

ELECTORAL OFFENCES COMMISSION AND TRIBUNAL
(ESTABLISHMENT) BILL, 2021
ARRANGEMENT OF SECTIONS

Section:

PART I - OBJECTIVE

1. Objective

PART II - THE ELECTORAL OFFENCES COMMISSION

2. Establishment of the Electoral Offences Commission
3. Composition of the Commission
4. Appointment and tenure of office of the members of the Commission
5. Cessation of membership
6. Emoluments, allowances, etc.

PART III - FUNCTIONS AND POWERS

7. Functions of the Commission
8. Powers of the Commission

PART IV - MANAGEMENT AND STAFF OF THE COMMISSION

9. Appointment and tenure of the Secretary to the Commission
10. Other Staff of the Commission
11. Staff regulations.
12. Pensionable service.
13. Appointment of Experts

PART V - FINANCIAL PROVISIONS

14. Funds of the Commission.
15. Administration of the Commission's Fund
16. Accounts and audit.
17. Statement of estimated income and expenditure
18. Bank Account
19. Investment of funds
20. Annual reports.

PART VI - SPECIAL POWERS OF THE COMMISSION

21. Training programme
22. Powers and immunities of officers
23. Power to investigate and prosecute electoral offences
24. Power to examine persons.
25. General provisions as to summons
26. Warrant to search premises
27. Obligation to give information.
28. Obstruction of inspection and search.
29. Attempt or conspiracy.
30. Bail of offenders, etc.

PART VII - ESTABLISHMENT, JURISDICTION AND PROCEDURE OF THE

ELECTORAL OFFENCES TRIBUNAL

31. Establishment of the Electoral Offences Tribunal
32. Composition of the Tribunal
33. Constitution of the Tribunal
34. Tenure of office of Members of the Tribunal
35. Disqualification of members of the Tribunal
36. Resignation and removal
37. Filing up of vacancies
38. Salaries, allowances and other conditions of service of members of the Tribunal
39. Chief Registrar to the Tribunal
40. Other staff of the Tribunal
41. Jurisdiction of the Tribunal
42. Proceedings of the Tribunal
43. Powers of the Tribunal
44. Judgement of the Tribunal
45. Appeal to the Court of Appeal
46. Funds of the Tribunal

47. Account and audit of the Tribunal

PART VIII - MISCELLANEOUS

48. Power to make regulation

49. Offence by an officer of the Commission

50. Legal Proceedings.

51. Restriction on execution against property of the Commission

52. Indemnity of officers of the Commission

53. Transitional Provisions

54. Interpretation

55. Short title

A BILL

FOR

AN ACT TO ESTABLISH THE ELECTORAL OFFENCES COMMISSION AND THE ELECTORAL OFFENCES TRIBUNAL TO PROVIDE FOR THE LEGAL FRAMEWORK FOR INVESTIGATION AND PROSECUTION OF ELECTORAL OFFENCES FOR THE GENERAL IMPROVEMENT OF THE ELECTORAL PROCESS IN NIGERIA AND FOR RELATED MATTERS

Sponsored by Hon. O.K. Chinda

[] Commencement

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

PART I - OBJECTIVE

- 1
- 2 1. The objective of this Act is to provide for electoral offences and Objective
- 3 legal framework for the investigation and prosecution of electoral offences.

PART II - ELECTORAL OFFENCES COMMISSION

- 4
- 5 2.-(1) There is established a body known as the Electoral Offences Establishment
- 6 Commission (in this Act referred to as "the Commission"). of the Electoral
- Offences
- Commission

- 7 (2) The Commission:

- 8 (a) shall be a body corporate with perpetual succession and a
- 9 common seal;

- 10 (b) may sue or be sued in its corporate name; and

- 11 (c) may acquire, hold or dispose of property (whether movable or
- 12 immovable).

- 13 (3) The Commission shall be charged with the responsibility of
- 14 enforcing the provisions of the Constitution, this Act, the Electoral Act and
- 15 any other law relating to electoral offences, investigation and prosecution of
- 16 electoral offences.

- 17 (4) The Commission shall be independent in the discharge of its
- 18 functions and powers under this Act.

1 (5) The Headquarters of the Commission shall be in Abuja, Nigeria
2 and the Commission may establish an office in any State of the Federation and
3 which shall perform such functions as the Commission may, from time to time,
4 assign to such office.

5 (6) The common seal of the Commission shall be kept in the custody
6 of the Secretary and shall be authenticated by the signature of the Chairman or
7 such other officer as the Commission may designate.

