

A BILL

FOR

AN ACT TO PROVIDE FOR THE CHANGE OF NAME OF THE FEDERAL CHARACTER COMMISSION AND THE RE-DESIGNATION AND RE-ENACTMENT OF THE FEDERAL CHARACTER COMMISSION ACT AS THE EQUAL OPPORTUNITIES ACT AND FOR OTHER RELATED MATTERS

Sponsored by Senator 'Biodun Christine Olujimi

[] Commencement

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

1 PART I - CHANGE OF NAME AND RE-DESIGNATION OF THE FEDERAL
2 CHARACTER COMMISSION ETC.

3 1.-(1) The Federal Character Commission (in this bill referred to as
4 "the Commission" established by the Federal Character Commission Act
5 shall as from the commencement of this Act, be known and referred to as the
6 Equal Opportunity Commission.

Change of name and re-designation of the Federal Character Commission

7 (2) Accordingly, the Federal Character Commission Act shall be re-
8 designated as the Equal Opportunity Commission Act.

9 (3) The change of name of the Commission and the re-designation
10 of the enactment specified in subsections (1) and (2) of this section shall not
11 affect anything done or purported to be done under or pursuant to the said
12 enactment.

13 PART II – RE-ESTABLISHMENT OF AND THE EQUAL GOVERNING
14 OPPORTUNITY COMMISSION BOARD, ETC.

15 2.-(1) There shall continue to be established a body to be known as
16 the Equal Opportunity Commission (in this Act referred to as "the
17 Commission").

Re-establishment of the Equal Opportunity Commission and governing board

18 (2) The Commission:

19 (a) shall be a body corporate with perpetual succession;

1 (b) may sue and be sued in its corporate name;

2 (c) shall have its headquarters in the Federal Capital

3 Territory, Abuja and

4 (d) Shall establish an office in each state of the Federation.

5 (3) The Commission shall not be subject to the direct, control or
6 supervision of any other authority or person in the performance of its functions
7 under this Act.

Membership of
the Commission

8 **3.-(1) The Commission shall consist of:**

9 (a) a chairman who shall be the chief executive of the Commission;

10 (b) a representative each of the State of the Federation;

11 (c) a representative of the Federal Capital Territory, Abuja;

12 (d) a representative of Women;

13 (e) a representative of people with disabilities;

14 (f) a representatives of people living with HIV/AIDS; and

15 (g) a representative of the three major religions in the country.

16 (2) The chairman and members of the Commission shall be appointed
17 by the president, subject to confirmation by the Senate.

Tenure of office

18 **4.-(1) The chairman and members of the Commission shall hold**
19 **office for a period of four years in the first instance and for a further term of four**
20 **years and no more, on such terms and conditions as may be specified in their**
21 **letters of appointment.**

22 (2) A member may only be removed from office by the President
23 acting on an address support by two-thirds majority of the Senate praying that
24 he be so removed for inability to discharge the functions of the office.

25 (3) A member may resign his membership by notice in writing
26 addressed to the president and that member shall on the date of the receipt of the
27 notice by the President cease to be a member.

28 (4) There shall be paid to every member of the Commission such
29 allowances as the Federal Government may from time to time, direct.

30 (5) A member shall not while holding office hold any other office of

1 emolument whether in the Federal or State public service:

2 5. -(1) The functions of the Commission shall be:

Functions of the
Commission

3 (a) to work out an equitable formula for the distribution of all
4 cadres of posts in the civil and the public services of the Federation and of
5 the States, the Armed Forces, the Nigeria Police Force and other security
6 agencies, bodies corporate owned by the Federal or a State Government and
7 Extra-Ministerial Departments and parastatals of the Federation and States
8 for the states of the federation, tribes, and other interest groups such as
9 women, religions, people with disabilities and those living with HIV/AIDS;

10 (b) To promote, monitor and enforce, compliance with the
11 principles of proportional sharing of all bureaucratic economic, media and
12 political posts at all levels of government between the states of the
13 federation, tribes, and other interest groups such as women, religions,
14 people with disabilities and those living with, HIV/AIDS;

15 (c) to take such legal measures including the prosecution of the
16 heads or staff of any Ministry, Extra-Ministerial Department or agency
17 which fails to comply with any federal character principle or formula
18 prescribed or adopted by the Commission;

19 (d) To work out:

20 (i) An equitable formula, subject to the approval of the President,
21 for distribution of socio-economic services, amenities and infrastructural
22 facilities;

23 (ii) Modalities and schemes for redressing the problems of
24 imbalances and reducing the fear of relative deprivation and
25 marginalization in the Nigerian system of federalism and other interest
26 groups such as women, religions, people with disabilities and those living
27 with HIV/AIDS as it obtains in the public and private sectors.

