Discrimination against children with developmental
18 disabilities will be deemed a criminal act and perpetrators will be punished.

19 (8) Care of Persons with intellectual disability:

20 (a) A person shall not be admitted to a mental health facility merely
21 for intellectual disability unless there is evidence of gross misbehaviour or
22 perceptual disturbances;

23 (b) If a person with intellectual disability is admitted to a mental
24 health facility for mental health care, the person shall have separate
25 accommodation/section on the ward;

26 (c) Intrusive or irreversible treatment shall not be administered on
27 a person with intellectual disability unless authorised by the mental health
28 council.

29 **28.** Any person who requires treatment for mental and substance
30 use related disorders, may be admitted voluntarily into any hospital or other

Voluntary
Admission

Involuntary
Admission of
persons with
mental disorders

1 facility approved for that purpose pursuant to this Act.

2 **29.-(1)** A person meets the criteria for involuntary admission if there
3 is reason to believe the person is suffering from mental disorder and because of
4 such disorders-

5 (a) Has inflicted, or threatened or attempted to inflict, or unless
6 admitted is likely to inflict physical harm on himself or another; or

7 (b) Is in need of treatment for mental disorder and by reason of the
8 illness, his judgment has been impaired that the person is incapable of
9 appreciating his need for such treatment and of making any rational decision in
10 regard thereto.

11 (2) The temporary treatment order will place the named person under
12 the care, observation or treatment in a psychiatric hospital or any other facility
13 which is approved under this Act for the care of involuntary patients, in as least
14 restrictive an environment as is compatible with the health and safety of the
15 person and society.

16 (3) A person in need of mental health treatment shall be involuntarily
17 admitted to a designated inpatient treatment programme upon a written request
18 to the Medical Director of the treatment facility is for involuntary treatment
19 that provides a factual basis for the request by anyone with knowledge that an
20 individual may be a person in need of treatment and the written certification by
21 a mental health professional that the individual is a person in need of treatment
22 as provided for in this Law.

23 (4) The refusal to undergo treatment does not in itself constitute
24 evidence of lack of judgment as to the need for treatment.

25 (5) Any law enforcement officer or designated personnel may
26 lawfully transport an individual whom they reasonably believe is a person in
27 need of mental health treatment without the consent of said individual, to or
28 from a designated treatment facility for the purpose of carrying out the
29 provisions of this Law. Admission to treatment is however on the basis of the
30 judgment of the medical practitioner and not the law enforcement officer.

1 (6) Upon admission of the person in need of mental health
2 treatment, the facility shall evaluate and treat the individual as medically
3 necessary and appropriate for the required time period not exceeding 28
4 days beginning from the day of admission. He may however be detained
5 thereafter if he becomes liable for compulsory admission again by virtue of a
6 subsequent application, order, or direction under any of the provisions of
7 this act.

8 (7) Admission of a Minor:

9 (a) A minor may be admitted to a mental health establishment only
10 after following the procedure laid down in this section;

11 (b) The nominated representative of the minor shall apply to the
12 medical officer in charge of a mental health establishment for admission of
13 the minor to the establishment;

14 (c) Upon receipt of such an application, the medical officer or
15 psychiatrist in charge of the mental health establishment may admit such a
16 minor to the establishment, if he examines the minor on the day of admission
17 or in the preceding seven days and he concludes based on the examination
18 and, if appropriate, on information provided by others, that-

19 (i) the minor has a mental illness of a severity requiring admission
20 to a mental health establishment;

21 (ii) admission shall be in the best interests of the minor, with regard
22 to his or her health, well-being or safety, taking into account the wishes of
23 the minor if ascertainable and the reasons for reaching this decision;

24 (iii) the mental health care needs of the minor cannot be fulfilled
25 unless he is admitted; and

26 (iv) all community-based alternatives to admission have been
27 shown to have failed or are demonstrably unsuitable for the needs of the
28 minor.

29 (d) A minor so admitted shall be accommodated separately from
30 adults, in an environment that takes into account his age and developmental

1 needs and is at least of the same quality as is provided to other minors admitted
2 to hospitals for other medical treatments;

3 (e) A minor shall be given treatment with the informed consent of his
4 nominated representative;

5 (f) If the nominated representative no longer supports admission of
6 the minor under this section or requests discharge of the minor from the mental
7 health establishment, the minor shall be discharged by the mental health
8 establishment only if such an action is in the best interest of the minor;

9 (g) The Commission shall ensure that all programs must include child
10 and adolescent mental health relevant strategies based on evidence and
11 culturally appropriate strategies.

Recommendation
to court for
temporary
involuntary
treatment

12 **30.-(1)** A person may make an application to a court for the
13 involuntary admission and treatment of a person believed to be suffering from
14 severe mental disorder, where-

15 (a) the person named is at personal risk or a risk to other people, or

16 (b) there is a substantial risk that the mental disorder will deteriorate
17 seriously.

18 (2) The temporary treatment order will place the named person under
19 the care, observation or treatment in a psychiatric hospital or any other facility
20 which is approved under this Act for the care of involuntary patients, in as least
21 restrictive an environment as is compatible with the health and safety of the
22 person and society.

23 (3) The recommendation shall be given on oath to the court and shall
24 be supported by two medical recommendations one from a medical
25 practitioner and the other from a mental health practitioner.

26 (4) The recommendation shall specify in full detail-

27 (a) the reasons why it is considered that person is a proper subject for
28 care, observation or treatment;

29 (b) the facts on which the opinion has been formed, distinguishing
30 facts observed personally from those observed by somebody else;

1 (c) that person is suspected to lack capacity to make informed
2 treatment decisions, and

3 (d) that the treatment is necessary to bring about an improvement in
4 the person's condition, restore capacity to make treatment decisions, prevent
5 serious deterioration or prevent injury or harm to self or others.

6 (5) The judicial review thereof shall determine-

7 (a) Whether the involuntary patient's confinement is based upon
8 sufficient cause;

9 (b) Whether the involuntary patient is a person in need of
10 treatment; and

11 (c) Whether a less restrictive placement such as out-patient
12 treatment is more appropriate. Such hearings shall preceded by adequate
13 notice to the involuntary patient or his/her legal representation, and the
14 involuntary patient or his/her legal representation shall be entitled to be
15 present at all such hearings.

16 (6) The court shall ensure on behalf of the patient-

17 (a) representation by counsel at all judicial proceedings, such
18 counsel to be court-appointed if the involuntary patient cannot afford to
19 retain counsel;

20 (b) examination by an independent psychiatrist and have such
21 persons testify as a witness on the patient's behalf, such witness to be court-
22 appointed if the involuntary patient cannot afford to retain such witness.

23 (c) Reasonable discovery, the opportunity to summon and cross-
24 examine witnesses, to present evidence on the person's own behalf and to all
25 other procedural rights afforded litigants in civil causes. The privilege
26 against self- incrimination shall be applicable to all proceedings under this
27 Law and the patient's testimony, if any, shall not otherwise be admissible in
28 any criminal proceedings against the patient;

29 (d) To have a full record made of the proceedings, including
30 findings adequate for review. All records and pleadings shall remain

1 confidential unless the court for good cause orders otherwise.

2 (7) Notwithstanding the pendency of the action or any order
3 previously entered by the court, if at any time after the petition is filed the staff
4 of the facility determines that the involuntary patient is no longer in need of
5 involuntary treatment, the facility may so certify in writing and discharge the
6 patient, and shall promptly notify the court of its discharge, and the court may
7 dismiss the action.

8 (8)(a) An involuntary patient is entitled to change his own status to
9 that of a voluntary patient if a member of the staff of the facility certifies that:

10 (i) The patient is reasonably capable of understanding the nature of
11 the decision to change status; and

12 (ii) Such a change is in the patient's best interest. If such a change in
13 status is challenged within 2 days by the patient's next of kin or legal
14 representative, the court will schedule a hearing to finally determine the
15 matter;

16 (b) The court may increase the time for performance for a reasonable
17 period upon a showing of good cause;

18 (c) The Magistrate Court judge shall declare a sitting of the court to be
19 a sitting of the Mental Treatment Court for the purposes of this Law.

20 (9) No person shall be involuntarily admitted for substance abuse
21 treatment except they have developed a disorder listed in section 30 subsection
22 (1) (b) of this ACT. The condition referred to in section 30 subsection 4 of this
23 ACT also applies.

Examination
of facts by court

24 **31.-(1)** The court shall examine the facts or hold an enquiry within
25 forty-eight hours to determine the state of mind of that person.

26 (2) The court may summon witnesses or administer oaths.