Composition
of the Commission

8 3.-(1) The Commission shall consist of the following Members:

9 (a) a Chairman who shall be a person of proven integrity; and

10 (b) twelve other persons, who shall be known as National
11 Commissioners.

12 (2) In appointing the members of the Commission, regards shall be
13 had to federal character and gender policy of the Federal Government.

14 (3) Members of the Commission shall be non-partisan and of proven
15 integrity and in:

16 (a) the case of the Chairman, be not less than forty years of age; and

17 (b) other members, be not less than thirty - five years of age.

18 (4) The Chairman shall be the chief executive and accounting officer
19 of the Commission.

20 (5) The provisions of the First Schedule to this Act shall have effect
21 with respect to the proceedings of the Commission and other matters
22 mentioned therein.

Appointment
and tenure of
office of the
members of the
Commission

23 4.-(1) The Chairman and members of the Commission shall be
24 appointed by the President subject to confirmation by the Senate.

25 (2) Members of the Commission shall hold office for a period of five
26 years from the date of appointment and shall be eligible for re-appointment for
27 another term of five years and no more and shall vacate office upon reaching
28 the age of seventy years.

29 (3) The Chairman and members of the Commission shall have at least
30 a first degree or its equivalent from a recognized institution in addition to a

1 minimum of ten years' cognate experience in the relevant field.

2 5.-(1) The office of the Chairman or a member of the Commission
3 shall become vacant where:

Cessation of
membership

4 (a) his term of office expires or attains 70 years of age;

5 (b) he resigns his office by a notice in writing under his hand
6 addressed to the President;

7 (c) he is incapable of performing the functions of his office due to
8 mental or physical illness;

9 (d) he has been convicted of a felony or any offence involving
10 dishonesty;

11 (e) he has been declared bankrupt or insolvent by a competent court
12 or tribunal;

13 (f) he becomes a member of, holds an office in or is employed by
14 any political party; or

15 (g) he is declared guilty of gross misconduct by a court of
16 competent jurisdiction or tribunal;

17 (2) A member may be removed or suspended from office by the
18 President:

19 (a) if he is satisfied that it is not in the interest of the Commission or
20 of the public for the person appointed to continue in office subject to
21 confirmation by the Senate; or

22 (b) acting on a resolution supported by two-thirds majority of the
23 Senate praying that the member be so removed for inability to discharge the
24 functions of the office (whether arising from infirmity of mind or body, or
25 any other cause) or for misconduct.

26 (3) Where a vacancy occurs in the membership of the Commission,
27 the President shall appoint a successor to hold office for a term of five years
28 subject to confirmation by the Senate.

29 (4) Where a vacancy occurs in the office of the Chairman, the
30 members shall elect one of their members to act in the capacity of a chairman

1 for a maximum period of 3 months and no more.

Emoluments,
allowances, etc.

2 6. The Chairman and members of the Commission shall be paid such
3 emoluments, allowances and benefits as may be determined by the appropriate
4 Federal Government Agency, from time to time, in accordance with extant
5 laws and regulations.

6 PART III - FUNCTIONS AND POWERS

Functions of the
Commission

7 7. The Commission shall:

8 (a) investigate, enforce and prosecute all electoral malpractices and
9 electoral offences created under the constitution, Electoral Act and any other
10 law;

11 (b) advise the electoral entities of any change in practices, systems or
12 procedures compatible with the effective discharge of the duties of electoral
13 entities as the Commission thinks fit to reduce the likelihood or incidence of
14 electoral and related offences;

15 (c) adopt measures to identify, trace and prosecute political thuggery,
16 electoral fraud, political terrorism and related electoral offences;

17 (d) adopt measures to prevent and eradicate the commission of
18 electoral malpractices including coordination, preventive and regulatory
19 actions, introduction of investigative and control techniques, and the
20 collaboration with election observers within and outside Nigeria;

21 (e) facilitate the exchange of scientific and technical information with
22 other democracies on the conduct of joint operations and training geared
23 towards the eradication of electoral fraud and malpractices;

24 (f) inform and educate the public on matters related to electoral and
25 related offences; and

26 (g) carry out such other activities as are necessary or expedient for the
27 full discharge of all or any of the functions conferred on it under this Act or
28 conferred upon it by an Act of the National Assembly.

