

A BILL

FOR

AN ACT TO AMEND THE POLICE SERVICE COMMISSION ACT TO ENSURE ITS INDEPENDENCE, REPOSITION THE COMMISSION AND TO MAKE IT MORE EFFECTIVE AND FOR RELATED MATTERS

Sponsored by Hon. Salisu Zakari Ningi

[] Commencement

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

1 1.-(1) The Police Service Commission (Establishment) Act 2001 Amendment of
2 (In this act referred to as "The Principal Act") is amended as set out in this No. 1 of 2001
3 Act.

4 2. Section 2 of the Principal Act is amended by substituting the Amendment of
5 existing Section 2 for the following Section 2- Section 2

6 2. (1) The management of the Commission shall vest in the
7 following members, whose appointment shall be in line with the Federal
8 Character provision of the Constitution:

9 (a) a Chairman who shall be a person qualified to be appointed as
10 Justice of the Supreme Court or Court of Appeal and who shall be the Chief
11 Executive of the Commission;

12 (b) a retired Police Officer not below the rank of Commissioner of
13 Police;

14 (d) one representative each of:

15 (i) women interest;

16 (ii) the Nigerian Press;

17 (iii) Non-Governmental human rights organisations in Nigeria;

18 (iv) organized Private Sector;

19 Who shall be persons appointed by virtue of their knowledge and at least
20 fifteen years' experience in the fields of:

- 1 (i) criminology;
- 2 (ii) psychology;
- 3 (iii) law;
- 4 (iv) human rights and gender;
- 5 (v) medicine,
- 6 (vi) alternative dispute resolution;
- 7 (vii) security matters; or
- 8 (viii) community policing;
- 9 (v) the Chairman of the National Human Rights Commission;
- 10 (vi) the Secretary to the Commission.
- 11 (2) The Chairman and other members of the Commission shall-
- 12 (a) be appointed by the President subject to the confirmation by the
- 13 Senate;
- 14 (b) be persons of proven integrity and ability.
- 15 (3) The members of the Commission referred to in paragraph (d) of
- 16 Subsection (1) of this section shall be part-time members.
- 17 (4) The supplementary provisions set out in the Schedule to this Act
- 18 shall have effect with respect to the proceedings of the Commission and the
- 19 other matters contained therein.
- 20 3. Section 6 of the Principal Act is amended by substituting the
- 21 existing Section 6 for the following Section 6-
- 22 6. (1) The Commission shall-
- 23 (a) be responsible for the appointment and promotion of persons to
- 24 offices (other than the office of the Inspector-General of Police) in the Nigeria
- 25 Police Force;
- 26 (b) formulate polices and guidelines for the appointment, promotion,
- 27 discipline and dismissal of officers of the Nigeria Police Force;
- 28 (c) identify factors inhibiting or undermining discipline in the Nigeria
- 29 Police Force;
- 30 (d) formulate and implement policies aimed at the efficiency and

1 discipline to the Nigeria Police Force;

2 (e) investigate any complaints related to disciplinary or criminal
3 offences committed by any member of the Force, whether on its own motion
4 or on receipt of a complaint, and make recommendations to the relevant
5 authorities, including recommendations for prosecution, compensation,
6 internal disciplinary action or any other appropriate relief, and shall make
7 public the response received to these recommendations;

8 (f) receive and investigate complaints by members of the Force;

9 (g) monitor and investigate policing operations affecting members
10 of the public;

11 (h) conduct inspections of Police premises, including detention
12 facilities under the control of the Force;

13 (i) co-operate with other institutions on issues of Police oversight,
14 including other State organs in relation to services offered by them;

15 (j) review the patterns of Police misconduct and the functioning of
16 the internal disciplinary process;

17 (k) present any information it deems appropriate to an inquest
18 conducted by a court of law;

19 (l) take all reasonable steps to facilitate access to the Commission's
20 services for the public;

21 (m) subject to the Constitution and the Freedom of Information
22 Act, publish findings of its investigations, monitoring, reviews and audits as
23 it sees fit, including by means of the electronic or printed media;

24 (n) report on all its functions under this Act or any law;

25 (o) dismiss and exercise disciplinary control over persons (other
26 than the Inspector-General of Police) in the Nigeria Police-Force; and

27 (p) perform such other functions which in the opinion of the
28 Commission are required to ensure the optimal efficiency of the Nigeria
29 Police Force.

