

A BILL

FOR

AN ACT TO PROVIDE FOR THE PROTECTION OF EMPLOYEES AND
TO PREVENT THE UNFAIR TREATMENT OF EMPLOYEES IN NIGERIA
AND FOR THE ESTABLISHMENT OF THE EMPLOYEES PROTECTION
COUNCIL

Sponsors:

Dr. CHINYERE ANI
UCHECHUKWU NGWABA

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

of the Federal Republic of Nigeria as follows:

]Commence- ment.

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11 **1.** – (1) An employee shall have the right not to be treated by his
12 employer unfairly in respect of his basic working and employment condi-
13 tions.

14 (2) In determining whether the right conferred by sub-section (1) on an
15 employee has been breached, regard shall be had to whether -

16 (a) the unfair conduct of the employer relates to the promotion, demo-
17 tion, or training of an employee or relates to the provision of benefits to
18 an employee;

(b) the suspension of an employee or any other disciplinary action short of dismissal in respect of an employee is unfair;

21 (c) the employer has placed the employee in a disadvantageous posi-
22 tion because the employee is entitled to a workplace right under this Act
23 or any other enactment;

1 (d) the employer exerts undue influence or pressure on an employee in
2 relation to certain workplace rights; and

3 (e) an employer is guilty of discrimination on grounds of age, disability,
4 ethnicity, gender, religion or any other grounds prohibited in this Act
5 or any other enactment.

6 **2.** - (1) Where an employee feels he is being treated unfairly by his
7 employer, such employee shall have the right to lodge a written complaint
8 of such allegation of unfair treatment with the Council.

9 (2) Upon the receipt of such complaint of unfair treatment from an
10 employee, the Council shall within 7 days write the employer concerned
11 informing the employer of the complaint of unfair treatment made against
12 him by the employee and inviting a written response to be made by such
13 employer to the Council within a period of 14 days.

14 (3) Upon the receipt of the written representation of the employer, the
15 Council shall within a period of 14 days convene a meeting of both the
16 employer and the employee with a view to addressing the issues between
17 them.

18 **3.** Where the attempt at resolving the issues between the employer
19 and employee by the Council fails, and in the opinion of the Council, the
20 rights of the employee under this Act or any other enactment, has been, or
21 is likely to be breached, the Council shall have the power to institute an ac-
22 tion before the Court for the purpose of enforcing the rights of the affected
23 employee.

24 **4.** – (1) For the purpose of giving effect to the provisions of this Act,
25 there is hereby established a body to be known as the Employee Protection
26 Council, which under that name shall be a body corporate, with perpetual

1 succession and a common seal, and may sue and be sued in its corporate
2 name.

3 (2) The supplementary provisions contained in the Schedule to this Act
4 shall have effect with respect to the proceedings of the Council and the other
5 matters mentioned therein.

6 **5.** – (1) The Council shall consist of a chairman and the following
7 other members, that is –

8 (a) one representative each from the following –

9 (i) Federal Ministry of Labour

10 (ii) Federal Ministry of Justice

11 (iii) Trade Union Congress

12 (iv) Nigeria Labour Congress

13 (b) six persons with wide knowledge and experience in labour matters
14 representing both private and public sector interests, to be appointed on
15 individual merit based on Federal character principles under the relevant
16 laws.

17 (2) The chairman and other members of the Council shall be appointed
18 by the President.

19 **6.** – (1) Subject to the provisions of this Act, a person appointed to
20 be a member of the Council, not being a public officer, shall hold office for
21 a period of three years from the date of his appointment and shall be eligible
22 for reappointment for such other period as may be specified in his instru-
23 ment of appointment.

24 (2) Any member, not being a public officer, may resign his appoint-
25 ment, by a letter addressed to the President.

(3) Members of the Council, not being public officers, shall be paid such remuneration and allowances as the President may determine.

3 **7. –(1)** The functions of the Council shall be to –

4 (a) ensure the Protection of the rights of employees under this Act and
5 any other enactment;

(b) advise the President and the Governors of the States, through the Minister of Labour and State Commissioners for Labour on measures to be taken to ensure the protection of employees from unfair treatment by employers in accordance with international labour standards;

(c) investigate complaints of unfair treatment by employees against their employers and redress them where possible; and

(d) Institute actions before the Court to redress a breach of an employee's right under this act or any other enactment where the Council is unable to resolve the breach outside the due process of law.

15 (e) carry out such other activities as are conducive to the discharge of
16 its functions under this Act.

17 (2) The Minister may give the Council directives of a general character
18 or relating generally to particular matters, with regard to the exercise by the
19 Council of its functions under this Act, and it shall be the duty of the Council
20 to comply with such directives.

21 8. –(1) There shall be appointed by the President an Executive Sec-
22 retary to the Council, who shall have experience in labour affairs for a period
23 not less than 10 years.

1 (2) The Executive Secretary shall be the chief executive officer of the
2 Council and shall be responsible for the execution of the policy of the Coun-
3 cil and the day-to-day running of the affairs of the Council.

4 (3) The Executive Secretary shall hold office in the first instance for a
5 period of four years and shall be eligible for reappointment for another term
6 of four years.

7 (4) Subject to this section, the Executive Secretary shall hold office on
8 such terms as to emoluments and otherwise as may be specified in his in-
9 strument of appointment.

10 **9.** – (1) The Council shall establish and maintain a separate fund
11 from which there shall be defrayed all expenditure incurred by the Council.

