

PUBLIC INTEREST DISCLOSURE AND COMPLAINT BILL, 2020

PUBLIC INTEREST DISCLOSURE AND PROTECTION BILL, 2020
ARRANGEMENT OF SECTIONS

Section:

PART I - OBJECTIVE AND SCOPE

1. Objective
2. Application

PART II - PUBLIC INTEREST DISCLOSURE AND COMPLAINTS COMMISSION

3. Establishment of the Public Interest Disclosure and Complaints Commission
4. Establishment and membership of the Management Board of the Commission
5. Functions and powers of the Board

PART III - FUNCTIONS AND POWERS OF THE COMMISSION

6. Functions of the Commission
7. Powers of the Commission
8. Setting of standards
9. Issuance of guidelines

PART IV – MANAGEMENT AND STAFF OF THE COMMISSION

10. Executive Director of the Commission
11. Other staff of the Commission
12. Screening of employees of the Commission

13. Service in the Commission to be pensionable
14. Delegation of powers by the Executive Director
15. Establishment of Departments and Special Units

PART V – FINANCIAL PROVISIONS

16. Fund of the Commission
17. Expenditures of the Commission
18. Budget and expenditure
19. Accounts and audit
20. Annual report

PART VI – GENERAL PRINCIPLES FOR MAKING PUBLIC INTEREST DISCLOSURE AND COMPLAINTS

21. Meaning of public interest disclosure
22. Making of public interest disclosure
23. Mode of making public interest disclosure
24. Public interest disclosure in respect of an unidentified person
25. Public interest disclosure made under legal requirement
26. Public interest disclosure in court proceedings
27. Public interest disclosure to prescribed person
28. Public interest disclosure to a journalist
29. General principles for complaint

PART VII – PROCEDURAL REQUIREMENTS FOR PUBLIC INTEREST DISCLOSURES, PROTECTION AND COMPLAINTS

30. Duty to receive and record public interest disclosures
31. Obligation to investigate public interest disclosures

32. Action by appropriate or competent authority
33. Notification to a person who made public interest disclosure
34. Limitation on notification to a person that made the public interest disclosure
35. Limitation on obligations of certain persons
36. Obligations of accounting officers or chief executives of public authorities
37. Recommendations after investigation

PART VIII - REFERRAL OF PUBLIC INTEREST DISCLOSURE

38. Referral of public interest disclosure by appropriate authority
39. Referral of public interest disclosure by Presiding Officer of Legislative House
40. Referral does not limit immunities of a Legislative House

PART IX – PUBLIC INTEREST DISCLOSURE PROTECTION PROGRAMME

41. Rules of confidentiality and disclosure of information
42. Prohibition of publication of information concerning a protected person
43. Agreements with international bodies, institutions, organizations or foreign countries

PART X – IMMUNITY AND PROTECTION

44. Immunity for public interest disclosure
45. Immunity from legal process
46. Offence of reprisal
47. Remedies for acts of victimisation
48. Compensation for victimisation
49. Duty as to secrecy and confidentiality
50. Preservation of confidentiality
51. Loss of protection

PART XI – PROTECTION OF EMPLOYEES MAKING PUBLIC INTEREST DISCLOSURES

52. Right of employee to appeal or apply for review

53. Relocation of employee

PART XII – PUBLIC INTEREST DISCLOSURES PERTAINING TO PUBLIC FUNDS, ASSETS AND RESOURCES IN THE CUSTODY OF PUBLIC AUTHORITIES

54. Public interest disclosures relating to public funds, etc
55. Matters to which public interest disclosure under this Part may be made
56. Protection of persons making disclosures on wrongful doings in connection with public funds and assets
57. Protection of identity of persons making a public interest disclosure
58. Referral to a competent authority for further investigation and prosecution
59. Involvement of other investigating authorities

60. Protection and compensation payable for public interest disclosure
61. External referrals

PART XIII – REWARD AND COMPENSATION FOR RECOVERY OF STOLEN OR ILLEGALLY CONCEALED PUBLIC FUNDS OR ASSETS AND FOR OTHER PUBLIC INTEREST DISCLOSURES

62. Compensation payable for public interest disclosures generally
63. Compensation payable for recovery of stolen or illegally concealed public funds, etc
64. Offences and penalties for making untrue disclosure in relation to public funds, assets, etc
65. Making untrue statement for the purpose of receiving a reward under the Protection Fund

PART XIV – OFFENCES AND PENALTIES

66. False or misleading disclosure
67. Offences relating to disclosures concerning participants
68. Prohibition of false representation
69. Offences in connection with employees of the Commission
70. Obstruction of employees of the Commission
71. Prohibition of access to premises of the Commission

72. Offences and penalties relating to complaint

PART XV – MISCELLANEOUS

- 73. Legal proceedings
- 74. Restriction on execution against property of the Commission
- 75. Indemnity of officers of the Commission
- 76. Other laws not excluded
- 77. Review of the operations of this Act
- 78. Power to make regulations, etc
- 79. Role of the Federal Ministry of Justice
- 80. Repeal and Savings
- 81. Interpretation
- 82. Short title

SCHEDULE

PART I
OBJECTIVE AND SCOPE

1. Objective

The main objectives of this Act are to-

- (a) provide a legal and institutional framework for the regulation and management of public interest disclosure and protection of discloser;
- (b) encourage and facilitate disclosure of wrongful or unlawful activities which directly or indirectly impact on the administration and management of public office or authority;
- (c) make adequate provisions for the protection of a person making public disclosure, including persons in employment in the public service, public service contractors, whistle blowers and informants from reprisals or other adverse consequences;
- (d) ensure that information disclosing wrongful or unlawful activities received from the persons referred to in paragraph (c) of this subsection (in this Act referred to as “public interest disclosure”) is properly assessed, investigated and dealt with;
- (e) establish an appropriate framework for rewarding or protecting, as the case may be, persons making public interest disclosures;
- (f) ensure that adequate consideration is given to the rights of-
 - (i) persons who make public interest disclosures; and
 - (ii) Public Interest Disclosure Protection Programme established under this Act; and
- (g) harmonise all existing policies and legal framework on complaint, public interest disclosure and protection of discloser.

2. Application

- (1) The provisions of this Act concerning public interest disclosure shall apply to disclosure—
 - (a) of wrongdoing or unlawful activities made after the date on which this Act comes into operation, whether or not the wrongful or unlawful activities occurred before or after that date.
 - (b) relating to offences under any legislation pertaining to -
 - (i) terrorism,
 - (ii) money laundering prevention and prohibition,
 - (iii) economic and financial crimes,
 - (iv) corrupt practices and other related offences,
 - (v) drugs and narcotics and their trafficking,
 - (vi) trafficking in persons,
 - (vii) oil bunkering,
 - (viii) Criminal and Penal Code offences,
 - (ix) customs and excise management,
 - (x) any legislation dealing with proceeds of crimes, confiscation and forfeiture of assets, and
 - (xi) such other offences as may be contained in enactments by the National Assembly and designated by Attorney – General by an order published in the Federal *Gazette*.
- (2) The provisions of this Act on public interest disclosures apply to wrongdoing and unlawful activities by public authorities and offices in the performance of their duties and responsibilities pertaining to compliance with laws, regulations and standards in areas, including –
 - (a) environment and public health;
 - (b) social, economic and educational development;
 - (c) provision of infrastructure and public utilities;
 - (d) planning and development control;
 - (e) public order and safety;

- (f) utilization and management of public funds, assets and natural resources; or
 - (g) national security.
- (3) The provisions of this Act apply to-
- (a) all justice sector institutions and authorities, including the courts, law enforcement and security agencies, and other relevant regulatory institutions towards the protection of disclosers in the course of the investigation, detection and prosecution of offences;
 - (b) the Executive, Legislative and Judicial arms of the Government of the Federation, subject to the limitations contained in this Act or any other enactment, rules or regulations;
 - (c) public sector contractors; and
 - (d) private sector where public interest is involved.
- (4) The provision of this Act apply to complaint and investigation following complaints lodged before the Commission by any person on any administrative action of a public authority or offices.

PART II
PUBLIC INTEREST DISCLOSURE AND COMPLAINTS
COMMISSION

3. Establishment of the Public Interest Disclosure and Complaints Commission

- (1) There is established the Public Interest Disclosure and Complaints Commission (in this Act referred to as “the Commission”).
- (2) The Commission -

- (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) may sue and be sued in its corporate name; and
 - (c) may for the purposes of its functions, acquire, hold or dispose of property (whether movable or immovable).
- (3) The Commission shall be responsible for the implementation of the Public Interest Disclosure Protection Programme established under this Act;
- (4) The Commission shall be independent in the performance of its functions and in the exercise of its powers under this Act.
- (5) The Headquarters of the Commission shall be in Abuja, Nigeria with a branch office in each State of the Federation and in the Federal Capital Territory, Abuja.
- (6) The common seal of the Commission shall be kept in the custody of the Director of Administration and shall be authenticated by the signature of the Executive Director.

4. Establishment and membership of the Management Board of the Commission

- (1) There is established a Management Board for the Commission (in this Act referred to as “the Board”).
- (2) The Board shall consist of the following members -
- (a) the Chairman;
 - (b) the Clerk of the National Assembly or his representative not below the rank of a Director in the Ministry;
 - (c) Attorney-General of the Federation or his representative not below the rank of a Director in the Ministry;
 - (d) the Minister of Finance; or his representative not below the rank of a Director in the Ministry;

- (e) the Director-General of the Department of States Security; or his representative not below the rank of a Director;
 - (f) the Inspector-General of Police or his representative not below the rank of Commissioner of Police;
 - (g) the Executive Secretary of the National Human Rights Commission; or his representative not below the rank of a Director in the Ministry;
 - (h) the Executive Chairman of the Economic and Financial Crimes Commission; or his representative not below the rank of a Director in the Ministry;
 - (i) the Chairman of the National Drug Law Enforcement Agency; or his representative not below the rank of a Director in the Ministry;
 - (j) the Chairman of the Independent and Corrupt Practices Commission or his representative not below the rank of a Director in the Ministry;
 - (k) the Director - General of the National Agency for Prohibition of Trafficking in Persons or his representative not below the rank of a Director;
 - (l) a representative of the Civil Society Organisation working on human rights and access to justice;
 - (m) the Executive Director of the Commission who shall also be the Secretary of the Board.
- (3) The Board may invite a person to advise the Board at any of its meeting, but a person so invited shall not count towards a quorum or vote at the meeting.
- (4) The Board shall meet at least quarterly and at such times as the Chairman may determine.
- (5) Subject to the provisions of this section, the Board may regulate its proceedings and make standing orders with respect to the holding of its meetings, notices to be given, the keeping of minutes of its proceedings and such other matters as the Board may, from time to time, determine.