30 (2) The Commission shall not be subject to the direction, control or

1 supervision of any authority or person in the performance of its functions and
2 accordingly-

3 (a) The Commission shall observe the principle of impartiality and
4 rules of natural justice in the exercise of its powers and the performance of its
5 functions;

6 (b) Every Government officer or institution shall accord the
7 Commission such assistance and protection as may be necessary to ensure its
8 independence, impartiality, dignity and effectiveness;

9 (c) No person or body may interfere with the decision making,
10 functioning or operations of the Commission.

11 (5) The National Assembly shall ensure that the Commission is
12 adequately funded for it to effectively and efficiently perform all of its
13 functions.

Amendment of
Section 7

14 4. Section 7 of the Principal Act is amended by substituting the
15 existing Section 7 for the following Section 7-

16 7. (1) The Commission shall have all the powers necessary for the
17 execution of its functions under this Act, and without prejudice to the
18 generality of the foregoing; the Commission shall have the power to-

19 (a) pay the staff of the Commission such remuneration and
20 allowances as are payable to persons of equivalent grades in the Civil Service
21 of the Federation;

22 (b) enter into such contracts as may be necessary or expedient for the
23 discharge of its functions and ensure the efficient performance of the functions
24 of the Commission; and

25 (c) to investigate the Police Force on its own motion or on receipt of
26 complaints from members of the public, and for that purpose, to gather any
27 information it considers necessary by such lawful means as it may deem
28 appropriate, including by-

29 (i) requisition of reports, records, documents or any information from
30 any source, including from the Police, irrespective of whether that source is

- 1 located within or outside Nigeria and irrespective of whether any other
2 person or body, other than a court of law, has already instituted or completed
3 a similar investigation or similar proceedings;
- 4 (ii) entering upon any establishment or premises, including Police
5 premises, on the strength of a warrant, and subject to any relevant law, where
6 the premises are a private home or dwelling;
- 7 (iii) seizing and removing any object or thing from any premises,
8 including Police premises, which may be related to the matter under
9 investigation, and in respect of which a receipt shall be given to the owner or
10 person apparently in control of the object or thing;
- 11 (iv) interviewing and taking statements under oath or affirmation
12 from any person, group or members of organizations or institutions and, at
13 its discretion, to conduct such interviews in private;
- 14 (v) summoning any person to meet with its staff, or to attend any of
15 its sessions or hearings, and to compel the attendance of any person who
16 fails to respond to its summons;
- 17 (vi) administering oaths or affirmations before taking evidence or
18 statements where necessary;
- 19 (vii) summoning any serving or retired Police officer to appear
20 before it and to produce any document, thing or information that may be
21 considered relevant to the function of the Commission;
- 22 (viii) ensuring that where necessary, the identities of complainants
23 or witnesses are not disclosed to their detriment;
- 24 (ix) recommending to the Director of Public Prosecutions the
25 prosecution of any person for any offence;
- 26 (x) investigating any death or serious injury occurring or suspected
27 of having occurred as a result of police action.
- 28 (d) where appropriate, to provide relevant information to enable a
29 victim of unlawful police conduct, to institute and conduct civil proceedings
30 for compensation in respect of injuries, damages and loss of income;

1 (e) require the Director of Public Prosecutions to provide it with his
2 response to any recommendation made by the Commission to prosecute any
3 person or body;

4 (f) require the Force to within a specified, reasonable time, provide it
5 with information on issues relating to policy, its implementation and its
6 effectiveness, and its response to any recommendation made to it by the
7 Commission;

8 (g) subject to the approval of a complainant, and only if it is not a
9 serious complaint, reconcile or mediate on any matter within its mandate; and

10 (h) exercise any other power provided for in this Act or any other law
11 which is necessary for the effective performance of its functions.

