

NATIONAL HUMAN RIGHTS COMMISSION ACT
(REPEAL AND ENACTMENT) BILL, 2020
ARRANGEMENT OF CLAUSES

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A BILL

FOR

AN ACT TO REPEAL THE NATIONAL HUMAN RIGHTS COMMISSION ACT, CAP. N46, LAWS OF THE FEDERATION OF NIGERIA 2004 (AS AMENDED) AND ENACT THE NATIONAL HUMAN RIGHTS COMMISSION ACT, 2020 TO STRENGTHEN THE COMMISSION TO CONDUCT INVESTIGATIONS AND SUSTAIN CONTRIBUTIONS TO THE HUMAN RIGHTS FUNDS FOR HUMAN RIGHTS ACTIVITIES IN NIGERIA; AND FOR RELATED MATTERS

Sponsored by Hon. John Dyegh Hon. Onofioke Luke

[] Commencement

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

1 PART I - ESTABLISHMENT OF THE NATIONAL HUMAN RIGHTS

2 COMMISSION ETC.

3 1.-(1) There is hereby established a body to be known as the Establishment
4 National Human Rights Commission (in this Act referred to as "the of the National
5 Commission"). Human Rights
Commission

6 (2) The Commission shall be a body corporate with perpetual
7 succession and a common seal and may sue and be sued in its corporate
8 name.

9 2.-(1) There shall be for the Commission a Governing Council (in Governing
10 this Act referred to as "the Council") which shall be responsible for the Council
11 discharge of the functions of the Commission.

12 (2)The Council shall consist of-

13 (a) a Chairperson who shall be a retired Justice of the Supreme
14 Court, or Court of Appeal, or a retired Judge of the Federal High Court or
15 High Court or High o fa State or a Legal Practitioner with 20 years post
16 qualification experience and requisite experience in human rights,

17 (b)a representative each of the Federal Ministry of-

- 1 (i) Justice, who shall not be below the rank of a Director,
2 (ii) Foreign Affairs, who shall not be below the rank of a Director,
3 (iii) Internal Affairs, who shall not be below the rank of a Deputy
4 Controller of Prisons:
5 Provided that ex-officio members shall not have voting powers in the
6 Council;
7 (c) 3 representatives of registered human rights organizations in
8 Nigeria;
9 (d) 2 legal practitioners who shall not have less than 10 years post-
10 qualification experience to be appointed on the recommendation of the
11 National Executive Committee of the Nigeria Bar Association;
12 (e) 3 representatives of the print and electronic media, one to
13 represent the public and two to represent the private media;
14 (f) a representative of the organized labour;
15 (g) 2 other persons who shall be women with sufficient experience in
16 human rights issues; and
17 (h) the Executive Secretary of the Commission.
18 (3) The Chairperson and members of the Council shall each be-
19 (a) persons of proven integrity; and
20 (b) appointed by the President, subject to confirmation by the Senate.
21 (4) Every member of the Council shall, before starting his duties,
22 make and subscribe to an oath that he shall faithfully and impartially and to the
23 best of his ability, discharge the duties devolving upon him under the Act, that
24 he shall not divulge the proceedings, votes or opinions of the members of the
25 Council or any other matter relevant to the functions of the Commission.
26 (5) Such oath shall be in accordance with the Oaths Act and, in this
27 Act "Oath" includes affirmation and declaration.
28 (6) The supplementary provisions set out in the Schedule to this Act
29 shall have effect with respect to the proceedings of the Council and the other
30 matters contained therein.

1 3.-(1) A member of the Council, other than the Executive Tenure of office,
2 Secretary, shall hold office for a term of four years and may be re-appointed etc.
3 for one further term of four years and no more.

4 (2) A member of the Council may at any time resign his office in
5 writing addressed to the President, and which resignation shall become
6 effective on acceptance by the President.

7 (3) Members of the Council shall be paid such allowances as may
8 be determined by the President, on the recommendation of the Revenue
9 Mobilization, Allocation and Fiscal Commission.

