

A BILL

FOR

AN ACT TO ESTABLISH THE NIGERIAN ARMED FORCES SERVICE COMMISSION WHICH SHALL HAVE POWER TO RECOMMEND TO THE PRESIDENT PERSONS FOR APPOINTMENT AS SERVICE CHIEFS AND HEADS OF THE ARMY, NAVY AND AIRFORCE AND ENSURE THAT SUCH APPOINTMENTS REFLECTS FEDERAL CHARACTER PRINCIPLE OF NIGERIA AND FOR RELATED MATTERS, 2020

Sponsored by Hon. Bede Eke

[] Commencement

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

1 PART ONE - ESTABLISHMENT AND COMPOSITION

2 1. There is hereby established a body to be known as Armed Establishment
3 Forces Service Commission (in this Bill referred to as "the commission")
4 which shall exercise jurisdiction, powers and authority as conferred on it
5 under this Bill.

6 (a) The Commission shall be a corporate body with the power to
7 sue and be sued in its corporate name;

8 (b) The Administrative headquarters of the Commission shall be in
9 the Federal Capital Territory and the Commission may when practicable
10 establish zonal offices;

11 (c) The Commission shall have a seal, stamp and any other mark
12 bearing its name and logo as symbol of authority and as approved by the
13 Management;

14 (d) The Management Board of the Commission shall be the final
15 and highest decision making of the Commission and all
16 management/administrative decision(s) shall be reached by consensus of all
17 members present at such sitting;

Composition

1 (e) The Board shall meet regularly as the Chairman in consultation
2 with the secretary may deem fit, but not less than ten times in a year.

3 **2.** The Management Board of the Commission shall consist of the
4 following:

5 (a) A Chairman who shall be the Chief Executive and Chief
6 accounting officer of the Commission;

7 (b) The Chairman shall be a person of high repute and integrity, and of
8 unquestionable character /integrity with a military background and must have
9 retired from the rank of a Major - General in the army and its equivalent in the
10 Navy and Airforce respectively;

11 (c) The Chairman shall hold the office for four years and may be re-
12 appointed for another four years and no more;

13 (d) The Chairman shall rank equal in service and remuneration as a
14 Director General as is the case with other Federal government agencies;

15 (e) The Chairman and members of the Commission (other than the ex
16 officio members representing ministries and institutions) shall be appointed
17 pursuant to 219 of the Constitution by the Senate President in consultation with
18 the Speaker of the Representatives;

19 (f) The Chairman may make standing rule/orders regulating meetings
20 of the management board and may constitute committees/ sub -committees to
21 take care of specific issues;

22 (g) The report of such committee shall be ratified at the Board
23 meeting.

24 **3.** There shall be a Secretary for the Commission who shall be
25 appointed pursuant to section 219 by the Senate President in consultation with
26 the Speaker of the House of Representatives.

27 (a) The Secretary shall be the Chief administrative staff of the
28 Commission in charge of the administration and finance, and general
29 administration, ranking equal in power and remuneration to a permanent
30 secretary in the Federal civil service:

1 Provided at all times that when the Chairman is a person from
2 Southern Nigeria, the Secretary shall come from Northern Nigeria and vice
3 versa:

(a) The Secretary shall report all administrative decisions and seek directive before or ratification (after taking the decision) from the Chairman in carrying out his duties.

(b) The Secretary shall be a person of high repute and integrity, and of unquestionable character /integrity with vast knowledge of the armed forces administration;

(c) The Secretary shall hold the office for four years and may be re-appointed for another four years and no more.

12 **4.** There shall be appointed for the Commission-

(a) One National Commissioner appointed by the President representing the North Central zone and who shall be a person of proven integrity and unquestionable character;

(b) One National Commissioner appointed by the President representing the North East zone and who shall be a person of proven integrity and unquestionable character;

(c) One National Commissioner appointed by the President representing the North West zone and who shall be a person of proven integrity and unquestionable character;

(d) One National Commissioner appointed by the President representing the South East zone and who shall be a person of proven integrity and unquestionable character;

(e) One National Commissioner appointed by the President representing the South West zone and who shall be a person of proven integrity and unquestionable character;

(f) One National Commissioner appointed by the President representing the South-South zone and who shall be a person of proven integrity and unquestionable character;

National
Commissioners

Other Members
of the Management
Board

1 (g) The National Commissioners shall be full time members of the
2 Management Board of the Commission and shall hold office for four years only
3 and may be reappointed for another four years and no more.