Powers of the
Commission

29 8.-(1) The Commission shall have powers to:

30 (a) investigate and prosecute any person suspected to have conspired

1 to commit or has attempted to commit or has committed an electoral offence
2 or an offence under the Constitution, this Act, the Electoral Act, or any other
3 law;

4 (b) examine the practices, systems and procedures of any electoral
5 entity and where, in the opinion of the Commission, such practices, systems
6 or procedures aid or facilitate electoral offences to advise on ways by which
7 electoral offences may be eliminated or minimized by such entity;

8 (c) appoint, promote, dismiss and exercise disciplinary control
9 over the staff of the Commission in accordance with the provisions of this
10 Act;

11 (d) adopt measures including coordination, prevention and
12 regulatory actions, to:

13 (i) identify, trace and prosecute political thuggery, electoral fraud,
14 political terrorism and other electoral offences;

15 (ii) prevent the commission of electoral malpractices; and

16 (e) enlist and foster public support in combating electoral offences.

17 (2) The Commission shall:

18 (a) formulate and provide the general policies and guidelines
19 relating to the functions of the Commission;

20 (b) monitor the implementation of the policies and programmes of
21 the Commission;

22 (c) submit to the relevant statutory bodies for approval the terms
23 and conditions of service, including remuneration of the employees of the
24 Commission after consideration by the Management of the Commission;

25 (d) cause to be kept, proper accounts and records of the
26 Commission in respect of each financial year and shall cause the accounts to
27 be audited not later than 6 months after the end of each year by auditors
28 appointed from the list and in accordance with the guidelines provided by
29 the Auditor-General of the Federation; and

30 (e) do any other thing which in the opinion of the Commission is

1 necessary or expedient to ensure the efficient performance of its functions.

2 PART IV - MANAGEMENT AND STAFF OF THE COMMISSION

Appointment
and tenure of the
Secretary to the
Commission

3 9.-(1) There shall be for the Commission, a Secretary who shall be
4 appointed by the Commission.

5 (2) The Secretary shall hold office for a term of four years in the first
6 instance and be eligible for re-appointment for another term of four years and
7 no more.

8 (3) The Secretary shall possess at least a first degree or its equivalent
9 from a recognized Institution with at least fifteen years cognate experience in a
10 relevant field.

11 (4) The Secretary shall:

12 (a) be the head of administration of the Commission;

13 (b) keep records,

14 (c) conduct correspondence of the Commission; and

15 (d) perform such other duties and functions as the Commission or the
16 Chairman may from time to time direct.

Other Staff of
the Commission

17 10.-(1) The Commission may, from time to time, appoint such other
18 staff or appoint officers on secondment from government security or law
19 enforcement agencies or such other private or public services as it may deem
20 necessary, to assist the Commission in the performance of its functions under
21 this Act.

22 (2) The staff of the Commission appointed under subsection (1) of this
23 section shall be appointed on such terms and conditions of service as the
24 Commission may determine in accordance with the approved Government
25 Policy.

26 (3) The staff of the Commission shall be public officers as defined in
27 the Constitution of the Federal Republic of Nigeria.

Staff regulations

28 11.-(1) The Commission may, subject to the provisions of this Act,
29 make staff regulations relating generally to the conditions of service of the
30 employees of the Commission and, without prejudice to the generality of the

1 foregoing, the regulations may provide for:

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

4 (b) appeals by such employees against dismissal or other
5 disciplinary measures, and until the regulations are made, any instrument
6 relating to the conditions of service of officers in the Civil Service of the
7 Federation shall be applicable, with such modifications as may be
8 necessary, to the employees of the Commission.

9 (2) Staff regulations made under subsection (1) of this section shall
10 not have effect until approved by the Commission, published in the Gazette
11 and brought to the notice of all affected persons in such manner as the
12 Commission may, from time to time, determine.

13 12.-(1) Service in the Commission shall be public service for the
14 purposes of the Pensions Reform Act and accordingly, officers and other
15 persons employed by the Commission shall in respect of their service in the
16 Commission, be entitled to pensions, gratuities and other retirement benefits
17 as are prescribed thereunder.

Pensionable
service

18 (2) For the purposes of the application of the provisions of the
19 Pensions Reform Act, any power exercisable under the Act by a Minister or
20 other authority of the Government of the Federation (not being the power to
21 make regulations under the Act by a Minister) is hereby vested in and shall
22 be exercisable by the Commission and not by any other person or authority.

23 (3) Notwithstanding the provisions of subsection (1) of this
24 section, nothing in this Act shall prevent the appointment of a person to any
25 office on terms which preclude the grant of pension and retirement benefits
26 in respect of that office.

27 (4) The Commission shall in consultation with the National
28 Salaries, Incomes and Wages Commission determine and review from time
29 to time, the remunerations and allowances, payable to the Commission's
30 staff.