10 4.-(1) A Member of the Council shall be removed from office by Cessation of
11 the President, Commander-in-Chief of the Armed Forces subject to membership
12 confirmation by simple majority of the Senate, if he-

- 13 (a) Becomes of unsound mind;
14 (b) Becomes bankrupt or makes a compromise with his creditors;
15 (c) Is convicted of a felony of any offence involving dishonesty; or
16 (d) Is guilty of serious misconduct in relation to his duties.

17 (2) Where a vacancy occurs in the membership of the Council, it
18 shall be filled by the appointment of a successor to hold office for the
19 remainder of the term of office of his predecessor, so however that the
20 successor shall represent the same interest and shall be appointed by the
21 President.

22 PART II - FUNCTIONS AND POWERS

23 5. The Commission shall-

- 24 (a) deal with all matters relating to the promotion and protection of
25 human rights guaranteed by the Constitution- of the Federal Republic of
26 Nigeria, the United Nations Charter and the Universal Declaration on
27 Human Rights, the International Convention on Civil and Political Rights,
28 the International Convention on the Elimination of all forms of Racial
29 Discrimination, the International Convention on Economic, Social and
30 Cultural Rights, the Convention on the Elimination of all forms of

Functions of the
Commission

1 Discrimination Against Women, the Convention on the Rights of the Child, the
2 African Charter on Human and Peoples' Rights and other International and
3 Regional Instruments on human rights to which Nigeria is a party;

4 (b) monitor and investigate all alleged cases of human rights violation
5 in Nigeria and make appropriate recommendations to the President for the
6 prosecution and such other actions as it may deem expedient in each
7 circumstance;

8 (c) assist victims of human rights violations and seek appropriate
9 redress and remedies on their behalf;

10 (d) undertake studies on all matters pertaining to human rights and
11 assist the Federal, State and Local Governments where it considers it
12 appropriate to do so in the formulation of appropriate policies on the guarantee
13 of human rights;

14 (e) publish and submit, from time to time, to the President, National
15 Assemble, Judiciary, State and Local Governments, reports on the state of
16 human rights promotion and protection-in Nigeria;

17 (f) organize local and International seminars, workshops and
18 conferences on human rights issues for public enlightenment;

19 (g) liaise and cooperate, in such manner as it considers appropriate,
20 with local and International Organizations on human rights with the purpose of
21 advancing the promotion and protection of human rights;

22 (h) participate in such manner as it considers appropriate in all
23 International activities relating to the promotion and protection of human
24 rights;

25 (i) maintain a library, collect data and disseminate information and
26 materials on human rights;

27 (j) receive and investigate complaints concerning violations of
28 human rights and make appropriate determination as may be deemed
29 necessary in each circumstance;

30 (k) examine any existing legislation, administrative provisions and

1 proposed bills or bye laws for the purpose of ascertaining whether such
2 enactments or proposed bills or bye-laws are consistent with human rights
3 norms;

4 (l) prepare and publish, in such manner as the Commission
5 considers appropriate, guidelines for the avoidance of acts or practices with
6 respect to the functions and powers of the Commission under this Act;

7 (m) promote an understanding of public discussions of human
8 rights issues in Nigeria;

9 (n) undertake research and educational programmes and such other
10 programmes for promoting and protecting human rights and co-ordinate any
11 such programme on behalf of the Federal, State or Local Governments on its
12 own initiative when so requested by the Federal, State or Local Government
13 and report concerning the enactment of legislation on matters relating to
14 human rights;

15 (o) on its own initiative or when requested by the Federal, State or
16 Local Government, report on actions that should be taken by the Federal,
17 State or Local Government to comply with the provisions of any relevant
18 international human rights instruments;

19 (p) refer, any matter of human rights violation requiring
20 prosecution to the Attorney-General of the Federation or of a State, as the
21 case may be;

22 (q) where it considers it appropriate to do so act as a conciliator
23 between parties to a complaint;

24 (r) where it considers it appropriate, with the leave of the court
25 hearing the proceedings and subject to any condition imposed by the court,
26 intervene in any proceeding that involves human rights issues; and

27 (s) Carry out all other functions as are necessary and expedient for
28 the performance of its functions under the Act.

