

[HB. 15.12.326]

A BILL

FOR

AN ACT TO AMEND THE ECONOMIC AND FINANCIAL CRIMES COMMISSION
(ESTABLISHMENT) ACT 2004

*Sponsored by HON. BEDE EKE UCENNA
(Aboh Mbaise/Ngor Okpala Federal Constituency)*

[] Commence-
ment.

BE IT ENACTED BY THE National Assembly of the Federal Republic of
Nigeria—

The Economic and Financial Crimes Commission (Establishment)
Act 2004 (hereinafter referred to as “the Principal Act”) is hereby
amended as set out in this Act.

1 1. Section 2 (*o*) of the Principal Act is repealed and the following Amendment
2 substituted: of Section 2.

3 2. (*o*) four eminent Nigerians representing the “Composition
4 following, that is, the Legal profession, the Accounting of the
5 profession, Civil Society Organizations and the Labour Commission.
6 Union”.

7 2. Section 6 (*h*) of the Principal Act is amended by inserting the Amendment
8 words “and prosecuting such” after the word “identifying” as follows: of Section 6.

9 6. (*h*) “the examination and investigation of all “Functions
10 reported cases of economic and financial crimes with a of the
11 view of identifying and prosecuting such individuals, Commission.
12 corporate bodies or groups involved;”

13 Section 6 of the principal Act is amended by
14 inserting new subsection (*r*) as follows:

15 (*r*) it shall be the primary responsibility of the
16 Commission to investigate and prosecute elected or
17 appointed Federal and State Governments political office
18 holders.

Amendment
of Section 8.

1 3. Section 8 of the Principal Act is amended by inserting new
2 subsections 4 and 5 as follows:

3 “Appointment 8.—(4) Where any officer or person is appointed under
4 of Secretary subsection 3 of this section, such officer or person shall
5 and other hold such appointment for a minimum of four years unless
6 staff of the the Commission decides otherwise.
7 Commission.

8 (5) Any person approving the deployment or
9 secondment of such officer or person shall be deemed to
10 have consented to the release of such officer or person
11 for the period mentioned in subsection (4) above.

12 Subsection (4) and subsection (5) of the Principal Act
13 are renumbered as subsections (6) and (7) respectively.

Amendment
of section
27.

14 4. Section 27 of the principal Act is amended by inserting the
15 following new section that is:

16 “Forfeiture. 27.—(1) Where money, stocks, property, real or
17 personal is acquired or suspected to have been acquired
18 in breach of the provisions of this Act or the Money
19 Laundering Act or any law in respect of which the
20 Commission has powers or jurisdiction or where such
21 property is involved or suspected to be involved in a
22 transaction or attempted transaction which constitutes a
23 violation of this Act or the Money Laundering Act, or
24 any other law in respect of which the Commission has
25 powers or jurisdiction the Commission may apply to the
26 Court to have such money, stocks or property forfeited.

27 (2) Forfeiture proceedings as provided in subsection
28 (1) of this section shall be applicable inclusive of the
29 following cases:

30 Where the suspected owner of the property —
 (a) is a fugitive

1 (b) cannot be located despite the exercise of due
2 diligence

3 (c) resides outside Nigeria or within Nigeria but
4 efforts at locating the him are unavailing, impossible
5 or unproductive

6 (d) disclaims ownership of such property and no
7 other person has come to lay claim to the property.

8 (3) Where a property is acquired or suspected to be a
9 proceed of a breach of the provision of this Act or the Money
10 Laundering Act, or any other law in respect of which the
11 Commission has powers or jurisdiction and subject to
12 forfeiture under subsection (1) of this section, the
13 Commission shall notify the general public by publication of
14 its intention to apply to Court to have such properties forfeited
15 in at least two (2) national newspapers and after a period of
16 30 days from the date of such publication may apply to the
17 Court to have such property forfeited.

18 (4) Any person who owns and claims that the
19 property sought to be forfeited was not acquired in
20 contravention of this Act or Money Laundering Act or
21 any other law in respect of which the Commission has
22 powers, may apply to Court to oppose the order of
23 forfeiture.

24 (5) An application under subsection (4) of this section
25 shall be made in person by the applicant.

26 (6) Renumber sections 27, 28, 29, 30, 31, 32, 33,
27 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47 and
28 48 of the Principal Act as sections 28, 29, 30, 31, 32, 33,
29 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48
30 and 49 respectively.

Amendment
of Section
32.

1 **5.** Section 32 of the Principal Act as renumbered in Section 27 of
2 this amendment Act is amended by inserting a new subsection (5):
3 “Offences in **32.—(5)** Notwithstanding provisions in this Act with regard
4 relation to to forfeiture to the Federal Government or in respect of
5 forfeiture payment to the Consolidated Revenue Fund of the Federation
6 orders. any property or proceeds of property forfeited by virtue of
7 the provisions of this Act shall be returned to the lawful
8 person, body or authority who owned the property prior to
9 the act of the person breaching the provisions of this Act,
10 the Money Laundering Act or any other law in respect of
11 which the Commission has jurisdiction.

Amendment
of section
40.

12 **6.** Section 40 (2) (c) of the Principal Act as renumbered in Section
13 27 of this amendment Act is amended by deleting the words “ten
14 thousand naira” and inserting the words “One hundred thousand Naira”
15 or to imprisonment for a term not exceeding two years or to both.
16 “Appeal **40.—(2) (c)** where any person who has made a
17 against statement to an officer of the Commission or to the
18 interlocutory Attorney-General in the course of such officer or
19 ruling, etc. Attorney-General exercising any power conferred by this
20 Act, subsequently thereto makes any other statement to
21 any person having authority or power under any law to
22 receive or require to be made such other statement
23 regardless of whether or not the person making the
24 statement is under a legal or other obligation to tell the
25 truth, he shall if such other statement is inconsistent with
26 any statement previously made to an officer of the
27 Commission or such other public officer, be guilty of an
28 offence and shall on conviction be liable to a fine not
29 exceeding One hundred thousand naira or to imprisonment
30 for a term not exceeding two years or to both.

- 1 7. Section 44 of the Principal Act as renumbered in Section 27 of
2 this amendment is amended by repealing the existing section and
3 inserting a new section as follows:
- 4 “Except in accordance with the provisions of Section 22 (2) and
5 Section 30 (4) of this Act and without prejudice to the provision of
6 section 174 of the Constitution, in the exercise of its functions, the
7 Commission shall not be subject to the direction or control of any
8 authority or person”
- 9 8. This Act may be cited as Economic and Financial Crimes
10 Commission (Establishment) Act (Amendment) Bill, 2015.
- Amendment
of section
44.
- Short Title.

EXPLANATORY MEMORANDUM

This Act seeks to amend the Economic and Financial Crimes Commission (Establishment) Act, 2004 to make the Commission more independent and effective in the enforcement of all economic and financial crimes laws among other things.