4 **5.-(a)** One ex officio member representing the Federal Ministry of
5 Defence, nominated by the Hon. Minister of Defence;

6 (b) One ex officio member representing the National Assembly
7 nominated by the Senate President in consultation with the Speaker of the
8 House of Representatives;

9 (c) One ex officio member representing the Federal Character
10 Commission nominated by its Chairman;

11 (d) One ex officio member representing Chief of Defense Staff
12 nominated by him who shall not be below the rank of a Brigadier General or its
13 equivalent;

14 (e) One ex officio member representing Chief of Army Staff
15 nominated by him who shall not be below the rank of a Brigadier General or its
16 equivalent;

17 (f) One ex officio member representing Chief of Air Staff nominated
18 by him who shall not be below the rank of a Brigadier General or its equivalent;

19 (g) One ex officio member representing Chief of Naval Staff
20 nominated by him who shall not be below the rank of a Brigadier General or its
21 equivalent;

22 (h) The ex officio member(s) shall hold office as long as they remain
23 in the service of the government agency they represents; or is removed by the
24 Head of the government Agency who nominated him/her;

25 (i) The ex officio members of the Commission shall be on part time
26 basis and shall receive only such sitting/transport allowances as are obtainable
27 with similar board, subject to service rules;

28 (j) Where vacancy occurs in the membership of the Commission, it
29 shall be filled by appointment of a successor to hold office for the reminder of
30 the term of office of his predecessor to the extent that the successor shall

1 represent the same interest as his predecessor;

2 (k) The Commission shall subject to the civil service rules and
3 conditions of service appoint/employ other administrative staff of various
4 cadre who shall be permanent pensionable staff of the Commission.

5 PART TWO

6 6.-(1) As from the date of commencement of this Law, the Powers/Functions
7 Commission shall have the power and authority pursuant to section 219 of
8 the 1999 Constitution of the Federal Republic of Nigeria (as amended) to
9 ensure that the composition/appointment of Service Chiefs of the Armed
10 Forces of the Federation reflects federal character of Nigeria in the manner
11 prescribed in section 217 (3) of the 1999 Constitution.

12 (2) The Commission shall ensure that the functions specified in
13 section 217 of the 1999 Constitution; and the powers exercisable by the
14 President in the appointment of Service Chiefs and Officers Corps and
15 other Ranks of the Armed Forces of the Federation in section 218 of the
16 1999 constitution reflects Federal Character of Nigeria.

17 (3) As from the date of commencement of this Act, the
18 Commission shall have the power to recommend to the President from
19 among the best and most qualified, most educated and most experienced
20 members of the Armed Forces of the Federation for appointment as:

21 (a) Chief of Defence Staff;

22 (b) Chief of Army Staff;

23 (c) Chief of Air Staff;

24 (d) Chief of Naval Staff; and

25 (e) Director of Military intelligence; and Heads of other Arm-
26 bearing Security Agencies and ensure that such appointments reflects
27 federal character principle of Nigeria.

28 (4) Recommend to the President the removal from office as Service
29 Chiefs and Head of other Arm-bearing Security Agencies on ground of
30 misconduct, abuse of office, breach of any section of the Constitution, the

1 Armed Forces Act or any other Act of the National Assembly.

2 (5) The Commission shall have the power to approve promotion from
3 among the best, most competent and qualified officers as Heads of Military
4 formations/branches such as General Officers Commanding Divisions of the
5 Nigerian Army and their equivalent in the Navy and Air Force:

6 Provided that in making such recommendations the Commission
7 shall observe the Federal Character principle and adopt an equitable template
8 to spread the offices of the Service Chiefs, and Officers Corps and other Ranks
9 of the Armed Forces of the Federation among the six geo-political zones of the
10 Country.

11 (6) The Commission shall have power to make regulation in the
12 performance of its functions to ensure that each zone of the Federation is
13 equitably represented in the appointments of Service Chiefs and Officers
14 Corps and other Ranks of the Armed Forces of the Federation and ensuring that
15 the most competent and qualified person from each zone is appointed at all
16 times.