5. Functions and powers of the Board

- (1) The Board shall –
 - (a) advise, formulate and provide general policy guidelines to the Commission generally on the exercise of its functions and powers under this Act
 - (b) have general oversight on the administration of the Commission;
 - (c) provide technical support to the Commission in the formulation of public interest disclosure and complaint policies in accordance with the provisions of this Act and international best practices;
 - (d) monitor and ensure the implementation of the policies and programmes of the Commission; and
 - (e) perform any other functions as may be conferred on it by this Act.
- (2) The Board shall have power to do such things as are necessary and expedient for the effective and efficient performance of its functions under this Act.

PART III FUNCTIONS AND POWERS OF THE COMMISSION

6. Functions of the Commission

The Commission shall –

- (1) be responsible for the management of public interest disclosure and complaint in the manner specified under this Act.
- (2) monitor the management of public interest disclosures and complaint, including -
 - (a) monitoring compliance with this Act;
 - (b) collecting statistics about public interest disclosures and complaint;
 - (c) monitoring trends in relation to public interest disclosures and complaint; and

- (d) review, from time to time, the way in which public interest disclosures and complaint are dealt with under this Act by persons and authority concerned with the handling of public interest disclosures;
- (3) shall perform an educational and advisory role, including –
 - (a) promoting the objectives of this Act;
 - (b) providing advice about public interest disclosures and complaint; and
 - (c) providing, or co-coordinating the provision of education and training programmes about public interest disclosures and complaint.
- (4) determine the type of protective measures to be applied for persons making public interest disclosures under the provisions of this Act;
 - (a) advise any public authority or any other person on the adoption of strategies and measures on public interest disclosures;
 - (b) collate, analyse, store and disseminate information relating to public interest disclosures;
 - (c) give such instructions to a protected person as the Commission may consider necessary;
 - (d) provide guidelines for the protection of the identity and anonymity of a discloser of public interest disclosure including the allocation of appropriate identifier to be used by all parties involved;
 - (e) recommend to the appropriate or competent authority any line of action considered appropriate following any investigation or enquiry into any public interest disclosure; and
 - (f) perform such other functions as may be necessary for effective implementation of the objectives of this Act.

7. Powers of the Commission

- (1) The Commission has powers to -

- (a) enter into arrangements with other persons, bodies or organisations within or outside Nigeria as it may consider desirable or appropriate in furtherance of the objectives and purpose of this Act;
- (b) enter into confidential agreements with relevant foreign authorities, international criminal courts or tribunals and other regional or international bodies relating to the relocation of protected persons and witness protection measures;
- (c) search a protected person and his property and seize items regarded by the Commission to be a threat to the protected person or another person or the integrity of the Public Interest Disclosure Protection Programme established under this Act;
- (d) summon and with an appropriate court order, enforce the attendance of any public officer or any other person to appear before it or to produce a document or thing or information which may be considered relevant to the functions of the Commission within a specified period of time and in such manner as it may specify;
- (e) request for any public record or document from any department, agency or office with the appropriate order of court;
- (f) demand from any appropriate or competent authority the report and the action taken with respect to any public interest disclosure referred for investigation by the appropriate or competent authority;
- (g) represent Nigeria at any international fora on issues relating to public interest disclosure and witness protection; and
- (h) carry out such other activities as are necessary or expedient for the full discharge of the functions conferred on it under this Act.

- (2) The Commission shall have power to investigate either on its own initiative or following complaints lodged before it by any other person, any administrative action taken by any -
- (a) Department or Ministry of the Federal or any State Government;
 - (b) Department of any local government authority (howsoever designated) set up in any State in the Federation;
 - (c) statutory corporation or public institution set up by any Government in Nigeria;
 - (d) company incorporated under or pursuant to the Companies and Allied Matters Act whether owned by any Government aforesaid or by private individuals in Nigeria or otherwise howsoever; or
 - (e) officer or servant of any of the aforementioned bodies.
- (3) The Commission shall –
- (a) by regulation made in accordance with the provision of this Act determine the manner by which complaints are to be lodged;
 - (b) have access to all information necessary for the efficient performance of its duties under this Act and for this purpose may visit and inspect any premises belonging to any person or body mentioned in sub-section (1) of this section;
 - (c) ensure that administrative action by any person or body mentioned in subsection (1) will not result in the commission of any act of injustice against any citizen of Nigeria or any other person resident in Nigeria.
 - (d) investigate administrative actions of person or body mentioned in subsection (1) of this section which are or appear to be –

- (i) contrary to any law or regulation;
 - (ii) arbitrary in the determination of fact;
 - (iii) unreasonable, unfair, oppressive or inconsistent with the general functions of public authorities or offices;
 - (iv) ill motivated or based on irrelevant considerations; or
 - (v) otherwise objectionable;
- (e) be competent to investigate administrative actions of heads of court.
- (f) have the power to obtain information from any person by notice pursuant to subsection (3) of this section and such request shall be complied with not later than thirty days from receipt of the notice.

(4)(a) In the discharge of the functions of the Commission under this Act, the Commission shall have power to summon in writing any person who in the opinion of the Commission is in the position to testify on any matter before him, to give evidence in the matter and any person who fails to appear when required to do so shall be guilty of an offence under this Act.

- (b) Any person guilty of an offence under this section shall on conviction be liable to a fine of ₦100,000 or imprisonment for a term of six months or to both such fine and imprisonment.

8. Setting of standards

- (1) The Commission shall establish and maintain the minimum standards of conduct and integrity to be complied with by a person making a public interest disclosure and complaint under this Act and the way in which appropriate or competent authorities are to deal with public interest disclosures.

- (2) Subject to subsection (1) of this section, the standards may provide for procedures relating to the -
 - (a) way in which appropriate or competent authorities are to facilitate the making of public interest disclosures;
 - (b) way in which appropriate or competent authorities are to perform their functions under this Act;
 - (c) protection of persons from acts of victimisation taken by appropriate or competent authorities and employers; and
 - (d) provision by appropriate or competent authorities to the Commission of statistical information about public interest disclosures.
- (3) The Commission may amend, review or revoke the standards established under this section taking --
 - (a) into account the independence that any particular appropriate or competent authority has under a written law or an appropriate authority within the Public Service Rules and Regulations; and
 - (b) reasonable steps to consult with the appropriate or competent authority to which a particular standard may apply and such other persons as it considers it desirable and practicable to consult.
- (4) A failure to consult under subsection (3) of this section does not affect the validity of the standards.
- (5) The Commission shall as soon as practicable after making the standards, publish the standards as a Notice in the Federal Gazette and on the official website.

9. Issuance of guidelines

- (1) The Commission shall issue guidelines on internal procedures relating to the responsibilities of appropriate or competent authorities in connection with public interest disclosures under this Act and ensure that all appropriate or competent authorities have copies of the guidelines.
- (2) The guidelines issued under this section shall be approved by the Board established under section 4 of this Act and published in the *Federal Gazette*.

**PART IV
MANAGEMENT AND STAFF OF THE COMMISSION**

10. Executive Director of the Commission

- (1) There shall be for the Commission an Executive Director who shall be appointed by the President subject to the confirmation of the Senate.
- (2) A person shall not be appointed as an Executive Director unless he-
 - (a) is a legal practitioner and has been so qualified for a period of not less than fifteen years;
 - (b) is of an unquestionable integrity; and
 - (c) has considerable experience in legal practice, human rights or humanitarian law, administration and management.
- (3) The Executive Director shall-
 - (a) be the chief executive of the Commission;
 - (b) be responsible for the execution and implementation of the policies of the Commission and its day-to-day administration;

- (c) exercise supervision and control over all staff of the Commission;
 - (d) cause to be kept the minutes of the meetings of the Board and such other records as the Board may direct;
 - (e) ensure that, in conducting the affairs of the Commission, the Commission is guided by the laws of Nigeria and international best practices which shall include, the development and implementation of information, security measures, technical and administrative competence, the principles of impartiality, confidentiality, objectivity and integrity; and
 - (f) perform such other functions as may be assigned under this Act.
- (4) The Executive Director shall hold office-
- (a) for a term of four years, which may be renewed for a further term of four years and no more; and
 - (b) on such other terms and conditions as are specified in his letter of appointment.
- (5) The Board may advise the Executive Director on matters as are necessary to enable him execute efficiently the day-to-day administration of the Commission.

11. Other staff of the Commission

- (1) Subject to the provisions of section 12 of this Act, the Commission may appoint directly, or on secondment or transfer from Government Ministries, Departments or Agencies such number and categories of employees as it may require to assist it in the effective discharge of its functions under this Act, provided that appointment into any office, department or unit in the Commission shall be through open

advertisement and qualifying candidates shall be selected on competitive basis.