12 (2) The Commission may in the exercise of its powers under this Act,
13 request and receive such assistance from any other governmental or
14 international body or person as may in its opinion be necessary in the exercise
15 of its powers.

16 (3) The Commission may in exceptional circumstances regarding
17 matters of national importance submit a report simultaneously to the National
18 Assembly and the Minister of Police Affairs if such a matter requires urgent
19 consideration for the well-being of the people of Nigeria.

20 **5. Section 17 of the Principal Act is amended by inserting after the**
21 **existing Section 17 the following new Section 17A-**

22 **17 A. (1) The Commission shall submit to the Minister of Police**
23 **Affairs, at least once in every six months, a report of the performance of the**
24 **functions of the Commission, making such recommendations as it may**
25 **consider necessary, and the Minister shall, within fourteen days after receiving**
26 **such report, cause it to be publicized and laid before the National Assembly, or**
27 **if the National Assembly is not then in session, on the day that the National**
28 **Assembly resumes its sittings.**

29 (2) A copy of the report referred to in subsection (1) shall forthwith be
30 forwarded to the Inspector-General, and the Commission.

1 (3) The Commission shall publicize the report in such manner as it
2 may consider appropriate.

3 (4) The report contemplated in subsection (1) shall include:

4 (a) the recommendations made by the Commission during the
5 period under review;

6 (b) the action taken by the responsible authorities in response to the
7 Commission's recommendations or lack thereof;

8 (c) the trends emerging in cases handled;

9 (d) matters contained in earlier reports contemplated in subsection
10 (1) in respect of which the relevant authority has still not taken any action;

11 (e) the action taken by the responsible authorities in response to the
12 Commission's recommendations;

13 (f) how the Force has acted on the complaints referred to it by the
14 Commission;

15 (g) statistics about disciplinary and criminal action taken as a
16 consequence of complaints disposed of by the Commission;

17 (h) the Commission's recommendations on Police accountability;

18 (i) the Commission's opinion on whether any person, authority or
19 institution has attempted to unlawfully or unduly interfere with the
20 operations of the Commission;

21 (j) any matter relating to the operation of the Commission which
22 any minority of members of the Commission may wish to bring to the
23 attention of the public;

24 (k) any matter that highlights the need for reform or change in
25 practice or policy regarding the Force; and

26 (l) any other matter the Commission wishes to bring to the attention
27 of the National Assembly.

28 6. Section 18 of the Principal Act is amended by inserting after the
29 existing Section 18 the following Sections 18A, 18B, 18C, 18D, 18E, 18F,
30 18G, 18H-

Insertion of new
Sections

1 18A. (1) A person wishing to lodge a complaint against the Police may
2 do so orally or in writing or in such other appropriate format as may be
3 prescribed in the regulations.

4 (2) Where a complaint is made orally, the same shall be reduced into
5 writing by the employee of the Commission with whom it is lodged, and that
6 employee shall render all reasonable assistance to the complainant to ensure
7 that a proper investigation of the complaint is done.

8 (3) A complaint made under subsection (1) shall contain such
9 particulars as the Commission may from time to time prescribe.

10 (4) Upon receipt of a complaint the Commission shall forthwith-

11 (a) call for information or reports regarding the complaint from the
12 appropriate Government department or agency or any other body within a
13 specified period; or

14 (b) without prejudice to paragraph (a), initiate such inquiry as it may
15 consider necessary, having regard to the nature of the complaint and taking into
16 account the fundamental rights and freedoms of the individuals concerned,
17 including members of the Police, contemplated in Chapter Four of the
18 Constitution.

19 (5) If criminal proceedings are instituted against a member of the
20 Force in respect of a matter under investigation by the Commission, the
21 Commission may suspend its investigation until the conclusion of those
22 proceedings, after which it may continue its investigation or in appropriate
23 cases, decide to discontinue.