29 **6.-(1)** The Commission, shall have power to-

30 (a) conduct its investigations and inquiries in such manner as it

Powers of the
Commission

1 considers appropriate;

2 (b) institute any civil action on any matter it deems fit in relation to the
3 exercise of its functions under this Act;

4 (c) appoint any person, whether or not such person is "in the public
5 service, to act as an interpreter in any matter brought before it and to translate
6 any such book, paper or writing produced to it;

7 (d) visit prisons, police cells and other places of detention in order to
8 ascertain the conditions thereof and make recommendations to the appropriate
9 authorities;

10 (e) make determination as to the damages or compensation payable in
11 relation any violation of human rights where it deems this necessary in the
12 circumstances of the case;

13 (f) co-operate and consult with other agencies and organizations,
14 governmental and non-governmental, as it may deem appropriate; and

15 (g) do such other things as are incidental, necessary, conducive or
16 expedient for the performance of its functions under this Act.

17 (2) Whenever it appears to the Executive Secretary upon information
18 and after such inquiry as he shall think necessary, that there is reasonable cause
19 to suspect that in any place there is evidence of the Commission of any offence
20 under this Act, he may by written order direct an officer of the Commission to-

21 (a) enter upon any land or premises or by any agent or agents duly
22 authorized in writing for any purpose which, in the opinion of the Commission
23 is material to the functions of the Commission, and-in particular, for the
24 purpose of obtaining evidence or information or of inspecting or taking copies
25 of any document required by, or which may-be of assistance to the Commission
26 and for safeguarding any such document or property which in the opinion of
27 the Commission ought to be safeguarded for any purpose of its investigations
28 or proceedings; provided a court order is obtained in this respect

29 (b) summon and interrogate any person, body or authority to appear
30 before it for the purpose of a public inquiry aimed at the resolution of a

1 complaint of human rights violation;

2 (c) issue a warrant to compel the attendance of any person who,
3 after having been summoned to attend, fails refuses or neglects to do so and
4 does not excuse such failure, refusal or neglect to the satisfaction of the
5 Commission;

6 (d) compel any person, body or authority who, in its opinion, has
7 any information relating to any matter under its investigation to furnish it
8 with any information or produce any document or other evidence which is in
9 his or her custody and which relates to any matter being investigated; and

10 (e) compel the attendance of witnesses to produce evidence before
11 it.

12 (3) In exercising its functions and powers under this Act, the
13 Commission shall not be subject to the direction or control of any other
14 authority or person,

15 (4) It is an offence for any person, body or authority to-

16 (a) refuse to provide evidence, including documentary evidence to
17 the Commission in response to a written request to do so;

18 (b) obstruct or do anything to prevent any member of the Council
19 or an employee of the Commission from the lawful exercise of any of the
20 functions conferred on the Commission by this Act;

21 (c) punish, intimidate, harass or discriminate against any person
22 for co-operating with the Commission in the exercise of its functions under
23 this Act; or

24 (d) refuse to comply with lawful directives, determination,
25 decision or finding of the Commission,

26 (5) A person who commits an offence under subsection (4) of this
27 section is liable on conviction to imprisonment for a term of 6 months or to a
28 fine of N100, 000.00 or to both such imprisonment and fine.

PART III - STAFF

Executive
Secretary of the
Commission

1
2 7.-(1) There shall be for the Commission an Executive Secretary who
3 shall be:

4 (a) a legal practitioner with not less than 20 years post qualification
5 experience and requisite experience in human rights issues;

6 (b) a person of proven integrity and be the Chief Executive and
7 Accounting Officer of the Commission; and

8 (c) appointed by the President subject to confirmation by the Senate."

9 (2) The Executive Secretary shall hold office for a term of five years
10 in the first instance on such terms and conditions as the President, may
11 determine, and may be reappointed for one further term of five years and no
12 more.

13 (3) Subject to such general directions as the Council may give, the
14 Executive Secretary shall be responsible for the day-to-day administration of
15 the Commission and the implementation of the decisions of the Council.

16 (4) The Executive Secretary shall perform the functions of keeping
17 the record of proceedings and decisions of the Council and such other functions
18 as the Council may, from time to time, direct.

