

ECONOMIC AND FINANCIAL CRIMES COMMISSION (ESTABLISHMENT)

BILL, 2015

ARRANGEMENT OF CLAUSES

Clauses

1. Amendment of the Principal Act
2. Amendment of section 2
3. Amendment of section 14
4. Amendment of section 12
5. Insertion of new clauses "13,14,15 and 16"
6. Amendment of section 16
7. Substitution of section "32"
8. Citation.

A BILL

FOR

AN ACT TO AMEND THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (ESTABLISHMENT, ETC.) ACT CAP. E1, LAWS OF THE FEDERATION OF NIGERIA, 2004 TO PROVIDE FOR THE RESTRUCTURING OF THE COMPOSITION OF THE COMMISSION BY INCLUDING MEMBERS OF INDEPENDENT ORGANIZATIONS IN ITS MEMBERSHIP, ESTABLISHMENT OF OPERATIONS REVIEW COMMITTEE, WITNESS PROTECTION UNIT, DETENTION UNIT AND COMPENSATION OF VICTIMS OF FINANCIAL CRIMES AND DISQUALIFICATION OF CONVICTED PERSONS FROM HOLDING OR CONTINUING TO HOLD PUBLIC OFFICE AND RELATED MATTERS

Sponsored by Hon. Ossai Nicholas Ossai

[] Commencement

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

- 1 1. The Economic and Financial Crimes Commission Amendment of
- 2 (Establishment, etc.) Act Cap. E1, Laws of the Federation of Nigeria, the Principal Act
- 3 2004(in this Bill referred to as "the Principal Act") is amended as follows-
- 4 2. Section 2(1)(a) is amended by-
- 5 (a) deleting the words "serving or" and replacing them with the Amendment of
- 6 word "former"; and Section 2
- 7 (b) substituting existing paragraph "(o)" with the a new paragraph
- 8 "(o)" as follows-
- 9 “(o) (i) a Legal Practitioner of not less than 15 years at the bar to
- 10 be nominated by the Nigerian Bar Association;
- 11 (ii) a Banker of not less than 15 years post-associate of the Institute
- 12 of Bankers to be nominated by the Nigerian Institute of Bankers;
- 13 (iii) a Chartered Accountant to be nominated in rotation by the
- 14 Institute of Chartered Accountants of Nigeria (ICAN) and the Association of

1 National Accountants of Nigeria (ANAN); and
2 (iv) a representative of organized labour to be nominated in rotation
3 by the Nigerian Labour Congress (NLC) and the Trade Union Congress
4 (TUC)."

Amendment of
Section 14

5 3. Section 14 is amended by substituting the existing subsections
6 "(2)" and "(3)" with the new sub-sections "(2)" and "(3)" as follows-

7 (a) "(2) Where a person is charged with an offence under this Bill or
8 any other law and the Commission has attached or recovered all or a substantial
9 part of the property traceable to the commission of the offence charged, it may
10 if the accused person agrees to plead guilty to any lesser offence of the same
11 kind as the offence charged, charge him with that lesser offence"; and

12 (b) "(3) Where a Court convicts an offender under this Bill or any
13 other law, the Court shall order that any money or property recovered from
14 him, which rightly belongs to the victim of the offence, shall be paid directly to
15 him".

Amendment of
Section 12

16 4.-(1) Section 12(1) of the Principal Act is amended by inserting new
17 paragraphs "(f) and "(g) after the existing paragraph "(e)" as follows-

18 "(f) the Witness Protection Unit"; and

19 "(g) the Detention Unit".

20 (2) The subsequent paragraphs are rearranged accordingly.