- (2) The Commission shall designate such numbers of employees, from the employees referred to in subsection (1) of this section as Protection Officers or such other staff as the Commission may determine.
- (3) **The Executive Director shall for the purposes of the Programme established under this Act request for secondment or transfer of law enforcement and security agencies or authority, including the -**
 - (a) National Security Adviser;
 - (b) Inspector General of Police; and
 - (c) Department of State Security.
- (4) The secondment or transfer envisaged under subsection (3) of this section shall be carried out in such a manner to ensure that the officers seconded or deployed shall be officers with relevant knowledge and cognate experience as may be prescribed in regulations made under this Act.
- (5) The Commission shall control and supervise its employees in a manner and for such purposes as may be necessary for the promotion of the purpose and the object for which the Commission is established.
- (6) The Commission shall be responsible for the determining the job description, title, terms, conditions, qualifications and salaries, including the allowances of its employees.
- (7) In determining the terms and conditions of service of its employees, the Commission shall be guided by the following principles, that-

- (a) public interest disclosure and protection falls in a strategic sector in the administration of justice process of Nigeria;
 - (b) the nature of the public interest disclosure and protection requires commensurate compensation, adequate protection of disclosers; and
 - (c) the nature of the operations of the Commission requires probity, integrity and incorruptibility.
- (8) The Commission shall make rules subject to the approval of the Board relating generally to the conditions of service of its employees, including rules providing for the appointment, promotion, advancement, determination of appointment and disciplinary control over the employees.
- (9) The Commission shall publish rules made under subsection (8) of this section in such manner as it may determine.
- (10) The Commission shall, for the purpose of achieving maximum efficiency in the discharge of its functions set out in this Act, institute schemes for the training of its employees.

12. Screening of employees of the Commission

- (1) A person shall not be appointed, seconded or transferred to perform any of the functions of the Commission unless-
- (a) information with respect to that person has been gathered in a security screening investigation by the Department of State Security; and
 - (b) the Commission, after evaluating the information gathered, is satisfied that the person may be so appointed, seconded or transferred without the possibility that he might be a security risk or might act in any way prejudicial to the objectives of the Commission.

- (2) Where the Commission is satisfied under subsection (1) of this section, it shall certify that the person has successfully undergone a security clearance.
- (3) The Executive Director may at any time, after consultation with the Department of State Security, subject a person referred to in subsection (1) of this section to further security screening investigation as contemplated under that subsection.
- (4) The Commission shall issue to every member of its staff on appointment, a card of identity in such form as the Commission may determine.

13. Service in the Commission to be pensionable

- (1) Service in the Commission shall be approved service for the purpose of the Pensions Reform Act, and accordingly, officers and other persons employed in the Commission shall in respect of their service in the Commission be entitled to pensions, gratuities and other retirement benefits enjoyed by persons holding equivalent grades in the public service of the Federation.
- (2) For the purposes of the application of the provisions of the Pensions Reform Act, any power exercisable under that Act by a Minister or other authority of the Government of the Federation (not being the power to make regulations under the Act by a Minister) is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.
- (3) Nothing in this Act shall preclude the appointment of a person to any office on terms in the Commission which precludes the grant of pension or gratuity in that respect.

14. Delegation of powers by the Executive Director

- (1) The Executive Director may delegate any of his functions and powers under this Act to any competent officer of the Commission and may instruct any employee to perform any of the functions assigned to him under this Act.
- (2) A delegation or instruction under subsection (1) of this section shall be subject to such limitations or conditions that the Executive Director may impose and does not relieve the Executive Director of the ultimate responsibility concerning the exercise of the delegated power or the performance of the assigned function.
- (3) The Executive Director may confirm, vary or revoke any decision taken by an employee in consequence of a delegation or instruction under subsection (1) of this section.

Commented [FK1]: Some stakeholders are concerned about the wide powers given to Executive Director with respect to power of revocation...

15. Establishment of Departments and Special Units

- (1) The Commission shall establish Departments and Special Units for the effective and efficient discharge of its functions and powers under this Act.
- (2) All Departments and Special Units shall carry out such duties as may be required in the exercise, performance or carrying out of the powers, functions and duties of the Commission under this Act.

PART V FINANCIAL PROVISIONS

16. Fund of the Commission

The Commission shall establish and maintain a fund into which shall be paid-

- (a) take- off grants as may be made available to the Commission by the Government;

- (b) budgetary allocations as may be appropriated by the National Assembly for the administration of the Commission;
- (c) **two percent** from the proceeds of monies accruing from public interest disclosure into the confiscated and forfeited assets Account established by an Act of the National Assembly;
- (d) gifts, endowments, aid and assistance from international bilateral and multilateral agencies provided that the purpose for such gifts, endowments, aids and assistance does not conflict with the objectives of this Act; and
- (e) any other financial resources that may from time to time be vested in or accrue to the Commission in the course of performing its functions under this Act or any other moneys which may accrue to the Commission from any other lawful source, including interest on deposit and other investments made by the Commission.

Commented [FK2]: To be reconsidered at the policy level.

17. Expenditures of the Commission

- (1) The Commission shall, from time to time, apply the moneys in the fund established and maintained under section 16 of this Act to-
 - (a) the cost of administration of the Commission;
 - (b) the payment of allowances, expenses and other benefits of members and committees of the Board and the salaries, allowances and benefits of the employees of the Commission; and
 - (c) undertake such other activities as are connected with the functions of the Commission and the Board as provided under this Act.
- (2) Monies which are not immediately required to be expended in the discharge of any of the functions of the Commission shall, with prior approval of the Board, be invested in the securities of the Federal Government.

18. Budget and expenditure

- (1) The Commission shall not later than 30th September of each year, submit to the National Assembly through the Attorney-General, estimates of the income and expenditure of the Office for the preceding financial year.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Commission may, where necessary due to unforeseen circumstances, submit supplementary or adjusted statements of estimated income and expenditure to the Attorney - General for submission to the National Assembly.

19. Accounts and audit

- (1) The Commission shall-
 - (a) keep proper records and accounts of its incomes and expenditures; and
 - (b) prepare a statement of accounts in respect of each year.
- (2) The Commission shall, within the first four months of each financial year, submit its accounts to auditors appointed by the Commission from the list and in accordance with guidelines approved by the Auditor-General of the Federation, for auditing.
- (3) The audited accounts of the Commission and the Auditor-General's report on those accounts shall form part of the Auditor General's overall annual report to the National Assembly.

20. Annual report

- (1) The Commission shall, not later than 30th June of each financial year, submit to the Attorney-General in respect of the preceding financial

year an annual report on the activities of the Commission in such form as the Attorney-General may direct.

- (2) The report under subsection (1) of this section shall include-
 - (a) information with regard to the activities of the Commission in that year;
 - (b) a copy of the audited accounts of the Commission for that year together with the Auditor-General's report on the accounts;
 - (c) statistical information about public interest disclosures and protected persons; and
 - (d) such other information as the Attorney-General may request.
- (3) The Attorney-General shall, as soon as practicable after receiving the annual report, cause it to be submitted to the President.
- (4) The Executive Director shall also, from time to time, provide the Attorney-General with such information relating to the affairs of the Commission as the Attorney-General may request.

PART VI
GENERAL PRINCIPLES FOR MAKING PUBLIC INTEREST
DISCLOSURE AND COMPLAINTS

21. Meaning of public interest disclosure

- (1) Subject to the provision of section 1 (d) of this Act, a public interest disclosure is the disclosure of information that –
 - (a) shows or tends to show that, in relation to the performance of a public function, including the functions listed in section 2 (2) of this Act, a public authority, a public officer, or a public sector

- contractor is, has been, or proposes to be, involved in a wrongful or unlawful activities; or
- (b) relates to any of the offences referred to under section 2 (1) (b) of this Act. .

- (2) A public interest disclosure includes assistance given by a discloser .
- (3) A disclosure is not a public interest disclosure if the discloser commits an offence by making it.
- (4) A disclosure is not a public interest disclosure if it is an information made in respect of which a claim to legal professional privilege could be maintained.
- (5) A disclosure is a legal professional privilege only if it is disclosed in the course of obtaining legal advice in legal proceedings.

22. Making of public interest disclosure

- (1) A person makes a public interest disclosure as provided under this Act if the person –
- (a) believes on reasonable grounds that the disclosure is true; or
- (b) has no reasonable grounds on which to form a belief about the truth of the information but believes on reasonable grounds that the disclosure may be true and not solely for personal gain.
- (2) A person may make a public interest disclosure about events that –
- (a) happened or may have happened, whether before or after the commencement of this Act;
- (b) are or may be happening at the time of making the disclosure; or
- (c) will or may happen at a later date.

- (3) The making of a public interest disclosure in accordance with the provisions of this Act does not excuse, absorb or pardon a person from liability in respect of his conduct or involvement in the matter of the public interest disclosure.

23. Mode of making public interest disclosure

- (1) A person may make a public interest disclosure orally, in writing or in such other manner as may be prescribed by the Commission in a regulation made under this Act, to –
 - (a) the Commission; or
 - (b) an appropriate authority listed in the Schedule to this Act and responsible for the matter to which a public interest disclosure relates.
- (2) Where a public interest disclosure is made to the Commission or an appropriate authority, the Commission or an appropriate authority, as the case may be, is considered to have received the disclosure for the purpose of this Act.

24. Public interest disclosure in respect of an unidentified person

A person may make a public interest disclosure whether or not the person is able to identify a particular person to whom the disclosure relates.

25. Public interest disclosure made under legal requirement

- (a) A person may make a public interest disclosure under a legal obligation.
- (b) The fact that a person made a public interest disclosure under a particular provision of this Act does not prevent the person from making the disclosure under another provision of this Act or any other applicable law.

26. Public interest disclosure in court proceedings

- (1) Where a person –

(a) has information that he may disclose as a public interest disclosure to the Commission; and

(b) discloses the information to a court in which the information is relevant and admissible,

the disclosure is considered to be a public interest disclosure made to the court.

(2) The court may, after due consideration, refer the disclosure, for the purpose of this Act to the Commission or directly to the appropriate or competent authority.

27. Public interest disclosure to prescribed person

(1) The Attorney-General may by order published in the *Federal Gazette* prescribe a person (“a prescribed person”) as an appropriate authority to receive public interest disclosure for the purposes of this Act.

