

**A BILL
FOR**

**A LAW TO PROVIDE FOR THE ESTABLISHMENT AND OPERATION
OF A PROGRAMME TO ENABLE CERTAIN PERSONS TO RECEIVE
PROTECTION IN RELATION TO CERTAIN INFORMATION,
INQUIRIES, INVESTIGATIONS OR PROSECUTIONS**

BE IT ENACTED by the Kaduna State House of Assembly as follows –

Short title

1. This Law may be cited as The Kaduna State Witness Protection Programme Law, 2015.

Commencement

2. This Law shall come into operation on the day of 2015.

Interpretation

3. In this Law, unless the context otherwise requires –
“Commission” means Kaduna State Judicial Service Commission;
“Programme” means the Witness Protection Programme established under section 4 of this Law;
“Protected Person” means a witness or a person admitted to protection under this Law;
“Staff” means staff of the Commission;
“Protection Unit” means the Nigeria Police Force or any security agency established for the purpose of this Law;
“State Institutions” mean Ministries, Agencies and Departments of Kaduna State Government.

Staff of the Commission

(1) The Commission shall appoint for itself such other number of staff as may in the opinion of the Commission be expedient and necessary for the proper and efficient performance of the functions of the Commission.

(2) The Commission shall have power to appoint either on transfer or on secondment from within the State Civil Service, such number of employees as may be required to assist the Commission discharge any of its function under this Law.

Establishment of Witness Protection Programme and Administration

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

(2) The Programme shall be administered by the Kaduna State Judicial Service Commission (hereinafter referred to as "the Commission")

(3) A specialised protection unit (hereinafter referred to as "the Protection Unit") constituted by officers and men of the Nigeria Police and other security agencies shall be established to provide protection to persons included in the Programme.

(4) The Commission, among other responsibilities, shall –

- (a) decide on admission to and removal from the Programme;
- (b) decide on the type of protection measures to be applied taking into consideration any recommendation of the Protection Unit;
- (c) make budgetary submissions for the Programme's financing;
- (d) prepare an annual report on the Programme's general operations, performance and effectiveness in a manner which does not prejudice the effectiveness or security of the Programme; and
- (e) perform any other activity necessary for the implementation of the Programme.

Other Protected Persons

6. For the purpose of this Law, subject to the determination of the Commission, the provisions of this Law may apply to a family member or a person whose life or safety is at risk because of his or her relationship or close association to the protected person.

Confidentiality

7. (1) All information relating to a person, who is protected on the Programme shall be handled with the highest level of confidentiality.
- (2) The Commission, Protection Unit and any other agency or individual, who possesses knowledge of the protection measures or has participated in the preparation, issuance, or execution thereof, shall keep the records confidential.

Oath of secrecy

- (3) All staff of the Commission shall make an oath to keep all information, either official or unofficial discreet and shall on no grounds divulge such information that compromise a witness protected under this law
- (3) Disclosure of any information relating to the Programme or the protection measures shall be punishable as a serious crime except it is authorised and necessary to provide protection to the person.

Cooperation with Institutions

8. (1) Any and all Kaduna State Government's Institutions shall cooperate with the Commission about any matter, relating to implementing and administering the Programme.
- (2) In implementing the Programme, the Commission may enter into agreement with an individual, a private institution, governmental and non-governmental organisation to make use of their services.

Admission Procedure

9. (1) Admission to the Programme may be initiated by written request from an investigator, prosecutor or judge.
- (2) The request shall be forwarded without delay to the Commission with all the information required under section 10 along with a detailed opinion on the need or the lack thereof for admission to the Programme.
- (3) The Commission shall process the request and reach a decision without undue delay.

Admission Criteria

10. Admission to the Programme shall be based on the following factors –
 - (a) the seriousness of the crime for which the cooperation of the protected person is solicited;
 - (b) the importance of the protected person's testimony where there is no alternative source of that evidence for the investigation or prosecution of the crime;
 - (c) the gravity of the threat to the security of the protected person;
 - (d) the protected person's ability to adjust to the Programme having regard to his or her maturity, judgment, other personal characteristics and the family relationships of the protected person.