Insertion of new
Clauses "13",
"14", "15" and
"16"

21 5. The Principal Act is amended by inserting new Sections "13",
22 "14", "15" and "16" as follows-

"Operations
Review
Committee"

23 (a) "13 (1) Subject to the provisions of Section 174 of the Constitution
24 of the Federal Republic of Nigeria, 1999 as amended, there shall be established
25 for the Commission an Operations Review Committee which shall consist of-

26 (a) a retired Chief Justice of Nigeria;

27 (b) a Justice of the Supreme Court of Nigeria;

28 (c) the Chairman of the Economic and Financial Crimes
29 Commission;

30 (d) a retired Inspector-General of Police;

1 (e) the President of the Nigerian Bar Association;

2 (f) the Governor of the Central Bank of Nigeria;

3 (g) President, Nigerian Union of Journalists

4 (2) The Committee shall be charged with the responsibility for
5 receiving information about-

6 (i) any complaint before the Commission;

7 (ii) any investigation carried out by the Commission

8 (iii) every case prosecuted or not prosecuted.

9 (3) The Committee shall act on every information or report
10 received from the Commission and advise the Commission, if necessary, on
11 any appropriate step or action to take.

12 (4) The Commission shall make a quarterly report of every
13 complaint received by it, all cases investigated whether or not the matters
14 are prosecuted by the Commission."

15 "14 (1) A person convicted of an offence under the provisions of
16 this Bill shall, for a period of ten years from the date of conviction, be
17 disqualified from being elected or appointed to, holding or continuing to
18 hold any office or position or any title of honour or distinction in any public
19 body.

"Disqualification
of convicted
persons in certain
cases"

20 (2) A Court may, if it considers the offence sufficiently serious,
21 order that his name should be removed from any public buildings, places,
22 roads, or institutions named after him";

23 (b) "15(1) Any person who-

24 (a) owns or is in possession or in control of money, wealth or
25 resources disproportionate to his present or past emoluments or earning; or

"Possession of
unexplained
wealth"

26 (b) is in possession or is in control of money, wealth or resources
27 which is reasonably suspected to have been obtained corruptly or in
28 circumstances which amount to an offence under this Bill or any other law
29 shall, unless he gives an explanation satisfactory to the court as to how he
30 came by the same, commits an offence punishable with imprisonment for

Compensation
for the victim of
an Offence

1 five years.

2 (2) The Court convicting an offender under sub-section(1) of this
3 Section may order forfeiture of such unexplained assets";

4 (c) "16 Any person who is convicted of an offence under this Bill or
5 any other law, shall be liable to make restitution or pay compensation to any
6 person who his conduct has occasioned loss or damage which was reasonably
7 foreseeable as the court may determine ".

Amendment of
Section "16(1)"

8 6. Section 16(1) of the Principal Act is amended by substituting the
9 words "which is" after the word "information" with the words "willfully or
10 knowingly to be".

Substitution of
Section "32"

11 7. The Principal Act is amended by substituting the existing Section
12 "32" with the new Section "32" as follows-

13 (a) "(1)Any person who, knowing that the Commission has not
14 authorized it, deals with, sells or otherwise disposes of any property or asset
15 which is the subject of an attachment, interim order or final order, commits an
16 offence and is liable on conviction to imprisonment for a term of five years
17 without the option of a fine" ; and

18 (b) "(2) A manager or person in control of the head office or branch of
19 a bank, financial institution or designated non-financial institution who
20 without lawful excuse fails to pay over to the Commission upon the production
21 to him of a final order,
22 commits an offence under this Act and is liable on conviction to imprisonment
23 for a term of three years."

Citation

24 8. This Bill may be cited as the Economic and Financial Crimes
25 Commission Act (Amendment) Bill, 2015.

EXPLANATORY MEMORANDUM

This Bill seeks to amend The Economic and Financial Crimes Commission (Establishment, etc.) Act Cap. E1, Laws of the Federation of Nigeria 2004, to provide for the restructuring of the composition of the Commission by including members of independent organizations in its membership, establishment of Operations Review Committee, Witness Protection Unit, Detention Unit and compensation of victims of financial crimes and disqualification of convicted persons in holding from continuing holding public office.