(2) An order prescribing a person as an appropriate authority to receive public interest disclosure for the purposes of this Act –

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

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

(3) A person may make a public interest disclosure to a prescribed person under this Act where –

(a) the disclosure is in good faith; and

(b) the person reasonably believes that –

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

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

28. Public interest disclosure to a journalist

(1) A person may make a public interest disclosure of substantially the same information that was the subject of a public interest disclosure to a journalist where –

(a) the person has made a public interest disclosure under this Act to the Commission or to an appropriate authority; and

(b) the Commission or the appropriate authority to which the disclosure was made -

(i) decided not to investigate or deal with the disclosure,

(ii) investigated the disclosure but did not recommend the taking of any action in relation to the disclosure,

(iii) did not notify the person, within six months after the date the disclosure was made, whether or not the disclosure was to be investigated or dealt with.

(c) the discloser may request the Commission to review its decision and inform the Commission of his intention to inform the journalist after three months of disclosure.

(2) The disclosure of information to a journalist under this section is a public interest disclosure and the journalist may use the information as he deems appropriate within his professional duties;

29. General principles for complaint

(1) The Commission –

Commented [FK3]: Insert another paragraph for discloser to request for a review of (i) and (ii).

Commented [FK4]: Insert that the discloser to inform the Commission or the authority notice of his intention to inform a journalist after three months. (iii) will now become (iv).

- (a) may determine the manner by which complaints are to be lodged;
 - (b) may decide in its absolute discretion whether, and if so, in what manner, it should notify the public of his action or intended action in any particular case.
- (2) The Commission shall not investigate any matter –
- (a) that is clearly outside his terms of reference;
 - (b) that is pending before the National Assembly, the Council of State or the President;
 - (c) that is pending before any court of law in Nigeria;
 - (d) relating to anything done or purported to be done in respect of any member of the armed forces in Nigeria or the Nigeria Police Force under the Armed Forces Act, or the Police Act, as the case may be;
- [Cap. A20. Cap. PI9.]
- (e) in which the complainant has not, in the opinion of the Commission, exhausted all available legal or administrative procedures;
 - (f) relating to any act or thing done before 29 July 1975 or in respect of which the complaint is lodged later than twelve months after the date of the act or thing done from which the complaint arose;
 - (g) in which the complainant has no personal interest.
- (3) For the purposes of paragraph (b) of subsection (2) of this section, a notice signed by the Secretary to the Federal Government and addressed to the Commission, certifying that any matter is pending before any of the bodies mentioned in that paragraph, shall be conclusive as to the pendency of the matter.

- (4) In every case where the Commission decides not to investigate a complaint it shall state the reason.

PART VII
PROCEDURAL REQUIREMENTS FOR PUBLIC INTEREST
DISCLOSURES, PROTECTION AND COMPLAINTS

30. Duty to receive and record public interest disclosures

Subject to the provisions of this Act, the Commission shall receive and record all public interest disclosures made to it.

31. Obligation to investigate public interest disclosures

- (1) The Commission shall examine the public interest disclosure referred to in section 30 of this Act and determine the appropriate or competent authority to investigate the public interest disclosure.
- (2) Where a public interest disclosure relates to any of the matters referred in section 2 (1) (b) of this Act, the Commission –
 - (a) shall refer the matter to the relevant competent authorities in the list contained in the Schedule to this Act; or
 - (b) may refer any other relevant disclosure to any appropriate authority for necessary investigation.
- (3) An appropriate or competent authority shall, on the receipt of the referral under subsection (2) of this section, investigate or cause the matter to be investigated.
- (4) An appropriate or competent authority may refuse to investigate, or may discontinue the investigation of a matter raised by the disclosure if it considers that -
 - (a) the public interest disclosure is too trivial to warrant investigation and that dealing with the public interest disclosure

would substantially and unreasonably divert the resources of the appropriate or competent authority.

- (b) the public interest disclosure is vexatious or frivolous;
 - (c) the appropriate or competent authority reasonably considers that the public interest disclosure should be dealt with by another appropriate process;
 - (d) another appropriate or competent authority that has jurisdiction to investigate the public interest disclosure has recommended that investigation of the disclosure is not necessary; or
 - (e) the matter is being or has been adequately or properly investigated by another appropriate or competent authority to which a public interest disclosure has been made in accordance with the Schedule to this Act.
- (5) An appropriate or a competent authority that refuses to investigate or deal with, or discontinues the investigation of a public interest disclosure under subsection (2) of this section, shall give reasons in writing for its decision to the Commission and the person that made the public interest disclosure shall be informed, accordingly, by the Commission.
- (6) A person who receives reasons for a decision of an appropriate or competent authority under subsection (5) of this section may apply for a review of the decision through the Commission to the appropriate or competent authority within twenty-eight days of the receipt of the reasons.
- (7) Where an appropriate or competent authority is a person subject of, or affected by the public interest disclosure, the disclosure shall be made to the Commission.

32. Action by appropriate or competent authority

- (1) Where an appropriate or a competent authority forms the opinion that a person may be, may have been, or may in the future be, involved in a matter that may be the subject of a public interest disclosure, the appropriate or competent authority shall take such action as is necessary, reasonable, and within its functions and powers, to -
 - (a) prevent the matter to which the public interest disclosure relates from continuing or occurring in the future;
 - (b) refer the matter to a competent authority referred to in the Schedule to this Act or to any other person or body having power to investigate the matter; or
 - (c) cause disciplinary action to be commenced, against a person responsible for the matter.
- (2) Before taking action under subsection (1) (a) or (c) of this section, the appropriate or competent authority shall afford a person against whom, or in respect of whom, the action is to be taken the opportunity to make a submission, either orally or in writing, in relation to the matter.

Commented [FK5]: To be revisited.

Commented [FK6]: To be revisited.

33. Notification to a person who made public interest disclosure

- (1) Where a public interest disclosure is made to the Commission, the Commission shall, subject to section 34 of this Act, within three months after the disclosure is made, notify the person who made the disclosure of the action taken or proposed to be taken in relation to the disclosure.
- (2) A discloser who has made a public interest disclosure under this Act, and has not received any information on the progress made in the investigation, may request the Commission to provide a report on the progress made in dealing with the public interest disclosure.
- (3) The Commission shall request for progress report in relation to the investigation from the appropriate or competent authority dealing with

the matter in compliance with the request made in subsection (2) of this section.

- (4) If an investigation into a matter in relation to which the public interest disclosure was made is complete, the appropriate or competent authority who carried out the investigation shall submit a final report to the Commission, who shall communicate the final report to the discloser stating -
- (a) the outcome of the investigation and any action the appropriate or competent authority has taken or proposes to take as a result of the investigation; and
 - (b) the reason for taking the action that has been taken or that is proposed to be taken.

34. Limitation on notification to a person that made the public interest disclosure

An appropriate or a competent authority shall not, in a notification or report under section 33 of this Act, give information that, in its opinion, is likely to adversely affect -

- (a) the safety of a person;
- (b) the investigation of an offence or possible offence; or
- (c) the confidentiality of the existence or identity of a discloser other than the person being given the information.

35. Limitation on obligations of certain persons

- (1) A competent authority listed in the Schedule to this Act that is responsible for investigating any matter relating corruption, financial or economic crimes referred to it for investigation is not required to comply with the provisions of sections 33 and 34 of this Act if the public interest disclosure relates to a matter that is a function of that competent authority to -

- (a) to investigate, inquire into or deal with, or
- (b) take any other step with respect to,
under any other written law, whether on the complaint of a person or on their own volition.

(2) Where a public interest disclosure is made -

- (a) to a prescribed person; and
- (b) the disclosure relates to a matter which is a function of the person to investigate, inquire into, deal with, or take any other step with respect to, under another written law, whether on the complaint of a person or on that person's own volition,

sections 33 and 34 of this Act do not apply to that prescribed person in relation to that disclosure.

(c) Where a prescribed person has a duty under a written law other than this Act to make a progress report to a person who has made a complaint to him -

- (a) section 33 of this Act does not apply to the prescribed person; and
- (b) the progress report shall be made to a person who made the public interest disclosure to that prescribed person under this Act as if the disclosure were the making of a complaint under that written law.

36. Obligations of accounting officers or chief executives of public authorities

(1) The accounting officer or chief executive of a public authority shall-

- (a) designate the occupant of a specified position with the public authority as the person responsible for receiving public interest disclosures;
- (b) provide protection from detrimental action or the threat of acts of victimisation against an employee of the public authority who makes a public interest disclosure;
- (c) ensure that the public authority complies with the provisions of this Act;
- (d) ensure that the public authority complies with the standards established by the Commission under section 16 of this Act;
- (e) prepare and publish internal procedures relating to the public authority's obligations under this Act; and
- (f) provide information annually to the Commission on -
 - (i) the number of public interest disclosures received by the designated officer of the public authority referred to in subsection (1) (a) of this section over the report period,
 - (ii) the results of any investigation conducted as a result of the public interest disclosures and the action, if any, taken as a result of each investigation, and
 - (iii) such other matters as are prescribed.
- (2) Internal procedures prepared under subsection (1) (e) of this section shall be consistent with guidelines prepared by the Commission under section 17 of this Act.

Commented [FK7]: It replicates the appropriate and competent authority already listed.

37. Recommendations after investigation

- (1) The Commission may recommend to the appropriate person or responsible administrative agency, after due investigation of any disclosure or complaint, any of the following steps, that is-
 - (a) that a further consideration of the matter be made;

- (b) that a modification or cancellation of the offending administrative or other act be effected;
 - (c) that an alteration of a regulation or ruling be effected;
 - (d) that full reasons behind a particular administrative or other act be given.
- (2) Where appropriate, the Commission may refer cases, where he feels that existing laws or administrative regulations or procedures are inadequate, to the National Assembly or the appropriate House of Assembly of a State or to any other appropriate person or body.
- (3) In every case where the Commission discovers that a crime may have been committed by any person, he shall report his findings to the appropriate authority or recommend that that person be prosecuted.
- (4) In every case where the Commission is of the opinion that the conduct of any person is such that disciplinary action against such a person be taken, he shall make a report in that regard to the appropriate authority which shall take such further action as may be necessary in the circumstances.