Decision for Admission

11. Admission to the Programme shall be decided solely by the Commission upon receipt of recommendation from the Protection Unit as to –
 - (a) the nature of the risk to the prosecution witness;
 - (b) the danger to the community if the witness is admitted to the Programme;
 - (c) the nature of the inquiry, investigation or prosecution involving the witness and the importance of the witness in the matter;
 - (d) the value of the information or evidence given or agreed to be given or of the participation by the witness;
 - (e) the likelihood of the witness being able to adjust to the Programme, having regard to the witness's maturity, judgment and other personal characteristics and the family relationships of the witness;

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- (f) alternative methods of protecting the witness without admitting the witness to the Programme; and
 - (g) such other factors as the Commission deems relevant.

Protection Measures

12. (1) Protection measures decided by the Commission shall be proportional to the level of risk and may include –
- (a) physical protection;
 - (b) relocation;
 - (c) change of identity; and
 - (d) any other measure necessary to ensure the safety of the protected person.
- (2) In support of the Programme, the Commission may request the courts to implement protection measures during court testimony such as closed sessions, use of pseudonym, and to allow the witness to testify from a more secure location or to obscure or distort the witness's face or voice.
- (3) The Commission may also decide on the provision of support measures, to enable a witness integrate in the Programme.

Memorandum of Understanding

13. (1) Protected persons shall be admitted to the Programme upon signing a Memorandum of Understanding with the Commission.
- (2) The Memorandum provides notice of voluntary conditions that will apply at the Programme and shall include –
- (a) the terms or conditions for inclusion into the programme;
 - (b) all general categories of protection measures described in section 12(1) that are authorised;
 - (c) financial and other material support;
 - (d) an agreement by the witness to comply with all directions given by the Commission, including physical and psychological examinations;
 - (e) an agreement by the protected person not to compromise the Programme's integrity or security;

- (f) an agreement by the protected person to disclose all legal liabilities and financial obligations along with an agreement by the protected person as to how those obligations and liabilities shall be satisfied;
- (g) an agreement by the protected person to disclose to the Commission any prior pending criminal, civil, or bankruptcy proceedings, as well as knowledge of any such proceedings that may arise once he or she is accepted into the Programme; and
- (h) the conditions allowing the Commission to remove the protected person from the Programme.

Removal from the Programme

14. (1) The Commission shall remove a protected person from the Programme under the following conditions –
- (a) the protected person renounces in writing any further protection;
 - (b) the need for protection measures ceases to exist.
- (2) The Commission may remove a witness or person from the Programme under the following conditions –
- (a) the protected person has violated the terms of the Memorandum of Understanding;
 - (b) the protected person gave, knowingly, false or misleading information to the investigators, prosecution or Commission;
 - (c) the protected person engages in conduct that jeopardises that Programme's integrity, fails to follow the Programme's rules or comply with all reasonable requests and instructions of the Protection Unit;
 - (d) the protected person commits a crime;
 - (e) the protected person refuses to cooperate with the judicial process and refuses, publicly, to testify whenever required.

Emergency Measures

15. (1) In case of an imminent threat or danger to the protected person, the Commission may adopt the measures described in section 12 on a provisional basis.
- (2) These measures shall cease after the cessation of the emergency or a decision by the Commission that the witness is ineligible for admission to the Programme.

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

International Cooperation

16. The Commission or the Protection Unit is authorised to enter into confidential agreements with relevant foreign authorities, international criminal courts or tribunals and other regional or international entities relating to the relocation of the protected persons and other protection measures.

Budget

17. The funding of the Programme shall be based on a budget prepared by the Commission subject to the approval of the Kaduna State House of Assembly.

Grievance Procedure

18. A confidential procedure for filing and resolving grievances of the protected persons and staff of the Protection Unit shall be instituted by the Commissioner

Offences

19. A person who contravenes any provision of this Law is guilty of an offence and shall be liable on conviction to a fine of not less than five hundred thousand naira (₦ 500,000) or a term of imprisonment of not less than three years or both.

Regulations

20. The Commission may make regulations for the purpose of giving effect to this Law.

Made at Kaduna this day of 2015

NASIR AHMAD EL-RUFAI, OFR
GOVERNOR, KADUNA STATE

EXPLANATORY NOTE

The Law seeks to provide for the conditions and procedures for ensuring special protection on behalf of Kaduna State Government to persons in possession of important information, who are facing potential risk or intimidation arising from their cooperation with the public prosecutor.