Other staff of
the Commission,
etc.

19 8.-(1) The Council shall have power to appoint directly, and either on
20 transfer or on secondment from any public service in the Federation, such
21 number of employees as may, in the opinion of the Council, be required to
22 assist the Commission in the discharge of any of its functions under this Act,
23 and shall have power to pay to persons so employed such remuneration
24 (including allowances) as the Council may, determine.

25 (2) The terms and conditions of service (including terms and
26 conditions as to remuneration, allowances, pensions, gratuities and other
27 benefits) of the persons employed by the Commission shall be as determined
28 by the Council from time to time.

29 (3) The Council may engage such consultants and advisers as it may

1 require for the proper and efficient discharge of the functions of the
2 Commission.

3 **9.** The Commission may, subject to the provisions of this Act, Staff regulations
4 make staff regulations relating generally to the conditions of service of the
5 employees of the Commission and without prejudice to the generality of the
6 foregoing, such regulations may provide for-

7 (a) the appointment, promotion and disciplinary control (including
8 dismissal) of employees of the Commission; and

9 (b) appeals by such employees against dismissal or other
10 disciplinary measures.

11 **10.** The Council shall determine the conditions of service, Condition of
service
12 including salaries, pensions and gratuities as are appropriate for its
13 employees.

14 **11.-(1)** It is hereby declared that service in the Commission is a Pension
15 scheduled service and shall be deemed to be pensionable under the Pensions
16 Act and, accordingly, employees of the Commission shall in respect of their
17 service in the Commission, be entitled to pensions, gratuities and other
18 retirement benefits as are prescribed hereunder.

19 (2) Notwithstanding the provisions of subsection (1) of this
20 section, nothing in this Act shall prevent the appointment of a person to any
21 office on terms which preclude the grant of a pension or gratuity in respect of
22 that office.

23 PART IV - FINANCIAL PROVISIONS

24 **12.-(1)** The Commission shall establish and maintain a fund which Fund of the
Commission
25 shall be applied towards the discharge of its functions under this Act.

26 (2) The Fund of the Commission shall be a charge on the
27 Consolidated Revenue Fund of the Federation; and

28 (3) There shall be paid and credited to the fund established pursuant
29 to subsection (1) of this section-

30 (a) such sums as may be provided by the Government of the

1 Federation for the Commission;

2 (b) any fees charged for services rendered by the Commission; and

3 (c) all other sums accruing to the Commission by way of gifts,
4 testamentary dispositions, endowments and contributions from philanthropic
5 persons and organizations or otherwise however.

Power to accept
gifts

6 **13.**-(1) The Commission may accept gifts of land, money or other
7 property on such terms and conditions, if any, as may be specified by the person
8 or organization making the gift.

9 (2) The Commission shall not accept any gift if the conditions
10 attached by the person or organization making the gift are inconsistent with the
11 functions of the Commission.

Borrowing powers
and etc.

12 **14.**-(1) The Commission may borrow by way of loan or overdrafts
13 from any source such specific amount as may be required by the Commission
14 for meeting its obligations and discharging its functions under this Act.

15 (2) The Commission may subject to this Act and the conditions of any
16 trust created in respect of any property, invest all or any of its funds.

17 (3) The Commission may, from time to time, invest any surplus funds
18 of the Commission in securities prescribed by the Trustee Investments Act or
19 such other securities.

20 (4) Subject to the provisions of the Land Use Act, the Commission
21 may acquire or lease any land required for its purpose under this Act.

Human Rights
Fund

22 **15.**-(1) There is established the Human Rights Fund (in this Act
23 referred to as "the Fund") which shall be applied by the Commission towards-

24 (a) the conduct of research and training on human rights issues; and
25 other projects of the Commission;

26 (b) the facilitation of human rights activities of the Commission in
27 Collaboration with other; human rights non-governmental organizations, Civil
28 society organizations and other stakeholders.