PART VIII

REFERRAL OF PUBLIC INTEREST DISCLOSURE

38. Referral of public interest disclosure by appropriate authority

- (1) An appropriate authority to which a public interest disclosure is made under section 23 of this Act, or referred under section 39 of this Act, may refer the public interest disclosure to a referral authority if the disclosure relates to -
- (a) the referral authority or a public officer of the referral authority;
- or

- (b) an appropriate authority, or another matter, that the referral authority has the power to investigate or remedy.
- (2) The power of an appropriate authority to investigate or remedy conduct that is the subject of a public interest disclosure is not limited by a referral of the disclosure under subsection (1) of this section.
- (3) An appropriate authority shall not refer a public interest disclosure to another appropriate authority if it considers that there is an unacceptable risk that a reprisal may be occasioned because of the referral.
- (4) In considering whether there would be an unacceptable risk, the appropriate authority shall, if practicable, consult with the person who made the public interest disclosure.
- (5) This section does not affect any other law under which an appropriate authority is expected to refer a report, complaint, information or evidence to another authority.
- (6) In relation to referral, there should a subsection (6) that will require an appropriate authority to notify the Commission subject to section 34. (limitation ...)

39. Referral of public interest disclosure by Presiding Officer of Legislative House

- (1) The Presiding Officer of a Legislative House to whom a public interest disclosure is made under section 5 of this Act may refer the disclosure to another appropriate authority if the Presiding Officer considers that the referral authority has power to investigate or remedy the conduct or other matter that is the subject of the disclosure.
- (2) A Legislative House may, notwithstanding a referral under subsection (1) of this section, deal with the public interest disclosure.

40. Referral does not limit immunities of a Legislative House

- (1) Section 39 of this Act does not limit the immunities, powers, privileges or rights of a Legislative House or of its members or Committee in relation to a public interest disclosure made to a Presiding Officer.
- (2) In this section -
“Committee” means a Committee of the Legislative House, whether or not a standing committee.

PART IX

PUBLIC INTEREST DISCLOSURE PROTECTION PROGRAMME

41. Rules of confidentiality and disclosure of information

- (1) The Executive Director and any other employee of the Commission shall, on assumption of office in the Commission, take an oath or make an affirmation in the prescribed form.
- (2) The oath or affirmation referred to in subsection (1) of this section, shall be taken or made, in the case of-
 - (a) the Executive Director, before the Attorney-General; and
 - (b) any other employee of the Commission, before the Executive Director.
- (3) Subject to subsection (4) of this section, a person who obtains information in the ordinary course of his official duty relating to the administration of the Programme, shall not be required in any proceedings before any court, tribunal or commission of inquiry, howsoever described, to-
 - (a) produce any document; or

- (b) divulge or communicate any matter obtained, relating to the performance of his duties in connection with the Programme,

unless the Court makes an order in the interest of justice that provides to the contrary, or the proceedings relate to an offence against this Act.
- (4) Subject to subsection (6) of this section, the Commission may, on such conditions as it considers fit, disclose any information in respect of a witness-
 - (a) with the consent of-
 - (i) the discloser concerned, or
 - (ii) his parent or guardian, if any, if he is a minor;
 - (b) where the discloser has previously disclosed the information or acted in a manner which resulted in the disclosure;
 - (c) where the disclosure is -
 - (i) required for the exercise or protection of any right, or
 - (ii) in the public interest; or
 - (d) in any criminal proceedings, if the disclosure is necessary to establish the guilt or innocence of a person.
- (5) The Commission shall not disclose any information in respect of a minor without the prior approval of a Judge in chambers.
- (6) The Commission shall, before it discloses any information in respect of a witness in the circumstances referred in subsection (4) (b), (c) or (d) of this section, take reasonable steps to notify-
 - (a) the discloser; or

- (b) the parent or guardian of the discloser, if any, if he is a minor,
of the contemplated disclosure in the prescribed manner.
- (7) The Commission shall allow a discloser or, where applicable, his parent or guardian, if any, to make written representations to it within the prescribed period and in the prescribed manner in relation to any matter relating to the contemplated disclosure.
- (8) The provisions of subsection (6) of this section do not apply if the Commission is of the opinion that the notification may jeopardize the purpose for which the information is to be disclosed.
- (9) The Commission shall, in determining whether information in respect of a discloser should be disclosed under subsection (4) of this section, take into consideration-
- (a) the reasons for the disclosure;
 - (b) the probability that the disclosure may endanger the safety of the witness concerned or that of any other protected person or the integrity of the Programme under this Act;
 - (c) whether the need for the disclosure can effectively be met by any other means;
 - (d) whether there are effective means available to prevent any further disclosure of the information; and
 - (e) any other factor that, in the opinion of the Commission, should be taken into consideration.
- (10) A person shall not disclose any information referred to in subsection (3) of this section-

- (a) which came into his possession, or to his knowledge or was disclosed to him; or
- (b) where he ought to have reasonably suspected that the information was disclosed to him,

in contravention of the provisions of that subsection.

(11) A person, in respect of whom proceedings are, or may be, or have been instituted or conducted, or who is a suspect in the proceedings, shall not have access to any information, record, document or statement relating to the proceedings concerned, including any information, record, document or statement which is-

- (a) contained in, or forms part of, a police docket; or
- (b) is held by any police officer charged with the investigation relating to the proceedings,

which may disclose any information referred to in section 30 of this Act, unless the Commission otherwise directs.

42. Prohibition of publication of information concerning a protected person

- (1) A Judge-
 - (a) at any proceeding in which a protected person is a party or a witness; or
 - (b) at any proceeding, other than “proceedings” as defined in section 82 of this Act, instituted or conducted under any law, in which a protected person is a party or a witness and in respect of which he is under any law compellable to-
 - (i) answer questions,

- (ii) give assistance, or
- (iii) produce any book, record, document or object in his possession or under his control in the proceedings,

shall make an order referred to in subsection (2) of this section.

- (2) The Judge shall make an order under subsection (1) of this section prohibiting the publication of any information, including any drawing, picture, illustration, painting, photograph, whether produced through or by means of computer software on a screen or a computer printout, pamphlet, poster or other printed material, which may disclose the information relating to-

- (a) the circumstances of the protected person;
- (b) the identity of any protected person and the place of safety or location where the person is being protected; or
- (c) the relocation or change of identify of the protected person,

unless the Commission satisfies the Judge that exceptional circumstances, which are in the interest of justice, exist why the order should not be made.

43. Agreements with international bodies, institutions, organizations or foreign countries

- (1) The Commission may, with the approval of the Attorney-General, make an arrangement with a foreign State, international body, institution or organization on any matter relating to cooperation between Nigeria and that State, international body, institution or organization relating to witness protection.

- (2) The Commission may enter into an agreement, either in general or on specific terms and condition with a competent authority in a foreign country in other to-
 - (a) place a protected person under a public interest disclosure protection arrangement administered by that country; or
 - (b) admit a protected person to public interest disclosure protection arrangement under any law applicable to that country.

PART X IMMUNITY AND PROTECTION

44. Immunity for public interest disclosure

A person who makes a public interest disclosure under this Act -

- (a) does not incur civil or criminal liability for doing so; and
- (b) is not, for doing so, liable -
 - (i) to any disciplinary action under a written law,
 - (ii) to be dismissed,
 - (iii) to have his services dispensed with or otherwise terminated, or
 - (iv) for any breach of a duty of secrecy or confidentiality or any other restriction on disclosure, whether or not imposed by a written law, applicable to the person.

45. Immunity from legal process

(1) The Commission shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under or pursuant to this Act.

[1979 No. 21.]

(2) Any report, statement or other communication or record of any meeting, investigation or proceedings which a Commissioner, officer or servant of the Commission may make in the due exercise of his functions under this Act, shall be privileged in that its production may not be compelled in any legal proceedings if the Attorney-General of the Federation certifies that such production is not in the public interest.

46. Offence of reprisal

(1) A person who takes or threatens to take detrimental action against another person because a person has made, or intends to make, a public interest disclosure under this Act commits an offence and is liable on conviction to a fine of not less than five hundred thousand naira or imprisonment for a term of not less than two years or to both.

(2) A person who -

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

(b) intending that an offence created by subsection (1) be committed, incites another person to commit that offence,

commits an offence and is liable on conviction to a fine of not less than five hundred thousand naira or imprisonment for a term of not less than two years or to both.

47. Remedies for acts of victimisation

(1) A person who takes or threatens to take detrimental action against another person because a person has made, or intends to make, a public

interest disclosure under this Act commits an act of victimisation which may be dealt with as a tort.

- (2) Proceedings in tort under subsection (1) of this section may be taken against the perpetrator of an act of victimisation or an employer of the perpetrator.
- (3) In proceedings against an employer of the perpetrator of an act of victimisation, it is a defence for the employer to prove that the employer -
 - (a) was not knowingly involved in the act of victimisation;
 - (b) did not know and could not reasonably be expected to have known about the act of victimisation; and
 - (c) could not, by the exercise of reasonable care, have prevented the act of victimisation.
- (4) Notwithstanding any other provision of this Act, this section has no retrospective effect and no proceeding may be taken under this section in relation to an act of victimisation that occurred before the commencement of this Act.

48. Compensation for victimisation

- (1) A person may present to the Commission a complaint that he has been subjected to an act of victimisation in contravention of section 47 of this Act.
- (2) Where a complaint is presented under subsection (1) of this section and the act of victimisation to which the person is subjected to is -
 - (a) the termination of the person's employment, he shall be paid such compensation for any loss he has suffered, as the authority or court hearing the complaint determines to be just and equitable; or

- (b) dismissal, he shall be paid such compensation as shall be prescribed by regulations made under this Act.
- (3) Compensation may be paid under this section even if a prosecution in relation to an offence under section 47 of this Act has not been brought, or cannot be brought.