17 (7) Notwithstanding the provision in any other law establishing the
18 Armed Forces, the Commission shall supervise and approve upon certifying
19 that Federal Character provided in this Act has been duly observed, all
20 promotions in the Armed Forces of the Federation;

21 (8) Where the number of available positions cannot go round the six
22 geo-political zones of the Federation, the distribution of appointments shall
23 be done between equally between the North and South. And for the avoidance
24 of doubt, the zones referred in this Act are:

25 (a) North Central comprising of Benue State, Federal Capital
26 Territory, Kogi State, Kwara State, Nassarawa State, Niger State, and plateau
27 state;

28 (b) North east zone, comprising of Adamawa state, Bauchi state,
29 Brono state, Gombe state, Taraba state and Yobe state;

30 (c) North west zone comprising of Jigawa state, Kaduna state, kano

1 state, katsina state, kebi state, sokoto state, zamfara state;

2 (d) South east zone comprising of Abia state, Anambra state,
3 Ebonyi state, Enugu state, Imo state;

4 (e) South west zone comprising of Ekiti state, Lagos state, Ogun
5 state, Osun state, Oyo state;

6 (f) South south zone comprising of Akwa Ibom state, Bayelsa state,
7 Cross Rivers state, Delta state, Edo state and Rivers state.

8 PART THREE - GENERAL DUTIES OF THE COMMISSION:

9 7. The general duty of the Commission is to ensure that
10 promotions/appointments into leadership positions and officers corps and
11 other ranks in the Armed Forces of the Federation, police and other security
12 agencies equitably reflects federal character of Nigeria pursuant to sections
13 217 (3) and 219 of the 1999 Constitution of the Federal Republic of Nigeria
14 (as amended).

15 8. The commission shall investigate all reported cases of breach of
16 federal character principle under this Act and shall have the power to
17 prosecute the head of the government agency that was responsible for the
18 breach for the offence of: -breach of equitable formula which threatens the
19 peace and good governance, unity and peace of the Federation and likely to
20 cause disloyalty, disaffection and disunity among Nigerians.

21 9. In case of a person serving as President with constitutional
22 immunity, such prosecution will commence upon the expiration of the office
23 that conferred him immunity.

24 10. The Offence created under sub section (9) this section shall
25 be punishable with one year imprisonment or fine of five million naira or
26 both

27 11. Where a person has been found guilty of breach under this Act
28 the Office he previously held and the appointment so made while in office
29 shall be deemed nullified and the person(s) who held that nullified
30 position/appointment will be deemed not to have held same and no such

1 recognition or privileged shall be accorded to him.

2 PART FOUR - JURISDICTION OF COURT, LIMITATION OF ACTION AND
3 RIGHT TO PRACTICE.

4 12. The Federal High Court shall have jurisdiction over all matter in
5 this Act.

6 13. Subject to the constitutional powers of the Attorney General to
7 takeover, continue or discontinue all criminal proceeding, the Commission
8 shall prosecute the offence created in this Act on behalf of the Federal Republic
9 of Nigeria.

10 14. No suit shall be instituted against the Commission by any person
11 or body without giving prior notice of possible action not later than one month
12 before instituting the action.

13 15. All person(s) admitted to practice as legal practitioners in Nigeria
14 who are staff of the Agency shall be entitled to have right of audience in court
15 on behalf of the Agency.

16 PART FIVE - DISQUALIFICATION OF MEMBERS OF THE COMMISSION

17 16. The Chairman or any member of the commission shall cease to
18 hold office if-

- 19 (a) He becomes of unsound mind;
20 (b) Is found guilty of gross misconduct and abuse of office;
21 (c) He is convicted of the offence of dishonesty;
22 (d) He is guilty of a serious misconduct in relation to his office, if he
23 under his hand tenders a resignation letter.

24 PART SIX - FINANCE AND FUNDS FOR THE COMMISSION.

25 17. The Commission shall establish and maintain funds/bank
26 accounts from which it shall make all expenditure and day to day running
27 costs reasonably incurred in the execution of its functions under this Act.