28 (e) to intervene in the operation of any agency of the Federal
29 Government, where in the opening of the Commission the function of the
30 agency concerned is relevant to the functions of the Commission and the

1 Commission is of the opinion that it is not being effectively implemented;

2 (f) to advise the Federal, State, and local governments to intervene
3 and influence providers of services, goods and socio-economic amenities to
4 extend such services, goods and socio-economic amenities to deprived areas of
5 the country;

6 (g) to ensure that all Ministries and Extra-Ministerial Departments,
7 agencies and other bodies affected by this Act have a clear criteria indicating
8 conditions to be fulfilled and comprehensive guidelines on the procedure for:

9 (i) Determining eligibility and the procedure for employment in the
10 public and private sectors of the economy;

11 (ii) The provision of social services, goods and socio-economic
12 amenities in Nigeria.

13 (h) To ensure that public officers shall, in the performance of their
14 functions, adhere strictly to rules and regulations made pursuant to this Act:

15 (i) to advise the Federal Government of Nigeria on the structure and
16 rationalization of any Ministry, Extra-Ministerial Department or agency; and

17 (j) Carry out such other functions as the President shall, from time to
18 time assign to it.

19 (2) For the avoidance of doubt:

20 (a) the posts mentioned in paragraphs (a) and (b) of subsection (1) of
21 this section shall include those of the Permanent Secretary in the Civil Service
22 of the Federation or the State Civil Service, Directors-General in Extra-
23 Ministerial Departments and parastatals, Directors in Ministries and Extra-
24 Ministerial Departments, Senior Military Officers, Senior Diplomatic Posts,
25 Managerial Cadres in the Federal and State Parastatals, bodies corporate,
26 Agencies and Institution; and

27 (b) socio-economic services, amenities and facilities mentioned in
28 paragraph (d) of subsection (1) of this section include those in the sectors of
29 education, electricity, health, commerce and industry, telecommunications,
30 transport and your development.

1 (3) Any person who fails to comply with the guidelines issued
2 under paragraph (h) o subsection (1) of this section is guilty of an offence
3 under this Act and liable to penalties specified in section 15 (1) of this Act.

4 (4) Notwithstanding any provisioning any other law or enactment,
5 the Commission shall ensure. that every public company or corporation
6 reflects the federal character and takes into account the and other interest
7 groups such as women, religions, people with disabilities and those living
8 with HIV/AIDS in the appointments of its directors and senior management
9 staff.

10 6.-(1)The Commission shall have power to:

Powers of the
Commission

11 (a) Formulate and provide guidelines for Government agencies
12 and other employers and providers of services and socio-economic
13 amenities;

14 (b) Monitor compliance with the guidelines, and formulae at
15 Federal, State, local governments and zonal levels in the employment and
16 provision of socio-economic amenities;

17 (c) Enforce compliance with its guidelines and formulae in areas of
18 the provision of employment opportunities, distribution of infrastructural
19 facilities, socio-economic amenities and other indices

20 (d) Compel boards of directors of Government-owned companies
21 and other enterprises, which are subject to the provision of this Act, to
22 comply with the guidelines and formulae on ownership structure,
23 employment and distribution of their products;

24 (e) Demand and receive returns on employment and socio-
25 economic indices from any enterprise or body corporate and penalize any
26 enterprise which does not comply with a request from the Commission.

27 (f) Undertake the recruitment and training of staff of government
28 agencies or departments where desirable;

29 (g) institute investigation into any matter relating to any institution
30 or organization which is subject to the provisions of this Act and if the

1 institution or organization concerned fails to cooperate with the Commission,
2 the institution or organization shall be required to bear the cost of such
3 investigation; and

4 (h) Do anything which in the opinion of the Commission is incidental
5 to its functions under this Act.

6 (2) For the purposes of subsection (1) of this section, the Commission
7 shall have power to take such legal action including the prosecution of any
8 person, whether corporate or unincorporated who, being obliged to comply
9 with the provisions of this Act, fails to do so.

Members
disqualified from
holding elective
office

10 7.-(1) Notwithstanding anything to the contrary in any law, a person
11 who holds office as a member of the Commission under this Act shall not be
12 qualified for any elective office or for election as a member of any legislative
13 body.