49. Duty as to secrecy and confidentiality

- (1) A person receiving, investigating, or otherwise dealing with a public interest disclosure under this Act, shall regard and deal with, as secret and confidential -
 - (a) the identity of the person making the public interest disclosure and the disclosure made; and
 - (b) any statement given, or document, information or thing provided to the person in the course of carrying out an investigation, except that any statement given, or document, information or thing provided, in furtherance of an investigation, or any legal or disciplinary proceedings, shall not be regarded as being inconsistent with the obligation for secrecy and confidentiality.
- (2) A person shall not make a disclosure that might identify or tend to identify a person as the person who has made a public interest disclosure under this Act, unless the person who made the public interest disclosure consents to the disclosure that might identify or tend to identify him.
- (3) A person who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than five hundred thousand naira or imprisonment for a term of not less than two years or to both.

50. Preservation of confidentiality

- (1) Without prejudice to section 49 of this Act, if a person gains any other confidential information because of the person's involvement in the

administration of this Act, the person shall not make a record of the information, or intentionally or recklessly disclose the information to anyone, other than as provided under subsection (4) of this section.

- (2) A person who contravenes subsection (1) of this section commits an offence and is liable on conviction to a fine of not less than five hundred thousand naira or imprisonment for a term of not less than two years or to both.
- (3) A person gains information because of his involvement in the administration of this Act if the person gains the information, including receiving information relating to a public interest disclosure for a appropriate or competent authority, because of being involved, or an opportunity given to him by being involved, in the administration of this Act.
- (4) A person may make a record of confidential information or disclose it to another person -
 - (a) for the purposes of this Act;
 - (b) to discharge a function under another legislation, including the investigation of matters disclosed by a public interest disclosure;
 - (c) for a proceeding in a court;
 - (d) if the person to whom the confidential information relates consents in writing to the making of the record or disclosure of the information;
 - (e) where -
 - (i) the person cannot reasonably obtain the consent of the person to whom the confidential information relates, and

- (ii) making the record or disclosing the information is unlikely to harm the interests of the person to whom the confidential information relates and is reasonable in all the circumstances;
 - (f) if there are reasonable grounds to believe that making the record or disclosing the information is necessary to -
 - (i) prevent or reduce the risk of injury to any person or damage to any property; and
 - (ii) provide for the safety or welfare of a person; or
 - (g) if authorised under regulations made under this Act or under any other law.
- (5) This section does not affect an obligation a person may have under the principles of natural justice to disclose information to a person whose rights would otherwise be adversely affected.
- (6) In this section, “confidential information” -
- (a) includes information -
 - (i) disclosed by a public interest disclosure,
 - (ii) about an individual’s personal affairs, and
 - (iii) that, if disclosed, may be detrimental to a person; and
 - (b) does not include information publicly disclosed in a public interest disclosure made to a court, tribunal or other body that may receive evidence under oath, unless further disclosure of the information is prohibited by law.

51. Loss of protection

- (1) A person who makes a public interest disclosure under this Act and -

- (a) fails, without reasonable excuse, to assist a person investigating a matter to which the disclosure relates by supplying the person with any information requested, whether orally or in writing, by the person in such manner, and within such period, as is specified by the person making the request; or
 - (b) discloses information contained in a public interest disclosure otherwise than under this Act,
forfeits the protection given by section 39 of this Act.
- (2) Where a court is considering whether a person has pursuant to subsection (1) of this section forfeited the protection of section 39 of this Act and is of the opinion that the failure or disclosure-
- (a) has not materially prejudiced the public interest served by the appropriate disclosure; and
 - (b) is of a minor nature,
it may make an order restoring, in whole or in part, the protection afforded under section 39 of this Act, and such consequential orders as are necessary to give effect to the order.

PART XI
PROTECTION OF EMPLOYEES MAKING PUBLIC INTEREST
DISCLOSURES

52. Right of employee to appeal or apply for review

- (1) An employee who, under any other law, has a right to appeal against, or apply for a review of any of the following actions -
 - (a) disciplinary action taken against the employee;

- (b) the appointment or transfer of the employee or another employee to a position as an employee; or
- (c) unfair treatment of the employee,

may, whether or not this Act specifies grounds for the appeal or review, also appeal against the action or apply to have the action set aside because he was subjected to an act of victimisation for making a public interest disclosure.

- (2) Subsection (1) of this section applies even if the decision on the hearing of the appeal or review is in the form of a recommendation.

53. Relocation of employee

- (1) An employee may make an application to his employer for relocation on the ground that -
 - (a) it is likely that he will be subjected to an act of victimisation if he continues in his existing work location; and
 - (b) the only practical way to remove or substantially remove the danger of an act of victimisation is to relocate the employee.
- (2) Where the employer considers that the ground under subsection (1) of this section is established, he may -
 - (a) direct that the employee be relocated within the employee's department or to another department; and
 - (b) do or authorize the doing of anything necessary or convenient to relocate the employee.
- (3) An employer shall not give a direction under subsection (2) of this section without the agreement of -
 - (a) the employee; and

- (b) where the relocation is to another department, the head of that department.

PART XII
PUBLIC INTEREST DISCLOSURES PERTAINING TO PUBLIC FUNDS,
ASSETS AND RESOURCES IN THE CUSTODY OF PUBLIC
AUTHORITIES

54. Public interest disclosures relating to public funds, etc

- (1) This Part deals with disclosures made in connection with wrongdoing referred to in section 53 of this Act pertaining to public funds, assets or resources in the custody of a public authority, including the accounts of the National Assembly and the judiciary.
- (2) Any disclosure made pursuant to subsection (1) of this section is a public interest disclosure within the meaning of section 1 (d) of this Act and falls under the oversight responsibility of the Commission.
- (3) A public interest disclosure under this Part may be made by any public officer, an employee of any public authority, a public sector contractor or any person within or outside a particular public authority, provided that –
 - (a) the disclosures are made in good faith and raise concern with the public authority; and
 - (b) the person making the disclosure has reasonable grounds to believe that there is serious wrong doing by anybody within any public authority or office or other related institutions of Government.
- (4) Public interest disclosures made shall –

- (a) not apply to personal grievances concerning private contracts, complaints of bullying or harassment or to disciplinary matters in respect of which the procedures for their treatment and protection are contained in other laws, rules and regulations;
- (b) address genuine concerns, in a public spirited manner and made in good faith believing that the information disclosed and allegations contained in it are substantially true;
- (c) not be made for purpose of personal gain; and
- (d) in all circumstances be reasonable to make the disclosure

55. Matters to which public interest disclosure under this Part may be made

- (1) The public interest disclosures on the revenues, expenditure and other dishonest issues relating to public funds, assets and other resources can be made on matters including –
 - (a) a breach of Government Financial Regulations, particularly in cases of non-compliance with the provisions of any enactment, rule or regulation on the financial regulations, public procurement and finance control and management enactment or any other related legislation as may be enacted by the National Assembly;
 - (b) mismanagement or misappropriation of public funds, finances or assets, including any Government property, whether real or incorporeal, vehicles and any property of any kind;
 - (c) fraud, corruption and theft in relation to public funds or any Government property whatsoever;

- (d) collecting or soliciting for bribes in connection with any Government transaction or business;
 - (e) improper conduct or any dishonest behaviour in connection with any of the matters referred to in paragraphs (a) to (d) of this subsection;
 - (f) engaging in acts that impact negatively on the integrity of Nigeria; and
 - (g) undertaking actions calculated to or attempting to suppress or conceal any information relating to any or all of the matters referred to under this subsection.
- (2). For the purpose of this section, disclosures of acts of wrongdoing in relation to –
- (a) public revenue include -
 - (i) any violation of the Treasury Single Accounts and guidelines prohibiting the opening and maintenance of multiple revenue accounts;
 - (ii) diversion or under-reporting of revenues;
 - (iii) non-remittance or late remittance of revenue;
 - (iv) mismanagement or conversion of Government revenues to personal use; and
 - (v) such other acts, or omissions calculated or amounting to any diversion of revenue;
 - (b) public expenditures include -
 - (i) unauthorised or unapproved spending or utilisation of public funds,
 - (ii) spending public funds without appropriate documentations or raising of vouchers without appropriate authorisation or signature,
 - (iii) failure to comply with efficiency expenditure guidelines or circular;

- (iv) making fraudulent payments,
 - (v) spending public funds in violation of public procurement rules and procedures, frauds, particularly involving in and receiving gratifications and back payments or bribes,
 - (vi) splitting of contracts contrary to the provisions of the public procurement legislation,
 - (vii) manipulating of payrolls leading to the creation of fictitious workers and engaging in person frauds, and
 - (viii) carrying out such other acts capable of undermining approved expenditures made out of public funds.
- (3) In establishing whether any act of wrongdoing has been committed in relation to public funds or such other dishonest issues that shall be considered include any proof or evidence of –
- (a) manipulation of any data or records;
 - (b) mismanagement of financial information;
 - (c) mismanagement or misappropriation of public funds assets, properties, real or incorporeal and any vehicles or other chattels of any kind whatsoever;
 - (d) collecting or soliciting for bribes;
 - (e) conflict of interest pertaining to the use of public funds;
 - (f) theft of public funds and assets;
 - (g) corruption in any form or guise; or
 - (h) any other consideration or matter that can establish whether any act of wrongdoing has been committed in relation to public funds.

56. Protection of persons making disclosures on wrongful doings in connection with public funds and assets

- (1) The Commission and any appropriate authority shall ensure that a person making a public interest disclosure shall not be penalised or suffer any adverse treatment on account of the public interest disclosure made under this Act.

- (2) The Commission shall ensure that the person that made the public interest disclosure receives adequate protection and compensation, as the case may be, under the provisions of this Act.

57. Protection of identity of persons making a public interest disclosure

- (1) A person making a disclosure to the Commission or an appropriate authority shall state his name and contact address for correspondence purpose to any public interest disclosure made.
- (2) Anonymous public interest disclosures made to the Commission, or made or referred to an appropriate authority shall be investigated, taking into consideration the severity of the issues raised, the credibility of the allegation and the prospects of being able to investigate the matter effectively and in fairness to any person or group of persons reported upon.
- (3) The Commission or the appropriate authority, as the case may be, shall upon the receipt of a public interest disclosure ensure that the person against whom a public interest disclosure is made is notified within twenty-eight days of the disclosure made with supporting evidence, if any, to allow the person to respond to the disclosure.