27 (3) Where the court is satisfied that person is suffering from severe
28 mental disorder and meets the requirements of section 31 subsection 5, the
29 court may order placement of that person under care, observation or treatment

1 in a psychiatric hospital for a period not exceeding one month as determined
2 by the court.

3 32.-(1) The patient, the family of the patient or the personal Appeal
4 representative of the patient shall be informed of the reasons for the
5 admission and their rights with respect to appeal to the Tribunal.

6 (2) A patient or primary care giver has the right to appeal against
7 involuntary admission or treatment.

8 (3) A patient has the right to seek an independent medical opinion.

9 (4) A patient or primary care giver has the right to seek counsel or
10 be represented in an appeal or complaint procedure and has right of access to
11 the medical record of the patient.

12 (5) Access to the medical record of a patient by the primary care
13 giver is subject to the consent of the patient or the personal representative of
14 the patient.

15 33.-(1) A psychiatrist or head of a facility may recommend the Order for
16 placement of a person under a temporary treatment court order for a prolonged
17 prolonged treatment in a psychiatric hospital if the psychiatrist or head of a treatment
18 facility is of the opinion that the severity of the condition warrants it.

19 (2) This recommendation shall take into consideration the welfare
20 of that person and the safety of the public.

21 (3) A patient or caregiver has the right to attend and participate in
22 appeal and complaints procedures.

23 (4) The recommendation shall be made before the expiry of the
24 court order for temporary treatment or its extension and shall be made on
25 oath to the Tribunal.

26 (5) The recommendation shall-

27 (a) specify in full detail the reasons why that person is considered a
28 proper subject for prolonged treatment,

29 (b) specify the nature and severity of the diagnosed mental
30 disorder, the likelihood of complete or partial recovery, and the period

	1	which, in the opinion of the psychiatrist or head of a facility, is reasonably
	2	required to effect a complete or partial recover, and
	3	(c) specify in full detail the facts on which the opinion is based,
	4	distinguishing facts observed personally from facts communicated by others.
	5	(6) The patient shall meet the criteria stated in section 42.
	6	(7) The Tribunal shall examine the person in a place considered
	7	convenient or hold an enquiry to determine the state of mind of that person, and
	8	for that purpose-
	9	(a) the Tribunal may summon witnesses or administer oaths, and
	10	(b) the Tribunal may order the placement of that person under
	11	prolonged treatment in a psychiatric hospital if from the examination or
	12	enquiry the person meets the criteria of section 31 and prolonged treatment is
	13	the least restrictive treatment available.
Length of prolonged treatment order	14	34.-(1) The period of the prolonged treatment order shall not exceed
	15	twelve months at a time.
	16	(2) An order for prolonged treatment of up to twelve months shall be
	17	reviewed at six months by the Tribunal.
Procedure for certificate of urgency	18	35.-(1) Despite section 31, in an emergency case where it is expedient
	19	either for the welfare of a person suspected to be suffering from mental disorder
	20	or for public safety because of the person suspected to be suffering from mental
	21	disorder, a police officer, a relative or any other person with or without the
	22	assistance of a police officer may take the person to a facility or mental health
	23	facility for a certificate of urgency to be issued under sub-section (2).
	24	(2) At the facility or mental health facility a registered medical
	25	practitioner shall examine the person and if the person meets the criteria for
	26	treatment as an emergency case, the medical practitioner shall issue a
	27	certificate of urgency and place the person under care, observation and
	28	treatment.
	29	(3) Where immediate admission to a facility or mental health facility
	30	is impracticable, the person shall be received and detained in any other place of

1 safe custody for a period not exceeding forty-eight hours pending transfer to
2 a mental health facility.

3 36.-(1) A person received into a mental health facility under a
4 certificate of urgency may be detained in that mental health facility as an
5 urgent case for a period not exceeding seventy-two hours.

Duration of
admission for
urgent case

6 (2) Where the person detained is not discharged before seventy-
7 two hours by the psychiatrist or head of the facility, information shall be
8 given to the Tribunal in accordance with section 30 within that period unless
9 the person opts to become a voluntary patient.

10 (3) Where a court order for temporary treatment is not obtained
11 within the seventy-two hours, the person detained shall be released at the
12 expiry of that period or can opt to become a voluntary patient.

13 37.-(1) Where a Police Officer or a staff of Social Welfare
14 Department of Government finds in a place to which the public has access, a
15 person who appears to him to be suffering from mental disorder and to be in
16 immediate need of care or control, the police officer or social welfare
17 worker, as the case may be, may if he thinks it necessary to do in the interest
18 of that person or for the protection of other persons, remove that person to a
19 place of safety with a view to making an application for his treatment and
20 care under this Act.

Removal of
Patient to a place
of safety

21 (2) A person removed to a place of safety under this section may be
22 detained there for period not exceeding 72 hours for the purpose of enabling
23 him to be examined by a medical practitioner and of making any necessary
24 arrangements for his treatment or care.

25 (3) A police officer or any other person required or authorised by
26 this Act to take any person into custody or to convey or to detain any person
27 shall for the purposes of taking him into custody or conveying or detaining
28 him, have all the powers, authority, protection and privilege of a police
29 officer in the ordinary course of his duties as such.

30 (4) If any person being in lawful custody by virtue of this section

Grant of Leave
from Hospital

1 escapes, he may be retaken and returned to the hospital or place of safety:
2 (a) by the person who had his custody 'immediately before the escape;
3 (b) by any officer or the staff of the hospital, his nearest relative or his
4 guardian, or by a police officer if at the time of his escape he was liable to be
5 detained in a hospital.

6 **38.-(1)** The responsible medical officer may grant to any patient who
7 is for the time being liable to be detained in a hospital under this Act, leave to be
8 absent from the hospital subject to such considerations necessary in the interest of
9 the patient or for the protection of other persons.

10 (2) Leave of absence may be granted under this Section either in
11 definitely or for a specified period; and where leave is granted for a specified
12 period, that period may be further extended as the responsible medical officer
13 may deem fit.

14 (3) The responsible medical officer may by notice in writing to the
15 patient or to the person for the meantime in charge of the patient, revoke the
16 Leave of absence for the recall of the patient to the hospital if it appears to him
17 that it is necessary so to do in the interest of the patient's health and safety and
18 the protection of others

19 (4) A patient to whom a leave of absence is granted, under this section
20 shall not be recalled under Subsection (3) of this Section after he has ceased to
21 be liable to be detained under this Act.

22 (5) In all cases of removal of patient to hospital for the first time or
23 removal of a patient who breaches the condition of leave of absence, the police
24 shall be available to render assistance

Order of
Discharge of a
of a Patient

25 **39.-(1)** An order for discharge in respect of a patient detained under
26 any section of this part of this Act may be made:

27 (a) by the responsible medical officer or by the medical director of the
28 hospital, where the patient is detained pursuant to an application for admission
29 of observation; or

30 (b) by the responsible medical officer, the medical director, or by the

1 nearest relation, where the patient is detained pursuant to an application for
 2 admission for treatment. In other cases, the order shall be made pursuant to
 3 the responsible medical officer's report that the circumstances leading to his
 4 detention in the first place no longer exist

5 **40.**-(1) Subject to the provisions of this section, the patient's
 6 nearest relative may at anytime apply for the discharge of a patient detained
 7 in hospital.

Order of discharge
of nearest relative

8 (2) The nearest relative of the patient in making such an application
 9 shall give a notice in writing in that regard not less than 72 hours to the
 10 medical director. In the event that the responsible medical officer furnishes
 11 the medical director of the hospital a report within 72 hours that in his
 12 opinion the patient, if discharged, would be likely to act in a manner
 13 dangerous to himself and to other persons: in which case-

14 (a) the application by the relative will not be granted;

15 (b) no further application for discharge of that patient shall be
 16 entertained from that relative during a period of 3 months beginning with
 17 the date of the medical report; and

18 (c) the medical director of the hospital shall cause the nearest
 19 relative of the patient to be informed of his right to apply to a Mental Health
 20 Review Tribunal in respect of the patient within a period of 28 days
 21 beginning with the day on which he is so informed.

22 **41.** A facility which is not accredited by the Commission and
 23 licensed or recognised by the Minister shall not admit involuntary patients
 24 for treatment.