1 (5) The conflict of interest provisions contained in the First Schedule
2 to this Act shall apply to all employees of the Commission.

Appointment
of Experts

3 13. In exercising and performing the powers, functions and duties
4 conferred on it under this Act, the Commission may appoint, contract, liaise or
5 co-operate with various experts, including specialized agencies, academic or
6 technical institutes, or advisory committees, in order to assist it in carrying out
7 its functions or duties.

8 PART V - FINANCIAL PROVISIONS

Funds of the
Commission

9 14.-(1) The Commission shall establish and maintain a fund from
10 which shall be defrayed all expenditures reasonably incurred by the
11 Commission for the execution of its functions under this Act.

12 (2) There shall be paid and credited to the fund established pursuant to
13 subsection (1) of this section:

14 (a) such monies as may, in each year, be approved by the Federal
15 Government for the purposes of the Commission;

16 (b) all such moneys as shall, from time to time, be appropriated to the
17 Commission by the National Assembly;

18 (c) all such moneys as may, from time to time, be lent or granted to the
19 Commission by the Government of the Federation, a State or Local
20 Government;

21 (d) all moneys raised for the purpose of the Commission by way of
22 donations, loans, grant-in-aid, testamentary disposition or otherwise; and

23 (f) all other assets that may, from time to time, accrue to the
24 Commission.

25 (3) The fund shall be managed in accordance with rules made by the
26 Commission, and without prejudice to the generality of the power to make
27 rules under this subsection, the rules shall, in particular, contain provisions:

28 (a) specifying the manner in which the assets of the Commission are
29 to be held and regulating the making of payments into and out of the fund; and

30 (b) requiring the keeping of proper accounts and records for the

1 purpose of the fund in such form as may be specified in the rules.

2 (4) The Commission may accept support or grant from any
3 organization upon such terms and conditions, if any, as may be specified by
4 the organization making the grant provided that such terms and conditions
5 are not inconsistent with the objectives and functions of the Commission.

6 15. The Commission shall apply the proceeds of the fund
7 established pursuant to section 14 of this Act to the following purposes, the:

Administration
of the Commission's
Fund

8 (a) cost of administration of the Commission;

9 (b) cost of acquiring any property, equipment or other facility
10 necessary to the discharge of the functions and duties of the Commission
11 under this Act; and

12 (c) payments of salaries, allowances and other remunerations,
13 payable to members, experts or employees of the Commission.

14 16. The Commission shall cause to be kept, proper books of
15 accounts and records in respect of each financial year and shall cause its
16 accounts to be audited not later than six months after the end of each
17 financial year by auditors appointed in accordance with guidelines issued by
18 the Office of the Auditor-General of the Federation.

Accounts and
audit

19 17. The Commission shall submit to the National Assembly, for
20 approval not later than 31st August, in each financial year, a statement of its
21 estimated income and expenditure for the following financial year.

Statement of
estimated income
and expenditure

22 18. The Commission shall open and maintain with any bank or
23 financial institution, an account in which there shall be deposited all moneys
24 received by the Commission within the contemplation of section 14 of this
25 Act and from which all payments for and on behalf of the Commission shall
26 be made.

Bank Account

27 19. The funds of the Commission, which are not immediately
28 required for current or contingent expenditure, may upon the decision of the
29 Commission:

Investment of
funds

30 (a) be invested on call or short term fixed deposit with any bank or

1 financial institution; or

2 (b) be deposited with the Central Bank of Nigeria or any other bank or
3 financial institution in an investment account in such manner and for such
4 periods as the Commission may, upon a resolution, approve.

Annual reports

5 20. The Commission shall submit to the National Assembly not later
6 than 30th June in each financial year, a report on its activities during the
7 immediate preceding year and shall include in such report the audited accounts
8 of the Commission.

9 PART VI - SPECIAL POWERS OF THE COMMISSION

Training
programme

10 21. The Commission shall initiate, develop or improve specific
11 training programs for its law enforcement and other personnel charged with
12 responsibility for the detection, investigation and prosecution of offences
13 created by this Act and such programs shall include:

14 (a) methods used in the detection of electoral offences or offences
15 created under this Act;

16 (b) techniques used by persons involved in electoral offences or
17 offences under this Act and appropriate counter-measures;

18 (c) collection of evidence;

19 (d) law enforcement techniques;

20 (e) capacity building for prosecutors; and

21 (f) dissemination of information on electoral and related offences.