29 (2) There shall be paid and credited to the Fund established pursuant
30 to subsection (1) of this section-

1 (a) such sums as may be provided by the Federal, State or Local
2 Government for purposes of the Fund as maybe agreed with the
3 Commission;

4 (b) such contributions from national and-multi-national, public
5 and-private companies and institutions carrying on business in Nigeria
6 amounting to 1% of their annual profit after tax.

7 **16.**-(1) The Commission shall cause to be prepared, not later than
8 30th September in each year, an estimate of the expenditure and income of
9 the Commission during the next succeeding year and when prepared they
10 shall be submitted, to the National Assembly for approval.

Annual estimates,
accounts and audit

11 (2) The Commission shall cause to be kept proper accounts and
12 proper records in relation thereto and when certified by the Commission
13 such accounts shall be audited as provided in subsection (3) of this section.

14 (3) The accounts of the Commission shall be audited by auditors
15 appointed from the list of auditors and in accordance with the guidelines
16 issued by the Auditor-General for the Federation and the fees of the auditors
17 and the expenses for the audit generally shall be paid from the funds of the
18 Commission.

19 **17.** The Commission shall, not later than 6 months after the end of
20 report each year; submit to the President and the National Assembly, a report
21 on the activities of the Commission and its administration during the
22 immediate preceding year and shall include in the report the audited account
23 of the Commission and the auditor's comments thereon.

Annual Reports

24 **18.**-(1) Subject to the provisions of this Act, the provisions of the
25 Public Officers Protection Act shall apply in relation to any suit instituted
26 against any member of the Council, the Executive Secretary, or any
27 officer or employee of the Commission.

Regulation:
Limitation of
suit against the
Commission

28 (2) No suit shall lie or be instituted in any court against the
29 Commission, any member of the Council, the Executive Secretary or any
30 officer or employee of the Commission for an act done in pursuance or

1 execution of this Act or any other law or enactment, or of any public duty or
2 authority or in respect of any alleged neglect or default in the execution of this
3 Act or such law or enactment, duty or authority unless-

4 (a) it is commenced within 3-months next after the act, neglect or
5 default complained of; or

6 (b) in the case of a continuation of damage or injury, within 6 months
7 next after the ceasing thereof.

8 (3) No suit shall be commenced against the Commission, any
9 member of the Council, the Executive Secretary, officer or employee of the
10 Commission before the expiration of a period of one month after a written
11 notice of intention to commence the suit shall have been served upon the
12 Commission by the intending plaintiff or his agent.

13 (4) The notice referred to in subsection (3) of this section shall clearly
14 state-

15 (a) the cause of action;

16 (b) the particulars of claim;

17 (c) the name and place of abode of the intending plaintiff; and

18 (d) the relief which he claims

Service of
Document

19 **19.** A notice, summons or other document required or authorized to
20 be served upon the Commission under the provisions of this Act or any other
21 law or enactment may be Served by delivering it to the Executive Secretary or
22 by sending it by registered post and addressed to the Executive Secretary at the
23 principal office of the Commission.

Restriction of
execution against
property of the
Commission

24 **20.** Any sum of money which may by the judgment of any court be
25 awarded against the Commission shall be paid from the general reserve fund of
26 the Commission subject to any direction given by the Court.

Indemnity

27 **21.** A member of the Council, the Executive Secretary, any officer or
28 employee of the Commission, shall be indemnified out of the assets of the
29 Commission against any proceedings, whether civil or criminal, in which
30 judgment is given in favour of another or-in which he is acquitted, if any such

1 proceeding is brought, against him in his capacity as a member of the
2 Council, the Executive Secretary; officer or employee of the Commission-
3 provided that he acted in good faith.

4

5 **22.**-(1) An award or recommendation, made by the Commission
6 shall be recognized as binding and subject to this section and this Act shall,
7 upon application in writing to the court, be enforced by the Court.

Recognition and
enforcement of
awards and
recommendations

8

9 (2). In this section, "court" means the Federal High Court or the
High Court Of the Federal Capital Territory, Abuja or High Court of a State".

Regulations

10

11 **23.** The Commission may make such regulations as it deems
necessary or expedient to give effect to the provisions of this Act.

Repeal

12

13 **24.** The National Human Rights Commission Act Cap. N46 Laws
of the Federation of Nigeria 2004 is repealed.