58. Referral to a competent authority for further investigation and prosecution

- (1) Where an investigation or referral under this Part led the Commission or the appropriate or competent authority to the conclusion that a wrongdoing pertaining to the public funds, assets or resources referred to in section 52 of this Act has occurred, the matter shall be referred to the competent authority referred to in the Schedule to this Act for further investigations with the aim of instituting criminal action or for the commencement of civil action for the recovery, from the person concerned, of the proceeds of the wrongful or unlawful activities in relation to the public funds, assets or resources from the person concerned.

- (2) Notwithstanding the provisions of subsection (1) of this section, disciplinary action may be commenced under the appropriate disciplinary procedures against the person concerned in respect of that person's involvement in the wrongdoing for which he has been found culpable.

59. Involvement of other investigating authorities

In the exercise of its functions under this Part, the Commission or the appropriate authority may, for the purpose of carrying out the required investigations, request assistance from any investigating unit established by the Government or by any appropriate authority for the purpose of carrying out investigations into cases of misuse of public funds, assets or other resources.

60. Protection and compensation payable for public interest disclosure

- (1) The Commission shall afford protection as provided under this Act to any person who makes a disclosure in public spirit and in good faith under this Act regardless of whether or not the disclosure made is upheld against the person reported upon.
- (2) A person who has made a disclosure as provided under this Act and suffers any adverse treatment as a result of making a public interest disclosure shall file a formal complaint in the prescribed manner to the Commission giving details of the adverse treatment encountered by him.
- (3) The Commission shall give opportunity to the person or public authority against whom the report or complaint is made to show that the action complained of were not taken in retaliation of the public interest disclosure made.
- (4) Where a *prima facie* case of adverse treatment has been established against the person or public authority, the Commission shall investigate

the matter and shall cause disciplinary action to be taken against the perpetrator of the retaliatory action as provided under this Act.

- (5) The Commission shall ensure that restitution shall be made to the person who suffered as a result of the retaliatory action for any loss suffered in accordance with the provisions of this Act.

61. External referrals

Subject to the provisions of sections 31, 32 and 33 of this Act, where –

- (a) a person has made a genuine and *bona fide* public interest disclosure to the Commission; and
- (b) the public interest disclosure has been referred to a competent authority for purposes of investigation and,

the person may, if dissatisfied with the investigation and its outcome represent the matter to the Commission for a re-opening of the investigation into the public interest disclosure.

PART XIII

REWARD AND COMPENSATION FOR RECOVERY OF STOLEN OR ILLEGALLY CONCEALED PUBLIC FUNDS OR ASSETS AND FOR OTHER PUBLIC INTEREST DISCLOSURES

62. Compensation payable for public interest disclosures generally

- (1) The Attorney-General may on the recommendation of the Commission, by regulations prescribe the amount of compensation payable for public interest disclosures made pursuant to the provisions of this Act.
- (2) The Attorney-General may also on the advice of the Commission review, from time to time, by regulations the amount of compensation payable under subsection (1) of the section.

63. Compensation payable for recovery of stolen or illegally concealed public funds, etc

- (1). A person who makes a public interest disclosure leading to the recovery of public funds or assets stolen by any former or serving public officer shall be entitled to compensation as an incentive for making the public interest disclosure.
- (2). The compensation referred to in subsection (1) of this section shall be payable from the fund established under 16 of this Act.
- (3). A person shall be eligible for payment under the Protection Fund where the person makes a report of -
 - (a) illegally hidden or concealed public funds, either inside or outside Nigeria;
 - (b) former or serving public officers hiding stolen public funds or other assets either inside or outside Nigeria;
 - (c) payments for public contracts awarded and not performed;
 - (d) stolen or mismanaged pension funds;
 - (e) tax fraud or evasion;
 - (f) fraudulent practices in securities dealings; and
 - (g) any person, body or authority holding public funds or assets in trust for and on behalf of any of the person involved in any of the wrongdoing or unlawful activities referred to in paragraphs (a) to (f) of this subsection.
- (4). A person shall not be paid any compensation from the Protection Fund under this section where –
 - (a) the Commission finds the information given to be misleading, untrue, speculative, publicly known or obtained by any means or in a manner that constitutes a criminal offence under any enactment; or

- (b) no recoveries of the public funds, assets and other resources were made.

64. Offences and penalties for making untrue disclosure in relation to public funds, assets, etc

- (1). A person who does not act in good faith or makes an allegation pertaining to wrongful or unlawful use of public funds or assets without having reasonable grounds for believing it to be substantially true, or makes it for purposes of personal gain or makes it maliciously or vexatiously commits an offence under this Act.
- (2) A person who commits an offence under subsection (1) of this section is liable on conviction liable to a fine of five hundred thousand naira or imprisonment for a term of not less than two years or to both.

65. Making untrue statement for the purpose of receiving a reward under the Protection Fund

- (1). A person shall not for the purpose of receiving a reward under this Act provide information that is false or misleading in any way.
- (2). A person found liable under the provision of subsection (1) of this section commits an offence and is liable on conviction imprisonment of not less than three years without option of a fine.

**PART XIV
OFFENCES AND PENALTIES**

66. False or misleading disclosure

- (1) A person who makes a statement to the Commission or to an appropriate or competent authority intending that it be acted on as a

public interest disclosure and in the statement, or in the course of inquiries into the statement, intentionally gives information that he -

- (a) knows is false or misleading; or
- (b) is reckless about whether it is false or misleading in a material particular,

commits an offence and is liable on conviction to a fine of not less than five hundred thousand naira or imprisonment for a term of not less than twelve months or to both.

- (2) For the purposes of subsection (1) of this section, a statement is made to the Commission or to an appropriate or competent authority if, were the statement truly a public interest disclosure, it is disclosed to Commission or to an appropriate or competent authority for the purposes of the Schedule to this Act.
- (3) A person who makes a statement in contravention of this section is not protected by this Act in respect of that statement, whether or not it is truly a public interest disclosure.

67. Offences relating to disclosures concerning participants

A person who, without lawful excuse, discloses information -

- (a) about the identity or location of a person who is or has been a discloser under the Programme; or
- (b) which compromises the security of that discloser,

commits an offence and is liable on conviction to a fine of not less than one million Naira or imprisonment for a term not less than five years or to both.

68. Prohibition of false representation

A person who, without prior written approval of the Commission, in connection with an activity carried on by him, takes, assumes, uses or in any manner publishes a name, description, title or symbol-

- (a) conveying or purporting to indicate or convey; or
- (b) which is calculated or is likely to lead other persons to believe or infer, that the activity is carried on under or by virtue of the provisions of this Act or on behalf of the Commission,

commits an offence and is liable on conviction to a fine of not less than one million Naira or to imprisonment for a term of not less than five years or to both.

69. Offences in connection with employees of the Commission

A person, who-

- (a) not being the Executive Director or an employee of the Commission, by words, conduct or demeanor falsely represents himself to be the Executive Director or an employee of the Commission;
- (b) exercises or attempts to exercise undue influence over the Executive Director or an employee of the Commission which is calculated to prevent the Executive Director or employee from carrying out his duties or encouraging him to perform an act which is in conflict with his duties; or
- (c) is an accomplice to the commission of an act by which a lawful order given to an employee or a regulation or directive or other rule may be evaded,

commits an offence and is liable on conviction to a fine of not less than five hundred thousand Naira or to imprisonment for a term not exceeding two years or to both.

70. Obstruction of employees of the Commission

A person who assaults, resists or wilfully obstructs an employee of the Commission or a person acting under the direction of that employee in the due execution of his duties under this Act, commits an offence and is liable on conviction for-

- (a) a first offence, to a fine of not less than five hundred thousand naira or to imprisonment for a term not exceeding two years or to both; and
- (b) a second or subsequent offence, to imprisonment for a term not less than five years.

71. Prohibition of access to premises of the Commission

- (1) The Commission may, by notice in the Federal *Gazette* or in any other manner as it may be necessary in the circumstance, prohibit or restrict access to land or premises under the control of the Commission.
- (2) The Commission may-
 - (a) take or cause to be taken measures as it may consider necessary for the security of, or the application of, a prohibition of or a restriction on access to land or premises referred to in subsection (1) of this section; and
 - (b) in connection with measures taken, cause notices to be published or warning notices to be erected as it may, in each particular case, consider necessary.
- (3) A person who enters upon or is on land or premises in contravention of a prohibition or restriction under subsection (1) of this section, commits an offence and is liable on conviction to a fine of not less than five hundred thousand Naira or to imprisonment for a term not exceeding twelve months or to both.

72. Offences and penalties relating to complaint

- (1) Any complaint lodged before the Commission shall not be made public by any person except the Commission and any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a fine of ₦100,000 or imprisonment for a term of six months or to both such fine and imprisonment.
- (2) If any person required to furnish information under this Act fails to do so or in purported compliance with such requirement to furnish information knowingly or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable on conviction to a fine of ₦100,000 or imprisonment for a term of six months or to both such fine and imprisonment.
- (3) Any person who wilfully obstructs, interferes with, assaults or resists the Commission or any other officer or servant of the Commission in the execution of his duty under this Act or who aids, invites, induces or abets any other person to obstruct, interfere with, assault or resist the such Commission, officer or servant, shall be guilty of an offence and liable on conviction to a fine of ₦100,000 or imprisonment for a term of six months or to both such fine and imprisonment.
- (4) Any person who in respect of any complaint lodged by him knowingly makes to the Commission any statement, whether or not in writing, which is false in any material particular, shall be guilty of an offence and shall on conviction be sentenced to imprisonment for one year without the option of a fine.