Non-accredited
facilities and
involuntary
patients

25 PART VI - ADMISSION OF PATIENTS CONCERNED WITHIN CRIMINAL
 26 PROCEEDINGS

27 **42.**-(1) Where a person is convicted before a High Court of a
 28 criminal offence, or before a Magistrate's Court of an offence punishable on
 29 summary conviction with imprisonment, the court may by a hospital order
 30 authorize his admission for observation in a hospital if it has cause to suspect

Admission of a
Criminal patient

1 that the person may be suffering from mental disorder

2 (2) Where the court is satisfied, on written evidence made within
3 seven days of admission of two medical practitioners, one of whom is
4 recognized to have special experience in the diagnosis and treatment of mental
5 disorders, that:

6 (a) the offender is suffering from mental disorder, severe mental
7 impairment or dissocial disorder;

8 (b) the mental disorder is of a severe nature or degree which warrants
9 the detention of the patient in a hospital for medical treatment; and

10 (c) the offender is likely to benefit from such treatment with respect to
11 future criminal tendency and behaviour.

12 The court may decide that the most suitable method of disposing of the case is
13 by means of an order under this section.

14 (3) Where an order is made under this section, the Court shall cause
15 the further detention of the criminal in the hospital where the initial assessment
16 of his mental state was made for further treatment until the patient (criminal) is
17 assessed as having made sufficient improvement to be discharged there from,
18 and a report in that respect from the medical practitioners who made the initial
19 assessment placed before the court

20 (4) On receiving such a report, the Court shall order the discharge of
21 the patient from hospital within three days of receiving the report.

22 Where the patient has not made satisfactory progress with treatment pursuant
23 to Subsection (3) of Section 20 within six months of the initial order, and a
24 report in that respect from the medical practitioners referred to in Section 20 is
25 placed before the court, the court shall, in the interest of public safety issue a
26 compulsory order for the detention and treatment of the patient for another
27 period of six months and for multiple periods of six months thereafter provided
28 that:

29 (a) the patient shall be advised on his right to appeal to the Mental
30 Health Review Tribunal; and

1 (b) a medical report on the desirability of subsequent detention and
2 treatment of the patient in the interest of public safety is made on each
3 occasion.

4 43.-(1) Where the Court receives a report from the medical
5 practitioners referred to in Section 20 to the effect that the mental disorder
6 from which the patient is suffering is of such severity as to warrant
7 maximum restriction of that patient, the Court shall issue a compulsory
8 order with restriction provided that the patient shall be advised on his right to
9 appeal to the Mental Health Review Tribunal of his case.

Compulsory Order
with restriction

10 (2) A compulsory order with restriction shall not be issued by a
11 Court unless the Court in its wisdom and having regard to all the
12 circumstances including the nature, character and antecedents of the
13 offender and to the other available options (including terms of
14 imprisonment) of dealing with him that the most suitable method of
15 disposing of the case taking into cognizance the issue of public safety is by
16 means of an order under this section.

17 44.-(1) If in the case of a child or young person brought before a
18 juvenile or other court-

The Child
Offender

19 (a) the court is satisfied that the young person is in need of care or
20 protection that his parent or guardian is unable to control him, as the case
21 may; and

22 (b) the conditions which under Section 20 of this Act are required
23 to be satisfied for the making of a hospital order in respect of a person
24 convicted as herein mentioned are so far as applicable, satisfied in the case
25 of the child or young person; the court shall have the like power to make a
26 hospital order or guardian as if the child or young person had been' convicted
27 by the court of an offence punishable on summary conviction with
28 imprisonment and provisions of the said Section 20 shall with the necessary
29 modifications and substitutions apply accordingly.

Removal to
Hospital of a
Prisoner

1 **45.**-(1) If in the case of a person serving a sentence of imprisonment,
2 the Minister or the Governor, as the case may be is satisfied by the report, of a
3 medical practitioner who has special experience in the diagnosis and treatment
4 of mental disorders:

5 (a) that the said person is suffering from a mental disorder, severe
6 mental impairment or dissocial disorder; and

7 (b) that the mental disorder is of a nature or degree which warrants the
8 detention of the patient in a hospital for medical treatment, the Minister or
9 Governor may, if he is of opinion having regard to the public interest and all the
10 circumstances that it is expedient to do so, direct by warrant, that the person be
11 so removed and detained in such hospital as may be specified in the directive.

12 (2) The transfer directive in the context of Subsection (1) of this
13 section shall have the like force as a hospital order made in accordance with the
14 provisions of Section 20 of this Act.

15 (3) The foregoing provisions of this section shall apply for the
16 purpose of the transfer of any person in custody pending trial as they apply for
17 the purpose of any person serving a sentence of imprisonment.

18 (4) For the purposes of this Section:

19 (a) the Minister shall exercise the power to give a transfer directive in
20 the case of a person convicted of an offence committed under any enactment
21 made by the Government of the Federation; and

22 (b) the Governor shall exercise the power to issue a directive in
23 respect of a person convicted for an offence committed under an enactment
24 made by the Government of a State.

25 PART VII - PROPERTY AND AFFAIRS OF PATIENTS

Application of
Patient's properties

26 **46.** The provisions of this part shall apply in respect of a person, who
27 in the considered opinion of a High Court Judge based on competent medical
28 evidence is incapable by reason of mental disorder of managing and
29 administering his property and affairs; and a person whom the Judge is satisfied
30 to refer to as a patient for purpose of this Part of this Act.

1 (1) The judge may, with respect to the property and affairs of a
2 patient, do secure the doing of all such things as to him appear necessary or
3 expedient in respect to property:

4 (a) for the maintenance or other benefit of the patient;

5 (b) for the maintenance or other benefit of members of the patient's
6 family;

7 (c) for making provision for other persons or purposes for whom or
8 which the patient might be expected to provide if he were not mentally
9 incapacitated ;or

10 (d) otherwise for administering the patient's affairs.

11 (2) (a) In the exercise of the powers conferred by this section,
12 regard shall be had first of all to the requirements of the patient, and the rules
13 of law which restrict the enforcement by a creditor of rights against property
14 under the control of the Judge;

15 (b) Subject to the provisions of paragraph (a) in this subsection, the
16 Judge shall, in administering a patient's affairs, have regard to the interests
17 of creditors and also the desirability of making provisions for obligations of
18 the patient notwithstanding that they may not be legally enforceable.

19 (3) Without prejudice to the provisions of Subsection (2) of this
20 section; the Judge shall have power to make such orders and give such
21 directions and authorities as he thinks fit, for the purposes of that section and
22 in particular may make orders or give directives or authorities for:

23 (a) the control (with or without the transfer or vesting of property or
24 the payment into court of money or securities) and management of any
25 property of the patients;

26 (b) the settlement of any property of the patient or the gift of any
27 property of the patient to any person;

28 (c) the carrying on by any suitable person of any profession, trade
29 or business of the patient;

30 (d) the sale, exchange, charging or other disposition of any

1 property of the patient;
 2 (e) the acquisition of any property in the name of the patient;
 3 (f) the dissolution of any property of which the patient is a member;
 4 (g) the carrying out of any property of which the patient is a member;
 5 (h) the conduct of any legal proceedings in the name of the patient or
 6 on his behalf;
 7 (i) the reimbursement out of the property of the patient, with or
 8 without interest, of money applied by any person for or for the benefit of the
 9 patient; or

10 (j) the exercise of any power vested in the patient (including a power
 11 of consent) whether beneficially or as a guardian, trustee or otherwise however.

Power of the
Judge in
Emergency

12 **47.-(1)** Where it is represented to the Judge and he has reason to
 13 believe that a person may be incapable by reason of mental disorder of
 14 managing or administering his property and affairs, and the Judge is of opinion
 15 that it is necessary to make immediately provision for any of the matters
 16 referred to in Section 47 of this Act, the Judge may exercise any of the powers
 17 conferred on him by the said Section 47, so far as is requisite for enabling that
 18 provision to be made, pending the question whether the said person is
 19 incapable as aforesaid.

20 PART VIII - FINANCIAL PROVISIONS FOR THE COMMISSION

Funds of the
Commission

21 **48.-(1)** There shall be established for the Commission a Fund, into
 22 which shall be paid-

23 (a) budgetary allocation from the Federal Government;
 24 (b) gifts and grants from International donor organisations, private
 25 organisations and individuals; and
 26 (c) such other sums, as may accrue, from time to time, to the
 27 Commission.

28 (2) The Commission shall, apply the Fund established pursuant to
 29 subsection (1) of this section-

30 (a) to defray the cost of administration of the Commission;

(b) for the payment of salaries, fees or other remuneration or allowances, pensions, and gratuities payable to the officers and employees of the Council;

(c) for payment or reimbursement of board members expenses or of any committee as may be set up by the Board in accordance with this Act on such rates as may be approved by the Federal Government of Nigeria; for the maintenance of any property acquired or vested in the Commission.