Powers and
immunities of
officers

22 22.-(1) Subject to the provisions of this Act, an officer of the
23 Commission, when investigating or prosecuting an electoral offence shall have
24 all the powers and immunities of a police officer under the Police Act and any
25 other laws conferring power on the police or empowering and protecting law
26 enforcement agents.

27 (2) Where, in the course of any investigations or proceedings in a
28 court in respect of the commission of an electoral offence or an offence under
29 this Act by any person, there is disclosed an offence under any other written
30 law, not being an electoral offence or offence under this Act, irrespective of

whether the offence was committed by the same person or any other person, the officer of the Commission responsible for the investigation or proceedings, as the case may be, shall notify the Attorney-General of the Federation or any other officer charged with responsibility for the prosecution of criminal cases, who may issue such direction as shall meet the justice of the case.

23.-(1) The Commission shall investigate and prosecute all electoral offences created under the Electoral Act or any other law or Regulations on electoral offences.

Power to investigate
and prosecute
electoral offences

(2) Every report relating to the commission of an electoral offence or any offence under this Act may be made orally or in writing to an officer of the Commission, and if made orally shall be reduced into writing and read over to the person making the report; and every such report shall be signed or thumb-printed by the person making it; and where the person making the report is an illiterate the officer obtaining the report shall endorse that fact on the report together with a statement to the effect that it was read over and interpreted to the maker.

(3) Every report, whether in writing or reduced into writing, shall be recorded and kept at the office of the Commission and there shall be appended to such entry the date and hour at which such report was made.

(4) Where an officer of the Commission has reason to suspect the commission of an offence following a report made under subsection (1) or information otherwise received by him, he shall cause investigation to be made and for such purpose may exercise all the powers of investigation provided for under this Act or any other law.

(5) A report made under subsection (1) of this section shall not be disclosed by any person other than to the officers of the Commission until the accused person has been invited, summoned or charged to court for an offence arising from such report.

(6) Any document certified by any officer of the Commission

1 under subsection (2) in respect of a report under subsection (1) shall be
2 admissible as evidence of the contents of the original and of the time, place and
3 manner in which the report was recorded.

Power to examine
persons

4 24.-(1) An officer of the Commission investigating an electoral
5 offence or an offence under this Act may:

6 (a) order any person to attend before him for the purpose of being
7 examined in relation to any matter which may, in his opinion, assist in the
8 investigation of the offence;

9 (b) order any person to produce before him any book, document or
10 any certified copy thereof, or any other article which may, in his opinion, assist
11 in the investigation of the offence; or

12 (c) by written notice require any person to furnish a statement in
13 writing made under oath or affirmation setting out therein all such information
14 required under the notice,

15 (2) being information which, in such officer's opinion, would be of
16 assistance in the investigation of the offence. Subsection (1) (b) shall not apply
17 to banker's books save in accordance with the provisions of the Evidence Act.

18 (3) A person to whom an order under subsection (1) (a) has been given
19 shall:

20 (a) attend in accordance with the terms of the order to be examined,
21 and shall continue to attend from day to day where so directed until the
22 examination is completed; and

23 (b) during such examination disclose all information which is within
24 his knowledge.

25 (4) A person to whom an order has been given under subsection (1) (b)
26 shall not conceal, destroy, remove, mutilate, expunge or dispose of any book,
27 document or article specified in the order or relevant to the investigation, or
28 alter or deface any entry in such book or document, or cause such act to be done,
29 or assist or conspire to do such act.

30 (5) A person to whom a written notice has been given under

subsection (1) (c) shall, in is statement, furnish and disclose truthfully all information required under the notice which is within his knowledge, or which is available to him. Any person who contravenes any provision of this section shall be guilty of an offence punishable with a term of imprisonment not exceeding three months.

25.-(1) Subject to the provisions of subsections (1) to (6) of this section, the Commission may issue a summons directed to a person complained against or any other person to attend before the Commission for the purpose of being examined in relation to the complaint or in relation to any other matter which may aid or facilitate the investigation of the complaint; and a summons so issued shall state the substance of the complaint, and the time and place at which the inquiry is to be held.

General provisions
as to summons

(2) Every summons issued by the Commission under this Act shall be in duplicate and signed by the Chairman or such other officer as the Chairman may authorize to issue summons.

(3) Every summons issued by the Commission under this Act shall be served by an officer of the Commission in the manner prescribed in the Sheriffs and Civil Process Act and any other law relating to the service of process and the person effecting the service shall have and exercise all the powers conferred by that Act and any other law relating to the service of process.

(4) Where the person summoned by the Commission is in the service of Government, the Commission may deliver the summons in duplicate to the Head of the Department in which such person is employed for the purpose of its being served on that person and such officer shall thereupon cause the summons to be served on that person.