14 (2) Nothing shall preclude a member of the Commission from
15 resigning his appointment as a member of the Commission at any time for the
16 purposes of contesting for any elective office.

Proceedings, etc.,
of the Commission

17 8. -(1) The Commission shall meet for the conduct of its business at
18 such times, places and on such days as the chairman may appoint.

19 (2) The chairman shall preside at all meetings of the Commission but
20 if he is absent from any meeting of the Commission the members present shall
21 elect one of their number to preside at that meeting.

22 (3) During the chairman's absence on leave or if the chairman is
23 otherwise not available or is unable to perform his functions, the president may
24 appoint any member of the Commission to act as chairman for any specified
25 period.

26 (4) The quorum for a meeting of the Commission shall be not less than
27 one third of the total number of members of the Commission at the date of the
28 meeting.

29 (5) Questioning put before the Commission at a meeting shall be decided
30 by consensus and, where this is not possible, by a majority of the votes of the

1 members present and voting.

2 (6) The chairman shall in the case of an equality of votes have a
3 casting vote in addition to his deliberative vote.

4 (7) Subject to this section, the Commission shall have power to
5 regulate its proceedings and may make standing orders with respect to the
6 holding of meetings, the notice to be given, the procedure thereat, the
7 keeping of minutes of such proceedings and the custody and production for
8 inspection of such minutes.

9 (8) The validity of any proceedings of the Commission shall not be
10 affected by any vacancy in its membership or any defect in the appointment
11 of a member or by reason that a person not entitled to do so took part in the
12 proceedings.

13 PART III - STAFF OF THE COMMISSION

14 9.-(1) There shall be a secretary to the Commission who shall:

Secretary to the
Commission and
other staff

15 (a) Have such qualifications and experience as are appropriate for a
16 person required to perform the function of his office under this Act; and

17 (b) Be appointed by the President.

18 (2) Subject to the general direction of the chairman, the secretary
19 shall:

20 (a) Be responsible for keeping proper records of the proceedings
21 of the Commission; and

22 (b) Be the head of the Commission's secretariat and be responsible
23 for the administration thereof and the direction and control of all other
24 employees of the Commission with the approval of the chairman.

25 (3) The chairman shall have power to appoint either directly or on
26 secondment from any public service in the Federation, such number of
27 employees as may, in the opinion of the chairman, be required to assist the
28 Commission in the discharge of any of its functions under this Act, and shall
29 have power to pay persons so employed such remuneration (including
30 allowances) as the chairman may, after consultation with the Federal

1 Ministry or Department of Establishment, determine.

2 (4) Nothing in subsection (3) of this section shall preclude the
3 chairman from appointing persons from outside the public service of the
4 Federation or of the State whenever it deems it necessary so to do.

5 (5) All employees of the Commission appointed pursuant to
6 subsections (3) and (4) of this section, excluding such as are appointed on a
7 temporary basis for an honorarium shall have the same rights and obligation as
8 the members of the public service defined by section 24 of the Pension Act.

9 PART IV - FINANCIAL PROVISIONS

Fund of the
Commission

10 10. There shall be established and maintained by the Commission a
11 fund into which shall be paid and credited:

12 (a) the annual subvention received from the Federal Government;

13 (b) such money as may, from time to time, be lent, deposited with or
14 granted to the Commission by the Government;

15 (c) all fees and charges for services rendered by the Commission; and

16 (d) all other sums which may, from time to time accrue to the
17 Commission.

18 (2) The Commission may, from time to time, apply the funds at its
19 disposal:

20 (a) to the cost of the administration of the Commission and for the
21 purposes of any research being undertaken by the Commission;

22 (b) to the payment of fees, allowances and expenses of members of
23 the Commission or of any committee set up by the Commission;

24 (c) to the payment of the salaries, allowances and benefits of officers
25 and servants of the Commission;

26 (d) for the maintenance of any property vested in the Commission or
27 under its administration; and

28 (e) For and in connection with all or any of the functions of the
29 Commission under this Act or any other written law.