49.-(1) The Commission shall, not later than 31st October in each year or such time as may be prescribed by the Financial Regulations issued by the Federal Government of Nigeria, prepare and submit to the Minister an estimate of its income and expenditure for the next succeeding year.

Accounts and
Audit

(2) The Commission shall keep proper accounts and records of its incomes and expenditure, assets and liabilities and shall prepare in respect of each year a statement of accounts in manual and electronic form and shall cause the accounts to be audited not later than six months after the end of the year to which such accounts relate, by auditors appointed by the Board from the list and in accordance with the guidelines issued by the Auditor-General for the Federation.

(3) An Auditor appointed pursuant to subsection (2) of this section shall have access to all records relating to the accounts which are kept by the Commission or its agents and shall have power to require from any staff or agent of the Council such information and explanation as in the auditor's opinion are necessary for the purpose of the audit.

(4) A staff or agent of the Commission who fails, without reasonable cause to comply with a request or instruction of an auditor pursuant to subsection (3) of this section commits an offence and shall be liable on conviction to a fine of two hundred thousand Naira or six months imprisonment or both.

50. The Commission shall prepare and submit to the Ministry of Health not later than 30th March of each year, a report in such form as the

Annual Reports

	1	Minister may direct on the activities of the Commission during the previous
	2	year, and shall include in such report, a copy of the audited accounts of the
	3	Commission for that year and the Auditor-General's report.
	4	PART IX - ESTABLISHMENT OF MENTAL HEALTH FUND
	5	51. There is established by this Act a Mental Health Fund
Object of the Fund	6	52. -(1) The object of the Fund is to provide financial resources for the
	7	care and management of persons suffering from mental disorders.
	8	(2) To achieve its object, moneys of the Fund shall be applied for:
	9	(a) the skills training of persons with mental disorders;
	10	(b) any matter connected with the rescue, rehabilitation and
	11	reintegration of persons with mental disorders;
	12	(c) the construction of facilities for persons with mental disorders;
	13	and
	14	(d) training, capacity building and research.
Sources of money for the Fund	15	53. The moneys for the Fund include
	16	(a) voluntary contributions to the fund from individuals,
	17	organisations and the private sector;
	18	(b) moneys approved by National Assembly for payment into the
	19	Fund;
	20	(c) grants from bilateral and multilateral sources;
	21	(d) donations and gifts; and
	22	(e) moneys from any other source approved by the Minister
	23	responsible for Finance;
	24	(f) 10% of the national health fund should be set aside for mental
	25	health and substance abuse treatment.
Bank accounts for the Fund	26	54. The moneys for the Fund shall be paid into bank accounts opened
	27	for the Fund with the approval of the Accountant-General.
Management of the Fund	28	55. -(1) The Fund shall be managed by a Sub-Committee of the Board
	29	consisting of not more than five members of the Mental Health Commission

1 which shall for this purpose include a representative of the Accountant-
2 General.

3 (2) The Sub-Committee shall appoint its own Chairperson.

4 **56.** The Sub-Committee of the Board shall:

Functions of the
management
committee of the
Fund

5 (a) make recommendations to the Board on mental health matters;

6 (b) pursue policies to ensure the achievement of the object of the
7 Fund;

8 (c) liaise with Government agencies and organisations to promote
9 the rehabilitation and reintegration of persons suffering from mental
10 disorders;

11 (d) prepare guidelines and procedures for the management and
12 disbursements from the Fund;

13 (e) conduct research on international and regional developments
14 and standards on mental health matters; and

15 (f) deal with any matter concerned with mental health.

16 **57.** The Fund is exempt from the payment of tax.

Exemption

17 **58.** The provisions on accounts and audit and submission of
18 annual reports to Parliament in sections 50 and 51 of this Act apply to the
19 Fund.

Accounts and
audit and annual
reports of the
Fund

20 PART X - OFFENCES AND PENALTIES

21 **59.-(1)** No Private Hospital or facility responsible for the treatment
22 or certification of persons dealing with mental ill-health and substance
23 use disorders and mental disabilities shall operate without a valid license
24 from the Council.

Operating a
facility without
a license

25 (2) A person who contravenes the provisions of subsection (1) of
26 this section commits an offence and is liable on conviction, in the case of a
27 Private Hospital or Facility to a fine of not less than N100, 000.00 and the
28 owner of the facility to a fine of not less than N50,000.00.

29 **60.-(1)** No person shall violate the right of persons as specified
30 under this Act.

Violation of the
right of persons
under this Act

1 (2) Without prejudice to the provisions of any other law, any person
 2 who contravenes the provisions of subsection (1) of this section, commits an
 3 offence and is liable on conviction to fine of not less than N200,000 or
 4 imprisonment of not less than six months

5 (3) Any person that willingly causes or conspires with or assists
 6 another to cause-

7 (a) The unwarranted involuntary confinement of any person in a
 8 treatment facility under this Law ;or

9 (b)The denial to any person of any of the rights accorded to said
 10 person under this Law;

11 Shall be liable for punishment to a fine not less than N200,000 or imprisonment
 12 not less than six months. The Facility Management should also be held liable.

Refusal to supply
information

13 **61.** A person who fails or refuses to supply any information required
 14 by the Council in exercise of its powers under this Act commits an offence and
 15 is liable on conviction, in the case of a body corporate to a fine of N100,000 and
 16 in the case of an individual to fine of N50,000 or imprisonment of not less than
 17 Six months or to both

Forgery or false
entry of Statements

18 **62.** A person commits an offence under this Act is liable on
 19 conviction to a fine of N100,000 or to imprisonment for not less than Six months
 20 or to both, where the person forges or makes false entry or statement-

21 (a) on an application for admission under this Act;

22 (b) any medical report or recommendation under this Act; or

23 (c) any other document required or authorized to be made under this
 24 Act.

Assisting Patient
to unlawful Leave
of Absence

25 **63.-(1)** Any person who induces or knowingly assist any other person:

26 (a) being liable to be detained in a hospital to absent himself without
 27 leave; or

28 (b) being in legal custody by virtue of this Act to escape from such
 29 custody, shall be guilty of an offence.

30 (2) Any person who knowingly harbours a patient who is absent

1 without leave of absence or is otherwise at large and liable to be retaken into
2 a custody; or gives him assistance with intent to prevent, hinder or interfere
3 with his being taken into custody or returned to the hospital or other place or
4 where he ought to be detained shall be guilty of an offence.

5 (3) Any person guilty of an offence under this section shall be liable
6 on conviction to 6 months imprisonment or to a fine of N100,000, or both of
7 them.

8 **64.**-(1) It shall be an offence under this section for a man or a
9 woman who is an officer or staff or is otherwise employed in or is one of the
10 managers of a Psychiatric hospital or treatment facility to have sexual
11 relationship (intercourse) with a woman or a man as the case may be who is:

Sexual relationship
with a Patient

12 (a) for the time being receiving treatment for mental and substance
13 use related disorder in that hospital;

14 (b) subject to his/her guardianship or otherwise in his/her custody
15 or care under this Act in Psychiatric Hospital or other similar approved
16 institution for the treatment of mental and substance use related disorder
17 persons.

18 (c) for the time being receiving treatment as an out-patient.

19 (2) Any person guilty of an offence under this section shall be liable
20 to prosecution, and on conviction, to imprisonment for a term not less than 1
21 year or to a fine of N200,000 or both of them. This shall not be prejudicial to
22 any other sanctions and such a person may be liable to from bodies to which
23 he may belong as a member.

24 (3) No proceedings shall be instituted for an offence under this
25 section, except by or with the consent of the Attorney-General of the State
26 concerned

27 **65.**-(1) A person who Contravenes the provisions of this Act of
28 which no specific penalty is provided under this Act shall be liable on
29 conviction to a fine N50,000 or imprisonment for a term of not less than Six
30 months or both.