(5) Where a summons has been served upon the person to whom it is addressed or delivered to any other person, the person to whom it is addressed or delivered, as the case may be, shall sign a receipt on the duplicate; and where service is not effected by handing the summons to an

1 individual but by some other method approved by this Act, the person effecting
2 service shall endorse on the duplicate particulars of the method by which the
3 service was effected.

4 (6) A person required to sign a receipt on the back of the duplicate
5 summons to the effect that he has received the summons who refuses to do so
6 may be arrested by the person serving the summons and shall be guilty of an
7 offence and upon conviction be liable to one month imprisonment or a fine of
8 five thousand Naira.

9 (7) Where the Commission is satisfied that a summons directed to a
10 person complained against or any person has been served and that person does
11 not appear at the time and place appointed in the summons, the Commission
12 shall have power to arrest and detain any such person.

Warrant to search
premises

13 26.-(1) Whenever it appears to the Chairman upon information, and
14 after such inquiry as he shall consider necessary, that there is reasonable cause
15 to suspect that in any place there is any evidence of the commission of an
16 electoral offence or offence under this Act, he may by a written order direct an
17 officer of the Commission to obtain a court order to:

18 (a) enter any premises and search for, seize and take possession of any
19 book, document or other article evidencing the commission of such offence;

20 (b) inspect, make copies of or take extracts from any book, record or
21 document;

22 (c) search any person who is in or on such premises and, for the
23 purpose of such search, detain such person and remove him to such place as
24 may be necessary to facilitate such search, seize and detain any article found on
25 such person;

26 (d) break open, examine, and search any article, container or
27 receptacle; or

28 (e) stop, search and seize any vehicle or conveyance.

29 (2) Whenever directed, an officer of the Commission exercising any
30 of the powers prescribed under subsection (1) of this section shall obtain a

warrant from a judge or magistrate to:

(a) break open any outer or inner door or window of any premises and enter thereto, or otherwise forcibly enter the premises and every part thereof;

(b) remove by force any obstruction to such entry search, seizure or removal as he is empowered to effect; or

(c) detain any person found in or on any premises or in any conveyance searched under subsection (1) or until such premises or conveyance has been searched.

(3) No person shall be searched under this section except by a person who is of the same gender as the person to be searched.

27. Subject to such limitation as is provided under this Act, every person required by an officer of the Commission to give any information on any subject which it is the duty of such officer to inquire into under this Act and which is in that person's statutory power to give, shall be bound to give such information, failing which, he shall be guilty of an offence and on conviction, liable to imprisonment for six months or a fine of fifty thousand Naira or both.

Obligation to
give information

28. Any person who:

(a) refuses any officer of the Commission access to any premises or fails to submit to a search by any person authorized to search him under this Act;

Obstruction of
inspection and
search

(b) assaults or obstructs any officer of the Commission or any person authorized by the Commission in the execution of his duty under this Act;

(c) fails to comply with any lawful demand, notice, order or requirement of an officer of the Commission in the execution of his duty under this Act;

(d) fails to produce, or conceals or attempts to conceal from an officer of the Commission, any book, document, or article, in relation to

1 which such officer has reasonable grounds for suspecting or believing that an
2 electoral offence or offence under this Act has been or is being committed, or
3 which is liable to seizure under this Act;

4 (e) rescues or endeavours to rescue or causes to be rescued any person
5 who has been duly arrested or anything which has been duly seized; or

6 (f) destroys anything to prevent the seizure thereof or the securing of
7 the thing, shall be guilty of an offence punishable with imprisonment for one
8 year without the option of a fine.

Attempt or
conspiracy

9 29. Any person who:

10 (a) attempts or conspires to commit any electoral offence;

11 (b) does any act preparatory to or in furtherance of the commission of
12 any electoral offence; or

13 (c) abets or is engaged in a criminal conspiracy to commit any
14 electoral offence; commits an offence and shall on conviction, be liable to the
15 punishment provided for such offence.

Bail of offenders,
etc.

16 30.-(1) Every electoral offence or offence under this Act shall be a
17 bailable offence for the purposes of the Criminal Procedure Act or Code.

18 (2) Every person arrested under this Act may be released from
19 custody on his executing a bond with sureties, as an officer of the Commission
20 may require.

21 (3) Any person who has been released from custody under subsection
22 (2) may be re-arrested without warrant by any officer of the Commission:

23 (a) if such officer has reasonable grounds for believing that any
24 condition on which such person was released or otherwise admitted for bail has
25 been broken; or

26 (b) on being notified in writing by the surety of such person that such
27 person has broken or is likely to break any condition on which such person was
28 released and that the surety wishes to be relieved of his obligation as surety.