1 is false in any material particular or is incomplete or inaccurate;

2 (b) Fails, refuses or neglects to comply with any directive given by the
3 Commission pursuant to any provision of this Act;

4 (c) Being subject to the provision of this Act fails, refuses or neglects
5 to apply the principle of federal character in any area or activity within the time
6 frame set by the Commission;

7 (d) Willfully obstructs, interferes with, assaults or resists any member
8 of the Commission or any other officer or servant of the Commission in the
9 performance of his duty under this Act;

10 (e) Aids, invites, induces or abets any other person to obstruct,
11 interfere with assault or resist any such member of the Commission officer or
12 servant of the Commission in the discharge of his lawful activity under this act;

13 (f) Fails to produce a clear criteria and comprehensive guidelines on
14 the procedure for determining eligibility for employment and the provisions of
15 services. Goods and socio-economic amenities in Nigeria,

16 Is guilty of an offence under this Act.

17 (4) Any person, who is found guilty of abuse of office in the
18 observance of any matter under this Act, is guilty of an offence.

Penalties

19 **15.-(1)** Any person who commits an offence under section 14 of this
20 Act is liable on conviction to a fine of N50,000 or to imprisonment for a term
21 of six months or to both such fine and imprisonment.

22 (2) Where an offence under this section is committed by a corporate
23 body, any of its directors, managers, officers, employees or partners,
24 recklessly, negligently, willfully acquiesces in the commission of the offence
25 shall jointly and severally be guilty of the offence and liable on conviction to a
26 fine of N100,000 in the case of the corporate body or to a fine of N50,000 in the
27 case of individual.

28 (3) Any person, or body corporate or unincorporated who is in
29 persistent breach of the provisions of this Act is guilty of an offence and liable
30 on conviction to a fine of N10,000 for every day the offence is committed

1 notwithstanding the fine of N100,000 specified in subsection (1) of this
2 section and in the case of an individual or staff of such body, to
3 imprisonment for a term of two years without an option of a fine.

4 **16.** Subject to the Constitution, where any provision of this Act is
5 inconsistent with the provisions of any other law or enactment, the
6 provisions of this Act shall to the extent of the inconsistency prevail.

Inconsistencies
with other act

7 **PART VI - MISCELLANEOUS**

8 **17.**-(1) The Commission may make regulations generally for the
9 purpose of this Act.

Regulations

10 (2) Without prejudice to the generality of subsection (1) of this
11 section the provisions of the regulations may include but shall not be limited
12 to the following:

- 13 (a) The proceedings of the Commission;
- 14 (b) The setting up of committees and their functions;
- 15 (c) The appointment of consultants; professionals, etc;
- 16 (d) The structure of the Commission;
- 17 (e) The keeping of records;
- 18 (f) Requiring the preparation of annual accounts, audit and
19 estimates;
- 20 (g) The abuse of office;
- 21 (h) To summon persons to appear before the Commission;
- 22 (i) The submission of complaints to the Commission;
- 23 (g) The pro forma forms for submission of returns and other
24 information required under this Act; and
- 25 (k) Power of the Commission to define an indigene of a State.

26 **18.** The Federal High Court shall have power to try offences under
27 this act.

Jurisdiction

28 **19.**-(1). The Federal Character Commission Act CAP F7, Laws of
29 the Federation 2004 (in this Act referred to as "the repealed enactment") is
30 hereby repealed.

Repeal of Cap
F7 of 2004

1 (2) The repeal of the enactment specified in subsection (1) of this
2 section shall not affect anything done or purported to have been done under the
3 repealed enactment.

Interpretation

4 **20.** In this Act, unless the context otherwise requires:
5 "Commission" means the Equal Opportunity Commission re-established by
6 section 2 of this Act;
7 "Constitution" means the Constitution of the Federal Republic of Nigeria
8 1999;
9 "Chairman" means the chairman of the Commission appointed pursuant to
10 section 2 (1)(a) of this Act;
11 "Functions" includes powers and duties;
12 "Member" means a member of the Commission and includes the chairman;
13 "Other enterprises" means non-governmental enterprises;
14 "Public company" has the meaning assigned to it under section 24 of the
15 Companies and Allied Matters Act;
16 "President" means the president of the Federal Republic of Nigeria;
17 "Secretary" means the secretary of the Commission appointed pursuant to
18 section 9 of the Act.

Citation

19 **21.** This bill may be cited as the Equal Opportunity Commission
20 (Establishment, etc.) Bill, 2015.

EXPLANATORY MEMORANDUM

The bill changes the name of the name of the Federal Character Commission, re-designates the Federal Character Commission Act and re-enacts a new Act which among other things provides for the re-establishment of the Equal Opportunity Commission which shall be responsible for the enforcement of the Federal Character principle and shall also be responsible for the protection of the rights and interest of all such other groups such as women, religions, people with disabilities and those living with HIV/AIDS.