General Penalty

	1	(2) Without prejudice to the generality of the provisions of this part
	2	the Court may impose any form non-custodial sentence on an individual.
	3	PART XI - IMMUNITY SAVINGS AND TRANSITIONAL PROVISIONS
Immunity from Legal Proceedings	4	66. -(1) No person shall be liable on any ground to civil or criminal
	5	proceedings to which he would have' been liable apart from this section in
	6	respect of any act done pursuant to this Act or any regulations or rules made
	7	under or in respect of anything done in discharge of any functions conferred by
	8	this Act, unless such act was done in bad faith or without reasonable care.
	9	(2) No civil or criminal proceedings shall be brought without leave of
	10	the Attorney-General of the State concerned who shall not give such leave
	11	unless he is satisfied that there is substantial ground for the contention that the
	12	person to be prosecuted has acted in bad faith or without reasonable care.
Minister's Power to make Regulations	13	67. -(1) The Minister through the Commission may, with the approval
	14	of the President, Commander-in-Chief of the Armed Forces, make regulations,
	15	for prescribing anything which under this Act ought to be prescribed and such
	16	regulation or regulations shall be published in the Federal Government
	17	Gazette.
	18	(2) Without prejudice to the generality, of the provisions of
	19	Subsection (1) of this section the regulations made under that subsection may:
	20	(a) specify the hospitals and other institutions with facilities for the
	21	time being for the reception, and treatment of patients requiring treatment and
	22	care for mental and substance related disorder;
	23	(b) specify access to the public into Psychiatric Hospitals and similar
	24	other institutions, and their conduct while in such premises; and
	25	(c) such other things as may appear to be lacking in this Act but
	26	necessary to achieve the aims and goals of the Act.
Directives of the Minister	27	PART XII - MISCELLANEOUS
	28	68. The Minister may give to the Commission, general directives
	29	relating to the performance of its functions under this Act and the Council shall
	30	comply with such directives.

1	69. The Commission may with the approval of the Minister, make	Power to make Regulations
2	Regulations as are necessary or expedient for giving full effect to the	
3	provisions of this Act.	
4	70. -(1) For the purpose of carrying out the functions conferred on	Power to obtain information
5	the Commission under this Act, the Executive Secretary or any other officer	
6	of the Council authorised in that behalf-	
7	(a) shall have the right of access to all the records of any institution	
8	or authority to which this Act applies; and	
9	(b) may, by notice in writing served on any person in charge of any	
10	institution or authority responsible for the treatment or certification of	
11	persons dealing with mental ill-health, , and substance use disorders and	
12	mental disabilities require that person to furnish or cause to be furnished,	
13	information on such matter as may be specified in the notice.	
14	(2) It shall be the duty of any person required to furnish information	
15	pursuant to subsection (1) of this section to comply with the notice within 21	
16	days of the receipt of the notice.	
17	71. -(1) Subject to the provisions of any other law, no suit shall be	Limitation of suit against the Commission
18	commenced against the Commission or its authorised officers before the	
19	expiration of a period of 30 days after written notice of intention to	
20	commence the suit shall have been served on the Council by intending	
21	plaintiff or his agent, and the notice shall clearly state the-	
22	(a) cause of action;	
23	(b) particulars of the claim;	
24	(c) name and place of abode of the intending plaintiff; and	
25	(d) relief sought.	
26	(2) The notice referred to in subsection(1) of this section and any	
27	summons, or other documents required or authorised to be served on the	
28	Commission under this Act or any other enactment or law, may be served by-	
29	(a) delivering it to the Executive Secretary; or	
30	(b) sending it by registered mail to the postal address of he Council.	

Restriction on execution against property of the Commission	1	72. In any action or suit against the Commission, no execution shall
	2	be levied or attachment process issued against the Council unless not less than
	3	three months' notice of the intention to execute or attach has been given to the
	4	Commission.
Interpretation	5	73. In this Act-
	6	"Allied Mental Health Professionals" means any formally educated and trained
	7	non-medical health professionals such as (but not limited to) Clinical
	8	Psychologists, social workers, Psychiatric Nurses, occupational therapists,
	9	recreational therapists Mental Health and Addiction Counsellors;
	10	"certification" means the process of qualifying medical specialists through
	11	requirements and examinations set by the Board of the particular medical
	12	specialty so appointed or elected for that specific purpose by the registered
	13	members of the medical specialty association;
	14	"Carer " means a person who maintains a close personal relationship with the
	15	patient and manifests concern for his welfare;
	16	"Child" according to the United Nations Convention on the Rights of the Child
	17	- defines child as "a human being below the age of 18 years;
	18	"Court" means the Federal High Court;
	19	"Least restrictive alternative" or "least restrictive environment" or "less
	20	restrictive option" means offering an option for treatment or a setting for
	21	treatment which-- (i) meets the person's treatment needs; And (ii) imposes the
	22	least restriction on the person's rights;
	23	"Legal representative" means a substitute decision-maker charged by law with
	24	the duty of representing a patient in any specified undertaking or of exercising
	25	specified rights on the patient's behalf or a person appointed in writing by the
	26	patient to act on his or her behalf, provided that where the patient lacks mental
	27	capacity, or otherwise fails to appoint a legal representative in writing, the legal
	28	representative shall be taken to be in the following order-
	29	(a) the spouse, if any, unless permanently separated from the patient
	30	or has deserted or has been deserted by the patient,

- 1 (b) sons and daughters over the age of eighteen years,
2 (c) either parent by mutual consent; and
3 (d) a person appointed by an of a Court to represent the patient;
- 4 "Mental disability" means impairments, activity limitations, and individual
5 and participatory restrictions denoting dysfunctional aspects of interaction
6 between an individual and his environment;
- 7 "Mental health" means a state of well-being in which every individual
8 realizes his or her own potential, can cope with the normal stresses of life,
9 can work productively and fruitfully, and is able to contribute to his or her
10 community;
- 11 "Mental health professionals" means persons trained and Board certified to
12 practice psychiatry;
- 13 "Mental health workers" means trained volunteers and advocates engaged
14 in mental health promotion and services under the supervision of the mental
15 health professionals;
- 16 "Mental ill-health" means mental or psychiatric disorder characterized by
17 the existence of recognizable changes in the thoughts, feelings and general
18 behavior of an individual brought about by neurobiological or psychosocial
19 factors causing psychological, intellectual or social dysfunction;
- 20 "Mental or psychological incapacity" means the inability to-
- 21 (a) understand the information given concerning the nature of the
22 disorder;
- 23 (b) understand the consequences that his or her decisions and
24 actions have for his or her own life or health and for the life and health of
25 others, which may be serious and irreversible;
- 26 (c) understand that treatment might mitigate or remedy the
27 condition and that lack of treatment might aggravate it;
- 28 (d) understand the information about the nature of treatment
29 proposed, including the means of treatment, its direct effects and its possible
30 side effects; and

1 (e) effectively communicate with others regarding his or her
2 condition and his or her consent to treatment or hospitalization;
3 "Minister" means the Minister responsible for matters relating to health;
4 "Minor" means a person who has not completed the age of eighteen years;
5 "Patient" refers to a person receiving or utilizing mental health care and
6 treatment from a mental health care facility or clinic;
7 "Psychiatric emergencies" means conditions which may present a serious
8 threat to a person's wellbeing or that of others requiring immediate psychiatric
9 interventions such as in cases of attempted suicide, acute intoxication, severe
10 depression, acute psychosis, or violent behavior; and
11 "Psychosocial problem" means a condition that indicates the existence of
12 disturbances in the individual's behavior; thoughts and feelings brought
13 about by sudden, extreme or prolonged stressors in the physical or social
14 environment.

Short title

15 **74.** This Bill may be cited as the National Mental Health Bill, 2019.

16 SCHEDULE

17 [Section 4 (5)]

18 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD.

19 *Proceedings of the Board*

20 1. Subject to this Act and section 27 of the Interpretation Act (which
21 provides for decisions of a statutory body to be taken by a majority of its
22 members and for the Chairman to have a second or casting vote), the Board
23 may make standing orders regulating the proceedings of the Board and any
24 Committee thereof.

25 2. The Board shall meet not less than four times in each year and,
26 subject thereto, the Board shall meet whenever it is summoned by the
27 Chairman, and if the Chairman is required to do so by notice given to him by
28 not less than seven other members, he shall summon a meeting of the Board to
29 be held within fourteen days from the date on which the notice was given.

30 3. Every meeting of the Board shall be presided over by the

1 Chairman or if the Chairman is unable to attend a particular meeting, the
2 members present at the meeting shall elect one of their members to preside at
3 the meeting.

4 4. The quorum at a meeting of the Board shall consist of the
5 Chairman (or, in an appropriate case, the person presiding at the meeting
6 pursuant to paragraph 3 of this Schedule) and six other members.

7 5. The quorum of the Board shall consist of one-third and the
8 quorum of any committee of the Board shall be as determined by the Board.

9 6. Where upon any special occasion, the Board desires to obtain
10 the advice of any person on a particular matter, the Board may co-opt him as
11 a member for such period as it thinks fit; provided that a person who is a
12 member by virtue of this sub-paragraph shall not be entitled to vote at any
13 meeting of the Board and shall not count towards the quorum.