12 (2) There shall be paid and credited to the fund established in pursu-
13 ance of subsection (1) of this section, such payments as may be made to it by
14 the Federal Government for the running expenses of the Council and all other
15 assets from time to time accruing to the Council.

16 **10.** – (1) The Council may, from time to time, apply the proceeds of
17 the fund established in pursuance of section 9 (1) of this Act –

18 (a) to the cost of administration of the Council;
19 (b) for reimbursing members of the Council or members of any com-
20 mittee set up by the Council, for such expenses as may be expressly au-
21 thorized by the Council, in accordance with the rates approved by the
22 President;

23 (c) to the payment of salaries, fees or other remuneration or allowanc-
24 es and superannuation allowances and gratuities, payable to the officers
25 and servants of the Council, so however that no payment of any kind un-

1 der this paragraph (except as may be expressly authorized as aforesaid),
2 shall be made to any person who is in receipt of emoluments from the
3 Government of the Federation or the Government of a State;

- 4 (d) for the maintenance of any property vested in the Council; and
5 (e) for and in connection with all or any of its functions under this Act.

6 **11.** – (1) The Council shall submit to the Attorney General of the
7 Federation, not later than 31 October in each financial year, an estimate of its
8 expenditure and income during the next succeeding financial year.

9 (2) The Council shall keep proper accounts in respect of each financial
10 year (and proper records in relation thereto) and shall cause its accounts to be
11 audited as soon as may be possible after the end of each financial year by the
12 Auditor-General for the Federation.

13 **12.** The Council shall prepare and submit to the President through the
14 Minister, not later than 30 June in each financial year a report in such form as
15 he may direct on the activities of the Council during the immediately preceding
16 financial year, and shall include in such report a copy of the audited ac-
17 counts of the Council for that year and the Auditor-General's report thereon.

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19 **13.** – (1) For the purpose of carrying out the functions conferred on
20 the Council under this Act, the Executive Secretary or any other officer of the
21 Council authorized in that behalf –

- 22 (a) shall have a right of access to all records of such body to which
23 this Act applies;

1 (b) may by notice in writing served on any person in charge of any
2 such body require that person to furnish information on such matters as
3 may be specified in the notice.

4 (2) It shall be the duty of any person required to furnish information
5 pursuant to subsection (1) of this section to comply with the notice within the
6 period specified in such notice.

7 **14.** The Minister may by regulations published in the Federal Gazette
8 prescribe anything falling to be prescribed generally for the purposes of this
9 Act.

10 **15.** In this Act, unless the context otherwise requires –

11 “Council” means the Employees Protection Council established under
12 section 4 of this Act;

13 “Executive Secretary” means the person appointed as the Executive Sec-
14 retary to the Council in pursuance of section 8 (1) of this Act;

15 “Member” means a member of the Council and includes the chairman;

16 “Minister” means the Minister of Labour.

17 **16.** This Bill may be cited as the Employees Protection Bill, 2011.

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SCHEDULE

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Section 4 (2)

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SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC

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Proceedings

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1. Subject to this Act and section 27 of the interpretation Act (which provides for decisions of a statutory body to be taken by a majority of its members and for the chairman to have a second or casting vote), the Council may make standing orders regulating the proceedings of the Council or any committee thereof.

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2. Every meeting of the Council shall be presided over by the Chairman or, if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their members to preside at the meeting.

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3. The quorum at a meeting of the Council shall consist of the Chairman (or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and five other members of whom at least two shall be members appointed pursuant to paragraph (a) of section 5 (1) of this Act.

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4. Where upon any special occasion the Council desires to obtain the advice of any person on any particular matter, the Council may co-opt that person to be a member for as many meetings as may be necessary, and that person while so co-opted shall have all the rights and privileges of a member except that he shall not be entitled to vote.

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Committees

1 5. – (1) Subject to its standing orders, the Council may appoint such
2 number of standing and ad hoc committees as it thinks fit to consider and re-
3 port on any matter with which the Council is concerned.

4 (2) Every committee appointed under the provisions of subparagraph
5 (1) of this paragraph shall be presided over by a member of the Council and
6 shall be made up of such number of persons, not necessarily members of the
7 Council, as the Council may determine in each case.

8 (3) The quorum of any committee set up by the Council shall be as
9 may be determined by the Council.

10 *Miscellaneous*

11 6. The fixing of the seal of the Council shall be authenticated by the
12 signature of the chairman or of the Executive Secretary of the Council.

13 7. Any contract or instrument which, if made by a person not being a
14 body corporate, would not be required to be under seal, may be made or exe-
15 cuted on behalf of the Council by the Executive Secretary or by any person
16 generally or specially authorized to act for the purpose by the Council.

17 8. Any document purporting to be a contract, instrument or any other
18 document duly signed or sealed on behalf of the Council shall be received in
19 evidence and unless the contrary is proved, be presumed without further proof
20 to have been so signed and sealed.

21 9. The validity of any proceedings of the Council or a committee
22 thereof shall not be affected –

- 23 (a) by any vacancy of the membership of the Council; or
24 (b) by any defect in the appointment of a member of the Council or
25 committee.

1 10. Any member of the Council or a committee thereof who has a per-
2 sonal interest in any contract or arrangement entered into or proposed to be
3 considered by the Council or committee shall forthwith disclose his interest to
4 the Council or committee and shall not vote on any question relating to the
5 contract or arrangement.

6 EMPLOYEES PROTECTION ACT

7 SUBSIDIARY LEGISLATION

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