24 (6) In the event of the Police having conducted and concluded an
25 internal investigation or internal disciplinary proceedings, the Commission
26 may in appropriate cases and in its sole discretion decide to abide by the
27 outcome of such investigation or proceedings and adopt the findings and
28 recommendations of that investigation or those proceedings as its own, and
29 conclude its own investigation.

30 (7) The Commission shall during an investigation consider the-

1 (a) circumstances which, if present during the incident under
2 investigation, impede the effectiveness of policing; and

3 (b) unlawful action, if any, taken by the complainant, the victim or
4 any other person present during the incident under investigation.

5 (8) Where the Commission considers a complaint to be vexatious
6 or frivolous it may refuse to conduct an investigation.

7 (9) The Commission may upon receipt of new evidence reopen any
8 investigation which has been concluded, and may amend or withdraw any
9 previous findings and recommendations.

10 (10) Nothing in this section shall prevent an individual Police
11 officer from lodging a complaint, but the Commission may, at its discretion,
12 refer any complaint back to the Internal Affairs Unit of the Force for redress.

13 (11) No member of the Police shall be subjected to disciplinary
14 hearings or other disadvantage based solely on the fact that such member has
15 lodged a complaint with or given evidence or information to the
16 Commission.

17 (12) Any person who subjects a Police officer to a disciplinary
18 hearing or other disadvantage based solely on the fact that he has lodged a
19 complaint with or given evidence before or information to the Commission,
20 commits an offence.

21 (13) Nothing in this Act shall prevent any person or body from
22 lodging a complaint in terms of this section, or the Commission from
23 conducting an investigation, even if the target, victim or witness of the
24 action does not agree to or approve of such an investigation by the
25 Commission.

26 (14) Any law providing for the unlawfulness of-

27 (a) the intimidation, harassment or interference with witnesses or
28 potential witnesses to any matter under investigation by the Commission; or

29 (b) concealment, destruction, tampering with or removal of
30 evidence relevant to any matter under investigation by the Commission,

1 shall apply with necessary modifications to the proceedings of the
2 Commission.

3 (15) Notwithstanding any other written law, any document or
4 statement drafted or made or taken during an investigation shall remain
5 confidential until the Commission in writing determines otherwise.

6 (16) The Commission shall upon request from a complainant keep the
7 complaint's identity confidential unless it is demonstrably in the interest of
8 justice not to do so, until the investigation has been concluded:

9 Provided that the Commission may in exceptional cases determine that the
10 identity of a complainant may not be published even after the conclusion of an
11 investigation, or may be published only on terms determined by the
12 Commission.

13 18B. (1) The Commission shall investigate any death or serious Injury
14 including death or serious injury while in Police custody, which are the result of
15 Police action or were caused by members of the Service while on duty.

16 (2) The Police shall upon a death or serious injury as contemplated in
17 subsection (1) take all necessary steps to secure evidence which may be
18 relevant for the investigation, including pictorial and written evidence, and
19 shall in writing notify the Commission, and supply it with the evidence and all
20 other facts relevant to the matter, including, if available, the names and contact
21 details of all persons who may be able to assist the Commission should it decide
22 to conduct an investigation.

23 (3) A Police officer who contravenes subsection (2) commits an
24 offence.

25 18C. The Commission shall not investigate any matter which is the
26 subject of proceedings before a court of law.

27 18D. (1) If at any stage of an inquiry the Commission-

28 (a) considers it necessary to inquire into the conduct of any person; or

29 (b) is of the opinion that the reputation of any person is likely to be
30 prejudiced by the inquiry, it shall give that person an opportunity to be heard

1 and to appear before the Commission in person or through an advocate.

2 18E. No statement made by a person in the course of giving
3 evidence before the Commission shall subject such a person to any civil or
4 criminal proceedings except in cases where that person made that statement
5 knowing it to be false.