14 *Committee*

15 7.-(1) Subject to its standing orders, the Board may appoint such
16 number of standing ad-hoc committees, as it thinks fit to consider and report
17 on any matter which the Board is concerned.

18 (2) Every committee appointed under the provisions of sub-
19 paragraph (1) of this paragraph, shall be presided over by a member of the
20 Board and shall be made up of such number of persons, not necessarily
21 members of the Board, as the Board may determine in each case.

22 (3) The decision of a Committee shall be of no effect, until it is
23 confirmed by the Board.

24 *Miscellaneous*

25 8. The fixing of the seal of the Commission shall be authenticated
26 by the signature of the Chairman, the Executive Secretary and of the any
27 other member authorised generally or specially by the Board to act for that
28 purpose.

29 9. Any contract or instrument which, if made by a person not being
30 a body corporate, would not be required to be under seal, may be made or

1 executed on behalf of the Council by the Executive Secretary or any person
2 authorized generally or specially by the Board to act for that purpose

3 10. A document purporting to be a contract, an instrument or other
4 document signed or sealed on behalf of the Commission shall be received in
5 evidence and, unless the contrary is proved be presumed without further proof,
6 to have been properly signed or sealed.

7 11. Members of the Board who are not public officers shall be paid
8 out of monies at the disposal of the Commission such remuneration, fee or
9 allowances in accordance with such scales as may be approved, from time to
10 time, by the Minister.

11 12. The validity of any proceedings of the Board or of a committee
12 shall not be affected by-

13 (a) a vacancy in the membership of the Board; or any defect in the
14 appointment of a member of the Board or Committee; or

15 (b) reason that a person not entitled to do so, took part in the
16 proceedings.

17 13. Any member of the Board or of a committee thereof, who has a
18 personal interest in any contract or arrangement entered into or proposed to be
19 considered by the Board or the committee shall forthwith disclose his interest
20 to the Board or committee, shall forthwith disclose his interest to the Board or
21 committee and shall not vote on any question relating to the contract or
22 arrangement.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the enhancement and regulation of Mental Health and Substance Abuse Services, protect persons with Mental Health needs and establishment of National Commission for Mental and Substance Abuse Services, for the effective management of Mental Health in Nigeria.

A BILL

FOR

AN ACT TO PROVIDE FOR THE PROTECTION OF INVESTORS AND PROMOTION OF INVESTMENT; TO ACHIEVE A BALANCE OF RIGHTS AND OBLIGATIONS THAT APPLY TO ALL INVESTORS; AND TO PROVIDE FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Stella Oduah

[] Commencement

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

- 1 1. In this Act, unless the context indicates otherwise- Interpretation
- 2 "Constitution" means the Constitution of the Federal Republic of Nigeria,
- 3 1999;
- 4 "dispute" means a claim by an investor, instituted in accordance with section
- 5 11, that the government has allegedly breached the protection provided for
- 6 in this Act, provided that a dispute will only arise once the parties agree, or as
- 7 prescribed by the law;
- 8 "enterprise" means any natural person or juristic person, whether
- 9 incorporated or unincorporated;
- 10 "government" means the government of the Federal Republic of Nigeria;
- 11 "investment" has the meaning assigned under section 2;
- 12 "investor" means an enterprise making an investment in Nigeria regardless
- 13 of nationality;
- 14 "measure" means an administrative action by a person or body duly
- 15 authorised thereto, acting within the scope of authority granted by the
- 16 Constitution or a law of general application;
- 17 "Minister" means the Minister responsible for trade, Investment;
- 18 "Ministry" means the Ministry of Trade and Investment;
- 19 "prescribe" means prescribe by regulation;

	1	"regulation" means a regulation made under this Act;
Investment	2	2. For the purpose of this Act, an investment is-
	3	(a) any lawful enterprise established, acquired or expanded by an
	4	investor in accordance with the provisions of any enactment or law,
	5	committing resources of economic value over a reasonable period of time, in
	6	anticipation of profit;
	7	(b) the holding or acquisition of shares, debentures or other
	8	ownership instruments of such an enterprise; or
	9	(c) the holding, acquisition, or merger with another enterprise outside
	10	Nigeria , only in so far as such holding, acquisition or merger with another
	11	enterprise outside Nigeria has an effect on an investment in Nigeria.
Purpose of Act	12	3. The purpose of this Act is to-
	13	(a) promote and protect investment in accordance with and subject to
	14	the Constitution, in a manner which balances the public interest and the rights
	15	and obligations of investors;
	16	(b) confirm the protection of an investment in respect of national
	17	treatment and the security of an investment;
	18	(c) affirms Nigeria's sovereign right to regulate investments; and
Application of Act	19	4. This Act applies to investments in Nigeria which are subject to
	20	national legislation and made in accordance with the requirements set out in
	21	section 2.
Right of establishment	22	5.-(1) This Act does not create a right for a foreign investor or
	23	prospective foreign investor to establish an investment in the Nigeria.
	24	(2) All investments must be established in compliance with the law.
National treatment	25	6.-(1) Subject to national legislation, foreign investors and their
	26	investments must not be treated less favourably than Nigerian investors in like
	27	circumstances.
	28	(2) For the purposes of this section, "like circumstances" means the
	29	requirement for an overall examination of the merits of the case by taking into
	30	account all the terms of a foreign investment, including the-

- 1 (a) effect of the foreign investment on Nigeria, and the cumulative
2 effects of all investments;
- 3 (b) sector that the foreign investments are in;
- 4 (c) aim of any measure relating to foreign investments;
- 5 (d) factors relating to the foreign investor or the foreign investment
6 in relation to the measure concerned;
- 7 (e) effect on third persons and the local community;
- 8 (f) effect on employment; and
- 9 (g) direct and indirect effect on the environment.
- 10 (3) The examination referred to in subsection (2) shall not be
11 limited to or be biased towards any one factor.
- 12 (4) Subsection (1) shall not be interpreted in a manner that will
13 require Nigeria to extend to foreign investors and their investments the
14 benefit of any treatment, preference or privilege resulting from-
- 15 (a) taxation provisions in any international agreement or
16 arrangement or any law In Nigeria;
- 17 (b) government procurement processes;
- 18 (c) subsidies or grants provided by the government or any organ of
19 state;
- 20 (d) any law or other measure, the purpose of which is to promote
21 the achievement of equality in Nigeria or designed to protect or advance
22 persons, or categories of persons, historically disadvantaged by unfair
23 discrimination on the basis of race, gender or disability in Nigeria;
- 24 (e) any law or other measure, the purpose of which is to promote
25 and preserve cultural heritage and practices, indigenous knowledge and
26 biological resources related thereto, or national heritage;
- 27 (f) any special advantages accorded in Nigeria by development
28 finance institutions established for the purpose of development assistance or
29 the development of small and medium businesses or new industries; or
- 30 (g) domestic laws designed to regulate foreign ownership in

	1	respect of a specified sector.
Security of investment	2	7. Nigeria must accord foreign investors and their investments a level
	3	of security as may be generally provided to domestic investors, subject to
	4	available resources and capacity.
Protection of property	5	8. Investors have the right to property in terms of Section 25 of the
	6	Constitution.
Transfer of funds	7	9. A foreign investor may, in respect of an investment, transfer funds
	8	subject to taxation and other applicable legislation.
Right to regulate	9	10.-(1) notwithstanding anything to the contrary in this Act, the
	10	government or any organ of state may, in accordance with the Constitution and
	11	applicable legislation, take measures, which may include-
	12	(a) upholding the rights guaranteed in the Constitution;
	13	(b) promoting and preserving cultural heritage and practices,
	14	indigenous knowledge and biological resources related thereto, or national
	15	heritage;
	16	(c) fostering economic development, industrialisation and
	17	beneficiation;
	18	(d) achieving the progressive realisation of socio-economic rights; or
	19	(e) protecting the environment and the conservation and sustainable
	20	use of natural resources.
	21	(2) The government or any organ of state may take measures that are
	22	necessary for the fulfilment of the Nigeria's obligations in regard to the
	23	maintenance, compliance or restoration of international peace and security, or
	24	the protection of the security interests, including the financial stability of
	25	Nigeria.
Dispute resolution	26	11.-(1) An investor that has a dispute in respect of action taken by the
	27	government, which action affected an investment of such foreign investor, may
	28	within six months of becoming aware of the dispute request the Ministry or
	29	any other competent authority to facilitate the resolution of such dispute by
	30	appointing a mediator or other competent body.