29 (4) Any person arrested under subsection (3) who is not released on
30 bail shall, without unreasonable delay, and in any case within twenty-four

1 hours (excluding the time for any necessary journey) be produced before the
2 Court and if it appears to the Court that any condition on which such person
3 was released or otherwise admitted for bail has been or is likely to be broken,
4 the court may:

5 (a) remand such person in custody; or

6 (b) admit such person to bail on the same conditions or on such
7 other conditions as it deems fit.

8 (5) Where a person who is arrested for an electoral offence or
9 offence under this Act is serving a sentence of imprisonment or is in
10 detention under any law relating to preventive detention or is otherwise in
11 lawful custody, he shall, upon an order in writing by an officer of the
12 Commission, be produced before such officer or before any other officer of
13 the Commission for the purpose of investigation and for such purpose he
14 may be kept in lawful custody for a period not exceeding fourteen days.

15 (6) A person who is detained in lawful custody under subsection (5)
16 or otherwise under any other written law may, at any time, be made available
17 to an officer of the Commission for the purpose of investigation, or may be
18 taken to any other place for the purpose of searching the place, or seizing any
19 property, or identifying any person or for any other purpose related to the
20 investigation.

21 (7) The period during which a person is under lawful custody under
22 subsection (6) shall count towards the period of his imprisonment, detention
23 or other custody.

24 PART VII - ESTABLISHMENT, JURISDICTION AND PROCEDURE OF THE
25 ELECTORAL OFFENCES TRIBUNAL

26 31. There is established an ad hoc body to be known as the
27 Electoral Offences Tribunal (in this Act referred to as "the Tribunal") to
28 exercise the jurisdiction, powers and authority conferred on it by or under
29 this Act.

Establishment of
the Electoral
Offences tribunal

Composition of
the Tribunal

1 32.-(1) The Tribunal shall consist of nineteen (19) persons who shall
2 be persons of proven ability and expertise, to be appointed by the President on
3 the recommendation of the Secretary to the Government of the Federation;

4 (a) a Chairman who shall be a legal practitioner of not less than fifteen
5 years with cognate experience in legal practice; and

6 (b) 18 other Members, all of whom shall be Legal Practitioners of not
7 less than 10 years experience.

8 (2) The Chairman shall be the Chief Executive and Accounting
9 Officer and shall be responsible for the overall control, supervision and
10 administration of the Tribunal.

Constitution of
the Tribunal

11 33.-(1) For the purpose of exercising any jurisdiction conferred by
12 this Act, the Tribunal shall be duly constituted if it consists of not less than 2
13 members of the Tribunal.

14 (2) The Chairman of the Tribunal may constitute a panel of three (3)
15 from its membership whenever he deems it necessary for the purpose of
16 exercising the jurisdiction vested in the Tribunal by this Act or any other Act
17 provided that:

18 (a) a member presiding as chairman of any panel shall be a legal
19 practitioner; and

20 (b) for the purpose of this Act, the sitting of any of such panel shall be
21 deemed a sitting of the Tribunal in the six (6) Geo-Political Zones of the
22 country.

Tenure of office
of Members of
the Tribunal

23 34. The Chairman and other members of the Tribunal shall hold office
24 for an initial term of five (5) years and renewable for another term of five years
25 and no more.

Disqualification
of members of
the Tribunal

26 35. A member of the Tribunal shall cease to hold office if:

27 (a) he becomes of unsound mind;

28 (b) he becomes bankrupt or he makes a compromise with his
29 creditors;

30 (c) he is convicted of a felony or any offence involving dishonesty;

1 (d) he is guilty of serious misconduct in relation to his duties; or

2 (e) in the case of a person who has a professional qualification, he is
3 disqualified or suspended (other than at his own request) from practicing his
4 profession in any part of Nigeria by the order of any competent authority
5 made in respect of him personally.

6 36.-(1) The Chairman or a member of the Tribunal may, by notice
7 in writing under his hand addressed to the President resign his office.

Resignation and
removal

8 (2) A member of the Tribunal shall be removed from office by an
9 order made by the President on:

10 (a) any of the grounds referred to in section 35 of this Act; or

11 (b) the ground of proven Charge of misbehaviour or incapacity
12 after due inquiry has been made and the member concerned has been
13 informed of the charge against him and given an opportunity of being heard
14 in respect of the charge.