Savings and
transitional
provisions

14

15 **25.**-(1) All assets, rights, liabilities, interests, and obligations
vested in National Human Rights Commission Act Cap. N46 Laws of the
16 Federation of Nigeria 2004, before the commencement of this Bill, shall
17 after commencement of this Bill be vested in the National Human Rights
18 Commission

19

20 (2) All staff of National Human Rights Commission existing
before the commencement of this Bill shall after commencement of this Bill
21 continue to be staff of National Human Rights Commission in accordance
22 with the terms of appointment.

Citation

23

26. This Bill may be cited as the National Human Rights

1 Commission Bill, 2020.

2 SCHEDULE

3 *[Section 2(6)]*

4 SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

5 *Proceeding of the Council*

6 1.-(1) Subject to this Act and Section 27 of Interpretation Act, the
7 Council may make standing orders
8 regulating its proceedings or those of any of its committees.

9 (2) The quorum of the Council shall be 6 members, excluding the ex-
10 officio members but including the Chairman or, in his absence, the person
11 elected under Paragraph 2(2) of this Schedule to preside and 5 other members,
12 and the quorum of any Committee of the Council shall be determined by the
13 Council"; and

14 2 -(1) The Council shall meet at least once a month in each calendar
15 year and subject thereto, the Council shall meet whenever it is summoned by
16 the Chairman, and if the Chairman is required to do so, by notice given to him
17 by not less than four other members, he shall summon a meeting of the Council
18 to be held within fourteen days from the date on which the notice is given.

19 (2) At any meeting of the Council, the Chairman shall preside but if he
20 is absent, the members present at the meeting shall elect one of their members
21 to preside at the meeting.

22 (3) Where the Council desires to obtain the advice of any person on a
23 particular matter, the Council may co-opt him to the Council for such period as
24 it thinks fit, but a person who is in attendance by virtue of this sub-paragraph
25 shall not be entitled to vote at any meeting of the Council and shall not count
26 towards a quorum.

27 (4) The decision of the Council shall be by simple majority

28 *Committees*

29 3.-(1) The Council may appoint one or more committees to carry out,
30 on behalf of the Council, such of its functions as the Council may determine.

1 (2) A committee appointed under sub-paragraph (1) of this
2 paragraph shall consist of such number of persons (not necessarily members
3 of the Council) as may be determined by the Council, and a person other than
4 a member of the Council, shall hold office on the committee in accordance
5 with the terms of the appointment.

6 (3) A decision of a committee of the Council shall be of no effect
7 until it is confirmed by the Council.

8 *Miscellaneous*

9 4.-(1) The fixing of the seal of the Commission shall be
10 authenticated by the signature of the Executive Secretary or any person
11 specifically authorized to act for that purpose by the Council.

12 (2) Any contract or instruments which, if made or executed by a
13 person, not being a body corporate, would not be required to be under seal
14 may be made or executed on behalf of the Commission by the Executive
15 Secretary or any person specifically authorized to act for that purpose by the
16 Council.

17 (3) Any document purporting to be a document duly executed
18 under the seal of the Commission shall be received in evidence and shall,
19 unless and until the contrary is proved, be presumed to be so executed.

20 5. The validity of any proceedings of the Council or of a committee
21 thereof shall not be adversely affected by any vacancy in the membership of
22 the Council or committee, or by any defect in the appointment of a member
23 of the Council or a committee, or by reason that a person not entitled to do so
24 took part in the proceedings of the Council or committee.

25 6. Any member of the Council or of a committee of the Council
26 who has a personal interest in any contract or arrangement entered into or
27 proposed to be considered by the Council or committee shall disclose his
28 interest to the Council or committee and shall not vote on any question

relating to the contract or arrangement.

EXPLANATORY NOTE

This Bill seeks to repeal the National Human Rights Commission Act, CAP. N46, Laws of the Federation of Nigeria 2004 (as amended) and Enact the National Human Rights Commission Act, 2020 to strengthen the Commission to conduct investigations and sustain contributions to the Human Rights Funds for Human Rights Activities in Nigeria