1 (2) The Minister may prescribe criteria for the appointment of a
2 mediator.

3 (3) In order to facilitate a resolution of a dispute contemplated in
4 subsection (1), the Minister must prescribe the information and forms to be
5 submitted by an investor.

6 (4) Subject to applicable legislation, an investor, upon becoming
7 aware of a dispute as referred to in subsection (1), is not precluded from
8 approaching any competent court, independent tribunal or statutory body
9 within the Nigeria or the resolution of a dispute relating to an investment.

10 (5) The government may consent to international arbitration in
11 respect of investments covered by this Act, subject to the exhaustion of
12 domestic remedies. Such arbitration will be conducted between Nigeria and
13 the home state of the applicable investor.

14 **12.-(1)** The Minister may, by notice in the Gazette, make Regulations
15 regulations regarding-

16 (a) the criteria for the appointment of a mediator or competent
17 authority for the resolution of a dispute;

18 (b) the processes and procedures relating to the resolution of
19 disputes contemplated in subsection 11(1);

20 (c) any matter which may or must be prescribed in terms of this
21 Act; or

22 (d) any other matter the regulation of which may be necessary or
23 expedient in order to achieve the purposes of this Act.

24 (2) The Minister must, by notice in the Gazette, make regulations
25 regarding the information and forms to be submitted by an investor,
26 contemplated in section 11(3).

27 **13.-(1)** Existing investments that were made under Bilateral Transitional
28 Investment Treaties will continue to be protected for the period and terms arrangements
29 stipulated in the treaties.

30 (2) Any investments made after the termination of such treaties, but

- 1 before promulgation of this Act, will be governed by the general Nigerian law.
- Citation 2 **14.** This Bill may be cited as the Investment Assurances Bill, 2019.

EXPLANATORY MEMORANDUM

The Bill seeks to achieve a balance between the rights and obligations of all investors in Nigeria, to provide adequate and equal protection to foreign investors and domestic investors, and to promote investment

GOVERNMENT PERFORMANCE AND RESULTS BILL, 2019

ARRANGEMENT OF SECTIONS

Section:

1. Short Title
2. Objectives of the Act
3. Strategic Planning
4. Annual Performance Plans and Reports
5. Programme Performance Reports
6. Exemptions
7. Administrative Procedural Flexibility
8. Public Servants Performance Contracts
9. Legislative Oversight and Legislation
10. Training
11. Application of Act

A BILL

FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE GOVERNMENT ACCOUNTABILITY DEPARTMENT AND TO INSTITUTIONALIZE STRATEGIC PLANNING AND PERFORMANCE MEASUREMENT IN GOVERNANCE AND THE IMPLEMENTATION OF THE POLICIES OF THE FEDERAL GOVERNMENT OF NIGERIA, AND FOR CONNECTED PURPOSES

Sponsored by Senator Stella Oduah

[] Commencement

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

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|----|---|---------------|
| 1 | 1. This Bill may be cited as the Government Performance and | Short title |
| 2 | Results Bill, 2019. | |
| 3 | 2. The objectives of this Act are to- | Objectives of |
| 4 | (1) improve the confidence of Nigerians in the capability of the | the Act |
| 5 | Federal Government to discharge its duties of maintenance of public law | |
| 6 | and order, provision of social amenities and services, by systematically | |
| 7 | holding Federal Government Ministries, Departments, Institutions, | |
| 8 | Agencies and public servants accountable for achieving programme results; | |
| 9 | (2) initiate programme performance regime in setting programme | |
| 10 | goals, measuring programme performance against those goals, and | |
| 11 | reporting publicly on their progress and final results; | |
| 12 | (3) improve the effectiveness of the Federal budget and public | |
| 13 | accountability by promoting a new focus on results, service quality, impact | |
| 14 | assessment and citizen satisfaction; | |
| 15 | (4) assist the Federal public service system to improve service | |
| 16 | delivery to Nigerians, by requiring that they make effective planning for | |
| 17 | meeting programme or project objectives set in each year's budget, and by | |

Strategic
Planning

- 1 providing them with information about programme results and service quality;
- 2 (5) assist the National Assembly to improve its oversight and other
- 3 legislative functions by providing more objective information and data on the
- 4 utilization of Federal budgets in achieving statutory objectives, and on the
- 5 relative effectiveness and efficiency of Federal programmes and spending; and
- 6 (6) improve internal management of the Federal Government Public
- 7 Administration System.
- 8 **3. Government Accountability Department (GAD)-**
- 9 (1) Immediately after the coming into force of this Act, the National
- 10 Planning Commission shall set up a department to be known as the
- 11 Government Accountability Department (GAD), in this Act referred to as "the
- 12 department".
- 13 (2) No later than the 30th of September every year, the head of each
- 14 Federal Government Ministry, Agency, Department and Institution shall
- 15 submit to the department, and to the supervising committees of both chambers
- 16 of the National Assembly, a strategic plan for programme activities of their
- 17 various ministries and agencies for the succeeding four years and such plan
- 18 shall contain-
- 19 (a) a comprehensive mission statement covering the major functions
- 20 and operations of the agency as set out by its enabling statute or regulation;
- 21 (b) general goals and objectives of the agency, including outcome-
- 22 related goals and objectives, for the major functions and operations of the
- 23 agency for the succeeding four years;
- 24 (c) a detailed description of how the goals and objectives set out are to
- 25 be achieved, including a description of the operational processes, skills and
- 26 technology, and the human, capital, information, and other resources required
- 27 to meet those goals and objectives;
- 28 (d) a description of how the performance goals included in the plan
- 29 required by section 4 shall be related to the general goals and objectives in the
- 30 strategic plan;

1 (e) an identification of those key factors external to the ministry or
2 agency and beyond its control that could significantly affect the
3 achievement of the general goals and objectives; and

4 (f) a description of the programme evaluations used in establishing
5 or revising general goals and objectives, with a schedule for future
6 programme evaluations.

7 (4) The strategic plan shall cover the projected achievement for
8 each year of the succeeding four years in which it is submitted, and may be
9 updated and revised upon notice to the National Assembly as the need arises.

10 (5) When developing a strategic plan, the ministry or agency shall
11 consult with the National Assembly, and shall solicit and consider the views
12 and suggestions of those entities potentially affected by or interested in such
13 a plan.

14 (6) The functions and activities of this section shall be considered
15 to be inherently governmental functions. The drafting of strategic plans
16 under this section shall be performed only by Federal employees.

17 (7) For purposes of this Act, the terms-
18 'agency' means a government ministry, extra-ministerial department,
19 offices, parastatal, corporations, educational and research institutions and
20 all other public entities set up by the constitution or by an Act of the National
21 Assembly.

22 "commission" means the National Planning Commission;

23 "department" means the Government Accountability Department set up in
24 this Act;

25 "Secretary" means the Secretary of the National Planning Commission.

26 *Annual Performance Plans and Reports*

27 4.-(1) In carrying out the provisions of this Act, the department
28 shall require each Ministry, Agency, Department or Institution to prepare an
29 annual performance plan covering each programme activity set forth in the
30 budget of such ministry or agency. Such plan shall-

Performance
Plans and Reports

1 (a) establish performance goals to define the level of performance to
2 be achieved by a programme activity of such ministry or agency;

3 (b) express such goals in an objective, quantifiable, and measurable
4 form unless authorized to be in any other alternative form under the provisions
5 of this Act;

6 (c) briefly describe the operational processes, skills, technology, and
7 the human, capital, information, or other resources required to meet the
8 performance goals;

9 (d) establish clear performance indicators to be used in measuring or
10 assessing the relevant outputs, service levels, and outcomes of each
11 programme activity on a quarterly basis;

12 (e) provide a basis for comparing actual programme results with the
13 established performance goals; and

14 (f) describe the means to be used to verify and validate measured
15 values.

16 (2) If a ministry or an agency, in consultation with the Secretary,
17 determines that it is not feasible to express the performance goals for a
18 particular programme activity in an objective, quantifiable, and measurable
19 form, the Secretary may authorize an alternative form. Such alternative form
20 shall-

21 (a) include separate descriptive statements of-

22 (i) a minimally effective programme, and

23 (ii) a successful programme, or

24 (b) such alternative as authorized by the Secretary, with sufficient
25 precision and in such terms that would allow for an accurate, independent
26 determination of whether the programme activity's performance meets the
27 criteria of the description;

28 (c) state why it is infeasible or impractical to express a performance
29 goal in any form for the programme activity; or

30 (d) For the purpose of complying with this section, a ministry or an

1 agency may aggregate, disaggregate, or consolidate programme activities,
2 except that any aggregation or consolidation may not omit or minimize the
3 significance of any programme activity constituting a major function or
4 operation for the ministry or agency.