**PART XV
MISCELLANEOUS**

73. Legal proceedings

- (1) No civil action shall be commenced against the Commission or its authorised officers before the expiration of a period of thirty days after written notice of intention to commence the suit shall have been served on the Commission by the intending plaintiff or his agent, and the notice shall clearly and explicitly state the -
 - (a) cause of action;
 - (b) particulars of the claim;
 - (c) name and place of abode of the intending plaintiff; and
 - (d) relief sought.

- (2) The notice referred to in subsection (1) of this section and any summons, or other documents required or authorized to be served on the Commission under this Act or any other enactment or law, may be served by -
 - (a) delivering it to the office of the Commission; or
 - (b) sending it by registered mail to the postal address of the Commission.

74. Restriction on execution against property of the Commission

In any action or suit against the Commission, no execution shall be levied or attachment process issued against the Commission unless not less than three months' notice of the intention to execute or attach has been given to the Commission.

75. Indemnity of officers of the Commission

A member of the Board, Executive Director, officer or employee of the Commission shall be indemnified out of the assets of the Commission against any proceedings brought against him in his capacity as a member of the Board, Executive Director, officer or employee of the Commission where the act complained of is not *ultra vires* his powers.

76. Other laws not excluded

The protection given by this Act is in addition to, and does not derogate from, any privilege, protection, or immunity existing apart from this Act under any other enactment passed by the National Assembly.

77. Review of the operations of this Act

- (1) The Attorney-General shall carry out a review of the operation of this Act five years after the commencement of this Act, and shall, for purposes of the review, have regard to -
 - (a) the attainment of the purposes of this Act;
 - (b) the administration of this Act; and
 - (c) such other matters as appear to him to be relevant.
- (2) The Attorney-General shall prepare and submit to the President, a report based on the review made under subsection (1) of this section.

78. Power to make regulations, etc

- (1) The Commission may, with the approval of the Attorney-General, make regulations for or with respect to any matter necessary or expedient to be prescribed for carrying out or giving effect to this Act.
- (2) The Attorney – General may by order published in the Federal Gazette add to or remove an appropriate authority to the list contained in the Schedule to this Act.

79. Role of the Federal Ministry of Justice

The Federal Ministry of Justice shall not later than three months after the coming into force of this Act, take such steps as are necessary to bring into being the institutional structures of the Commission pursuant to the provisions of this Act.

80. Repeal and Savings

- (1) The Public Complaint Commission Act, 1975 is repealed.
- (2) Without prejudice to section 6 of the Interpretation Act, the repeal of the Act specified in subsection (1) of this section, and the section specified under section (2) of this section shall not affect anything done under or pursuant to the Act.
- (3) All regulations, orders, reports, ongoing investigations, and other proceedings, actions taken and things done under the repealed Act shall continue and have effect as if made, issued, carried on, taken or done under this Act.
- (4) Any conduct or activity which was a criminal conduct or activity under the repealed Act shall constitute a criminal conduct or activity in respect of which the provisions of this Act shall apply.
- (5) An agreement or arrangement in existence under the amended Acts before the commencement of this Act shall continue to have effect subject to such modifications as may be necessary to give effect to this Act.
- (6) The provisions of subsections (1) to (5) shall commence six months after the date of assent by the President.

81. Interpretation

In this Act, unless the context otherwise requires -

“appropriate authority” means a person or authority to which a public interest disclosure can be made or referred to for the purpose of investigation and contained in list in the Schedule to this Act and includes the National Judicial Board or the Presiding Officer of a Legislative House;

“appropriate process” means

“Attorney-General” means the Attorney-General of the Federation and Minister of Justice;

“competent authority” means any person or authority contained in the list in the Schedule to this Act with responsibility to investigate and prosecute any of the offences referred to in section 2 (1) (b) of this Act;

“complaint” includes an allegation, application, charge, motion, objection, petition, report, request or summons;

“Court” means the Federal High Court, the High Court of a State or the High Court of the Federal Capital, Abuja;

“court proceedings” include any proceeding in a court or tribunal;

“detrimental action” includes action causing, comprising, or involving -

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

“discloser” means a person, his affiliate or agent including a complainant who makes a disclosure of public interest information or complaint under this Act;

“employee” includes a public officer and a worker of a public sector contractor;

“employer” includes the Government of the Federation and a public sector contractor;

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

“Executive Director” means the Executive Director appointed for the Commission under section 20 of this Act;

“family” means a spouse, child, adopted child, step child, grandchild, parent, grandparent, niece, nephew, aunt, uncle or any other relative or person with whom the witness maintains a close family relationship;

“Government” means the Federal Government of Nigeria;

“journalist” means a person engaged in the occupation of writing or editing material intended for publication in the print or electronic news media;

“Judge” means a Judge of the Court;

“Legislative House” means the Senate or the House of Representatives;

“participant” means a witness who is included in the Programme;

“prescribed person” means a person prescribed by the Attorney-General as an appropriate authority under section 27 of this Act;

“proceedings” means any procedure conducted by or under supervision of the Judge or judicial officer, however described in relation to any alleged or proven offence, or any property derived from an offence, and include an inquiry, investigation, or preliminary or final determination of facts;

“Programme” means the Public Interest Disclosure & Protection Programme under Part IX of this Act;

“property derived from an offence” means any property derived or realized directly or indirectly from an offence and includes-

- (a) on a proportional basis, property into which any property derived or realized directly from the offence was later successfully converted, transformed or intermediate; and
- (b) income, capital or other economic gains derived or realized from the property at any time since the commission of the offence;

“protected person” means a witness included in the Programme;

“public authority” means-

- (a) a Ministry, a department, extra Ministerial Department or any public office or institution;
- (b) a Legislative House or the Judiciary;
- (c) a prescribed person; or
- (d) any other body that is established for a public purpose under a written law;

“public officer” means an officer in the service of the Federation and includes-

- (a) a Minister of the Government of the Federation;
- (b) a member of a Legislative House;
- (c) a judicial officer;
- (d) a police officer;
- (e) a person authorised under a written law to execute or serve any process of a court or tribunal for remuneration;

- (f) a member, officer, or employee of a public authority;
- (g) the holder of -
 - (i) a public office that is established for a public purpose under a written law; or
 - (ii) an office that is established by a Minister; and
- (h) any other person holding public office under the Government of the Federation;

“public interest disclosure” has the meaning given to it in section 3 of this Act;

“public sector contractor” means -

- (a) a person who, other than as an employee, contracts with a public authority to supply goods or services to or on behalf of the authority or the Government of the Federation or as directed in accordance with the contract;
- (b) a person who, other than as an employee, contracts with a public authority or the Government of the Federation to perform a public function; or
- (c) a subcontractor or employee of a person referred to in paragraph (a) or (b) of this subsection and each person who contracts with another person for the execution of the whole or part of the requirements of a contract referred to in those paragraphs; and

“referral authority” means the appropriate authority to which a public interest disclosure has the meaning given to it in section 21 of this Act; disclosure is referred under this Act;

82. Short title

This Act may be cited as the Public Interest Disclosure and Protection Act, 2020

SCHEDULE
APPROPRIATE OR COMPETENT AUTHORITIES

**[Sections 24, 26, 31 (2), (4) (e),
32 (1) (b), 35 (1), 58 and 66 (2)]**

- (1) For the purpose of this Act, the appropriate or competent authorities includes where the disclosure relates to -
- (a) an act or omission that constitutes an offence under a written law, it is made to a police officer;
 - (b) an unauthorised or irregular use of, or substantial mismanagement of public resources, it is made to, the-
 - (i) Auditor-General of the Federation,
 - (ii) Economic and Financial Crimes Commission, or
 - (iii) Fiscal Responsibility Commission;
 - (c) a case of corruption, gratification or related offence, it is made to the Independent Corrupt Practices and other related offences Commission;
 - (d) a case of money laundering, economic or financial crime, it is made to the Economic and Financial Crimes Commission;
 - (e) a case of terrorism or related activities, to the Department of State Security;
 - (f) drugs and drug trafficking, to the National Drug Law Enforcement Agency;
 - (g) the trafficking or violence against persons, to the National Agency for the Prohibition of Trafficking in Persons;
 - (h) the violation of the customs and excise laws, it is made to the Nigeria Customs Service;
 - (i) the violation of any law on the recovery of proceeds of crime, to any agency of the Federal Government responsible for the recovery of proceeds of crime under any law passed by the National Assembly;
 - (j) income tax and related taxes, it is made to the Federal Inland Revenue Services;

- (k) a matter of administration of funds or assets of a Government Ministry, department, agency or office, it is made to a person who occupies a position specified under section 38 (1)(a) of this Act in relation to the Ministry, department, agency or office concerned;
 - (l) a person who holds an appointment made under the Police Act, it is made to the Inspector-General of Police;
 - (m) a judicial officer, it is made to the National Judicial Board;
 - (n) a legislator, it is made to the Presiding Officer of the Legislative House to which the legislator belongs;
 - (o) an officer in the civil service of the Federation, it is made to the Federal Civil Service Commission;
 - (p) a matter falling within the area of responsibility of a public authority, it is made to a person who occupies a position specified under section 38 (1)(a) of this Act in relation to that authority; and
 - (q) a person or a matter of a prescribed class, it is made to—
 - (i) a person prescribed by an order of the Attorney-General under section 9 of this Act to be an appropriate authority for the purposes of section 2 (1) (b) of this Act in relation to the disclosure; or
 - (ii) any other authority specified in this Act or by regulations made under this Act.
- (2) Where a “public interest disclosure” has the meaning given to it in section 3 of this Act; disclosure falls within two or more paragraphs of this Schedule, then it is made to an appropriate or competent authority if made to any or all of the authorities contemplated by the applicable paragraphs.

EXPLANATORY MEMORANDUM
*(This memorandum does not form part of the Act
but is intended to explain its purport)*

This Act provides legal and institutional framework for giving special protection on behalf of the State to persons in possession of information of public interests including information from whistle blowers and informants. In addition, the Act seeks to protect persons from potential risk of intimidation for making public interest disclosures and cooperating with the investigation, prosecution, inquiry or tribunal, as the case may be and provides the basis of making rewards and paying compensation in deserving cases to persons making public interest disclosures.