28 (1) The Federal government shall pay such monies from the
29 consolidated revenue fund of the Federation to the Commission for the running
30 of the Commission each year, neither quarterly or monthly or otherwise as may

1 be appropriated by the National Assembly.

2 (2) The Commission may accept gifts and land, money or other
3 property (whether within or outside Nigeria) from any person or agency
4 upon such terms and conditions if any as may be specified by the person
5 or organization making the gift, provided that the terms and conditions are
6 not contrary to the objectives and functions of the Agency under this law.

7 **18.**-(1) For the purpose of financial prudence and accountability, Account and
8 the Commission shall maintain one single Bank account for both office Audit
9 administration and salary of its staff.

10 (2) The fund of the Commission shall be applied towards the
11 discharge of its function.

12 (3) The Commission shall be entitled to funding from consolidated
13 revenue account of the Federation.

14 (4) The Commission shall accept such donation(s) of money or
15 human contribution from local or foreign donor agencies and Non-
16 governmental organizations and apply the funds only for the realization of
17 mandate under this Act.

18 (5) The Commission shall keep proper account of its receipts and
19 payments, assets and liability and shall submit its account annually for
20 auditing in accordance with the guidelines of public service auditing as may
21 be directed by the office of both the Accountant General and Auditor
22 General of the Federation.

23 **19.** The Commission shall not later than 31st of December each Annual Report
24 year submit to the National Assembly, a report of its activities during the
25 immediately preceding year and shall include in such report its financial
26 audited accounts.

27 PART SEVEN - INTERPRETATIONS/CITATION

28 **20.** In this Act unless the context otherwise requires- Interpretation

29 (a) Management Board means the management team, comprising
30 of the Chairman, the Secretary, six zonal National Commissioners and the

1 ex-office members of the Commission;

2 (b) Commission means Armed Forces Service Commission
3 established under this bill pursuant to section 219 of the 1999 Constitution of
4 the Federal Republic of Nigeria;

5 (c) Federal Character Principle referred in this act means the
6 distinctive desire of the people of Nigeria to promote national unity, foster
7 national loyalty, ensure equality, justice and fairness in the distribution of
8 resources and appointments into all cadre of government offices, so as to avoid
9 domination, marginalization, suppression and give every citizen of Nigeria
10 from the six geo-political zones a sense of belonging to the nation as expressed
11 in section 14 (3) and (4), section 147 (3), section 171 (5), section 217 (3) and
12 Paragraph 8, Part 1 of the Third Schedule of the 1999 Constitution of the
13 Federal Republic of Nigeria (as amended);

14 (d) Ex officio member is referred to a person who is a member of the
15 this Commission by virtue of his employment or holding or performing the
16 functions of an office in the public service or armed forces or any other security
17 agency of the government of the federation;

18 (e) Armed Forces of the Federation are referred to the Nigerian Army,
19 the Nigerian Navy and the Nigerian Air force;

20 (f) Geo-political zones is referred to North central, North east, North
21 west, South east, South west, South-south zones captured in this Act;

22 (g) Service Chiefs means (a) Chief of Defence Staff (b) Chief of Army
23 Staff (c) Chief of Air Staff (d) Chief of Naval Staff;

24 (h) Heads of Military formations/branches means officers in charge
25 of various military branches and formations such as General Officers
26 Commanding Divisions of the Nigerian Army and their equivalent in the Navy
27 and Air force which must be spread among the six geo-political zones;

28 (i) President means the President and Commander in Chief of the
29 Armed forces of the Federation;

30 (j) Leadership of the National Assembly is referred as the President of

1 the Senate and the Speaker of the House of Representatives;
2 (k) Misconduct means any breach of the oath of office or oath of
3 allegiance or breach of any provisions of this act or any provision of the
4 Constitution of Nigeria or any other law made by the National Assembly or
5 state Assembly to which the person is under; or bribery, corruption, false
6 declaration of assets and liabilities or conviction for any criminal offence for
7 which the person has been found guilty.

8 **21.** This Bill may be cited as the Nigerian Armed Forces Service Citation
9 Commission (Establishment) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Nigerian Armed Forces Service Commission which shall have power to recommend to the President persons for appointment as Service Chiefs and Heads of the Army, navy and Airforce and ensure that such appointments reflects federal character principle of Nigeria.