5 (2) A ministry or an agency may submit with its annual
6 performance plan an appendix covering any portion of the plan that-

7 (a) is specifically authorized under criteria established by an
8 Executive Order of the President to be kept secret in the interest of national
9 security or foreign policy; and

10 (b) is properly classified pursuant to such Executive Order.

11 (3) The functions and activities of this section shall be considered
12 to be inherently governmental functions. The drafting of performance plans
13 under this section shall be performed only by Federal employees.

14 (i) For purposes of this Act, the term-

15 (a) 'outcome measure' means an assessment of the results of a
16 programme activity compared to its intended purpose;

17 (b) 'output measure' means the tabulation, calculation, or recording
18 of activity or effort and can be expressed in a quantitative or qualitative
19 manner;

20 (c) 'performance goal' means a target level of performance
21 expressed as a tangible, measurable objective, against which actual
22 achievement can be compared, including a goal expressed as a quantitative
23 standard, value, or rate;

24 (d) 'performance indicator' means a particular value or
25 characteristic used to measure output or outcome;

26 (e) 'programme activity' means a specific activity or project as
27 listed in the programme and financing schedules of the annual budget of the
28 Federal Republic of Nigeria; and

29 (f) 'programme evaluation' means an assessment, through
30 objective measurement and systematic analysis, of the manner and extent to

Programme
Performance
Reports

1 which Federal programmes achieve intended objectives.

2 **5.**-(1) No later than March 31 of every year, the head of every ministry
3 or agency shall prepare and submit to the department, the President and to the
4 National Assembly, a report on programme performance of their respective
5 ministries or agencies for the preceding fiscal year.

6 (2) Each programme performance report referred to in subsection (1)
7 above shall set forth the performance indicators established in the ministry or
8 agency's performance plan under this Act, along with the actual programme
9 performance achieved compared with the performance goals expressed in the
10 plan for that fiscal year.

11 (3) If performance goals are specified in an alternative form as
12 provided under section 4, the results of such program shall be described in
13 relation to such specifications, including whether the performance failed to
14 meet the criteria of a minimally effective or successful programme.

15 (5) Each performance programme report shall-

16 (a) review the success of achieving the performance goals of the fiscal
17 year;

18 (b) evaluate the performance plan for the current fiscal year relative to
19 the performance achieved toward the performance goals in the fiscal year
20 covered by the report;

21 (c) explain and describe, where a performance goal has not been met
22 (including when a programme activity's performance is determined not to have
23 met the criteria of a successful programme activity under this Act or a
24 corresponding level of achievement if another alternative form is used:

25 (i) why the goal and target were not met;

26 (ii) those plans and schedules for achieving the established
27 performance goal; and

28 (iii) if the performance goal is impracticable or unfeasible, why that is
29 the case and what action is recommended;

30 (d) include the summary findings of those programme evaluations

1 completed during the fiscal year covered by the report.

2 (6) An agency head may include all programme performance
3 information required annually under this section in an annual financial
4 statement of all its income and expenditure and such statement shall be
5 submitted to the department and the National Assembly no later than March
6 31 of the applicable fiscal year.

7 (7) The functions and activities of this section shall be considered
8 to be inherently governmental functions. The drafting of programme
9 performance reports under this section shall be performed only by Federal
10 employees.

11 (8) In the scrutiny of a Ministry or agency's expenditure for every
12 fiscal year, the National Assembly shall have due regard to the strategic plan,
13 performance plan and reports of such ministry or agency.

14 6. The Secretary of the Commission may exempt from the Exemptions
15 requirements of this Act, any agency with annual expenditure of
16 N10,000,000.00 (ten million Naira) or less.

17 7.-(1) From the commencement of this Act, the performance plans Administrative
18 required under this Act may include proposals to waive administrative and Procedural
19 procedural requirements and controls, including specification of personnel Flexibility
20 staffing levels, limitations on compensation or remuneration, and
21 prohibitions or restrictions on funding transfers among budget object
22 classification.

23 (2) Any such proposal under subsection (1) shall describe the
24 anticipated effects on performance resulting from greater managerial or
25 organizational flexibility, discretion, and authority, and shall quantify the
26 expected improvements in performance resulting from any waiver. The
27 expected improvements shall be compared to current actual performance,
28 and to the projected level of performance that would be achieved
29 independent of any waiver.

30 (3) Any proposal waiving limitations on compensation or

1 remuneration shall precisely express the monetary change in compensation or
2 remuneration amounts, such as allowances or awards that shall result from
3 meeting, exceeding, or failing to meet performance goals.

4 (4) Any proposed waiver of procedural requirements or controls
5 imposed by a ministry or an agency (other than the proposing agency or the
6 Government Accountability Department) may not be included in a
7 performance plan unless it is endorsed by the ministry or agency that
8 established the requirement, and the endorsement included in the proposing
9 ministry or agency's performance plan.

10 (5) A waiver shall be in effect for only the fiscal year in which such
11 waiver was approved and may be renewed for a subsequent year.

12 PERFORMANCE CONTRACTS

Performance
contracts for
Public Servants

13 **8.-(1)** Upon the appointment of any person into any public office as
14 pursuant to the provisions of the constitution or an Act of the National
15 Assembly, such person shall, not later than three months after assumption of
16 office, sign a performance contract as provided in subsection (2) of this section.

17 (2) The performance contract referred to in this section shall be
18 prepared by the Government Accountability Department and shall state key
19 performance indicators and expectations from such public servant as provided
20 in the strategic plan and performance plan of the relevant ministry or agency as
21 provided in sections 3 and 4 of this Act.

22 (3) The parties to the said performance contract referred to in
23 subsection (1) and (2) above shall be the concerned public servant and the
24 people of Nigeria.

25 (4) Copies of the duly signed performance contract under subsection
26 (1) shall be submitted to the President, the National Assembly and the
27 department, and shall also constitute a public document for the purposes of the
28 operation of the Freedom of Information Act.

29 (5) the National Assembly may, pursuant to its oversight powers and
30 functions, evaluate the output of any public servant with the aid of the key

1 indicators as contained in the performance contracts entered into by the
2 concerned public servant with the people of Nigeria;

3 (6) Where in its opinion and judging from the report of the
4 evaluation of a performance contract as provided in (5) above, the National
5 Assembly comes to the conclusion that a public servant has consistently
6 fallen below expectation in meeting his obligations according to the
7 performance contract with the people of Nigeria, the National Assembly
8 may recommend to the Executive the removal of such person from office.

9 (7) Where the National Assembly pursuant to its evaluation in
10 subsection (6) above, is of the opinion that the failure of the public servant to
11 satisfactorily accomplish his objectives in accordance with the performance
12 contract was as a result of corruption or gross negligence, the National
13 Assembly shall refer the concerned public servant to the appropriate law
14 enforcement agencies for necessary action.

15 **9.-(1)** Nothing in this Act shall be construed as limiting the ability
16 and powers of the National Assembly to establish, amend, suspend, or annul
17 a performance goal of any government agency. Any such action shall have
18 the effect of superseding that goal in the plan submitted under the relevant
19 provisions of this Act.

Legislative
Oversight and
Legislation

20 (2) No later than three months after the enactment of this Act, the
21 Secretary to the Government of the Federation shall report to both Houses of
22 the National Assembly on the implementation of this Act, including the
23 prospects for compliance by Federal ministries and agencies.

24 **10.** The Office of the Head of Service shall, in consultation with
25 the Commission shall develop a strategic planning and performance
26 measurement training component for its management training programme
27 and otherwise provide Federal employees with the relevant orientation and
28 training on the development and use of strategic planning and programme
29 performance measurement.

Training

Application of
Act

- 1 **11.** No provision or amendment made by this Act may be construed
2 as-
3 (1) creating any right, privilege, benefit, or entitlement for any person
4 who is not an officer or employee of the civil service of the Federal Republic of
5 Nigeria or acting in such capacity, and no person who is not an officer or
6 employee of the Federal Government acting in such capacity shall have
7 standing to file any civil action in a court law to enforce any provision or
8 amendment made by this Act.
9 (2) This Act shall apply to the Federal Government of Nigeria and its
10 Ministries and Agencies.

EXPLANATORY MEMORANDUM

This Bill seeks to make provision for Government accountability and institutionalize strategic planning and performance measurement in Governance and the implementation of policies and programmes of Government