6 18F. (1) The Commission may after completing an investigation
7 into a complaint under this Act-

8 (a) where the inquiry, in the Commission's opinion, discloses a
9 criminal act by a member of the Force, recommend the prosecution of that
10 member to the Director of Public Prosecutions;

11 (b) where the inquiry, in the Commission's opinion, discloses
12 negligence in the performance of duty by a member of the Force,
13 recommend disciplinary action be taken against such member;

14 (c) where the investigation discloses any shortcomings in the
15 processes or procedures employed by the Commission, recommend
16 improvement or rectification thereof;

17 (d) recommend that the complainant take any other course of
18 action suitable in the circumstances;

19 (e) assist the complainant or any other victim with action
20 contemplated under this Act; or

21 (f) take any other steps it may deem fit.

22 (2) Where the Director of Public Prosecutions fails or refuses to
23 institute criminal proceedings against the member contemplated in
24 paragraph (1) (a) or fails to do so within a reasonable time, or where the
25 Commission is not satisfied by the response of the Director of Public
26 Prosecutions, the Commission may, with leave of the Court, prosecute the
27 person.

28 (3) The Commission may apply to the court for the enforcement of
29 any of its recommendations contemplated in subsection (1).

30 (4) The Commission's investigations, findings and

1 recommendations provided for in this Act shall remain in force and effect
2 despite the fact that a person or body-

3 (a) under investigation, has since the commencement or conclusion of
4 an investigation, left the employment of the Police; or

5 (b) is no longer acting on behalf of the, under its control or at its
6 behest.

7 (5) Where the Commission prosecutes any person as contemplated in
8 subsection (2), all state bodies and employees of the Police shall assist the
9 Commission in any manner and to the extent and at any time that the
10 Commission requests or determines.

11 18G. (1) A person or body who-

12 (a) disobeys a summons by the Commission;

13 (b) fails to produce any document, papers or thing on the order of the
14 Commission;

15 (c) refuses to be examined before or to answer questions relating to an
16 inquiry put to him by the Commission;

17 (d) fails to comply with any lawful order or direction of the
18 Commission;

19 (e) presents to the Commission a false document or makes a false
20 statement with the intent to deceive or mislead the investigating officers;

21 (f) deliberately submits false information;

22 (g) wilfully obstructs or hinders a person acting in the performance of
23 functions or exercise of powers conferred by this Act;

24 (h) fails to co-operate with the Commission on issues of Police
25 oversight;

26 (i) in any way interferes with the functioning or operations of the
27 Commission, whether unduly or unlawfully; or

28 (j) contravenes any provision of this Act for which no specific penalty
29 is provided, commits an offence and shall be liable on conviction to a fine not
30 exceeding Three Hundred Thousand Naira or to imprisonment not exceeding

1 three years or to both.

2 (2) Any person who publishes a confidential document or
3 statement in contravention of this section 23(14) commits an offence, and
4 shall be liable on conviction to a fine not exceeding Three Hundred
5 Thousand Naira or to imprisonment not exceeding three years or to both.

6 7. Section 19 of the Principal Act is deleted and the act renumbered
7 accordingly.

Deletion of
Sections 19

8 8. Section 25 of the Principal Act is amended by substituting the
9 existing Section 25 for the following Section 25-

Amendment of
Section 25

10 25. The Commission may make regulations generally for the
11 purpose of giving effect full effect to this Act and, and in particular for the
12 following-

13 (a) the mode of bringing complaints before the Commission;

14 (b) the rules relating to the initiation, hearing and disposal of
15 complaints;

16 (c) generally for the good order and management of the
17 Commission.

18 9. This Bill may be cited as the Police Service Commission Act
19 (Establishment) (Amendment) Bill, 2016.

Citation

EXPLANATORY MEMORANDUM

The bill seeks to amend the Police Service Commission Act to secure its independence and insulate it from governmental interference, restructure the composition of the board to make it more effective and also make elaborate provisions for the performance of the objectives of the commission.