15 37. If, for any reason other than temporary absence, any vacancy
16 occurs in the office of a member of the Tribunal then the President shall
17 appoint another person in accordance with the provisions of this Act to fill
18 the vacancy.

Filling up of
vacancies

19 38. The salaries and allowances of the Chairman, members and
20 Chief Registrar of the Tribunal shall be equivalent to that of the Chief Judge,
21 Judges and Chief Registrar of the Federal High Court respectively.

Salaries, allowances
and other conditions
of service of
members of the
Tribunal

22 39.-(1) The Tribunal shall appoint a fit and proper person to be
23 Chief Registrar of the Tribunal, who shall perform such duties in exercise of
24 powers and as may from time to time, be assigned to him by the rules of the
25 Tribunal and subject thereto by any special order of the Chairman.

Chief Registrar
to the Tribunal

26 (2) The Chief Registrar, Deputy Chief Registrar and Registrar,
27 shall have power to administer oaths and perform such other duties with
28 respect to any proceedings in the Tribunal as may be prescribed by the rules
29 or by any special order of the Chairman.

Other staff of
the Tribunal

1 40.-(1) The Tribunal shall employ the services of such staff as the
2 Tribunal may deem necessary for the efficient performance of its functions
3 under or pursuant to this part of this Act.

4 (2) The remuneration (including allowances) and terms and
5 conditions of service of the staff of the Tribunal shall be as may be determined
6 by the Tribunal provided that it is not less than what is obtainable in other
7 Tribunals.

8 (3) The provisions of Section 12(1) of this Act shall be applicable to
9 other staff of the tribunal.

Jurisdiction of
the Tribunal

10 41.-(1) The Tribunal shall, to the exclusion of any other court of law or
11 body in Nigeria, exercise jurisdiction to hear and determine any question of law
12 or dispute arising from electoral offences as defined under this Act after
13 investigation by the Commission established under this Act.

14 (2) The Tribunal shall also exercise jurisdiction in any other matter as
15 may be prescribed by an Act of the National Assembly.

Proceedings of
the Tribunal

16 42. The Tribunal, shall in the exercise of its powers under this Act,
17 conduct its proceedings in such manners as to avoid undue delays and shall
18 dispose of any matter before it finally within ninety (90) days from the date of
19 the commencement of the hearing of the substantive action.

Powers of the
Tribunal

20 43.-(1) The Tribunal may make rules regulating its procedures.

21 (2) The Tribunal shall have, for the purposes of discharging its
22 functions under this Act, power to:

23 (a) summon and enforce the attendance of any person and examine
24 him on oath;

25 (b) require the discovery and production of documents;

26 (c) receive evidence on affidavits;

27 (d) all for the examination of witness or documents;

28 (e) review its decisions;

29 (f) dismiss an application for default or deciding matters ex-parte; and

30 (g) do anything which in the opinion of the Tribunal is incidental or

1 ancillary to its functions under this Act.

2 (3) Any proceeding before the Tribunal shall be deemed to be a
3 judicial proceeding and the Tribunal shall be deemed to be a Criminal court
4 for all purposes.

5 (4) Proceedings of the Tribunal may be held in camera as and when
6 deemed appropriate in the interest of the public.

7 44.-(1) The Tribunal shall give its judgment in writing.

Judgement of
the Tribunal

8 (2) A certified true copy of the decision of the Tribunal shall be
9 supplied to the parties upon request.

10 45. Any person dissatisfied with a decision of the Tribunal may
11 appeal against such decision to the Court of Appeal.

Appeal to the
Court of Appeal

12 46.-(1) The Tribunal shall establish and maintain a fund, into which
13 shall be paid and credited:

Funds of the
Tribunal

14 (a) annual subventions from the Federal Government with respect
15 to recurrent and capital expenditures; and

16 (b) such other sums of money as may be provided by the Federal
17 Government for the Tribunal.

18 (2) The Tribunal may from time to time apply the proceeds of the
19 funds established in Sub-section (1) of this Act:

20 (a) to meet the cost of administration of the Tribunal;

21 (b) to reimburse members of the Tribunal, staff or any committee of
22 the Tribunal for expenses authorised; and

23 (c) for such other matter relating to the discharge of its functions
24 under this Act.

25 47. The Tribunal shall keep proper accounts of its receipts,
26 payments, assets and liabilities and the accounts shall be audited at least 2
27 month before the terminal period of the Tribunal, by a qualified auditor
28 appointed from list of Auditors and in accordance with the guidelines
29 supplied by the Auditor-General for the Federation.

Account and
audit of the
Tribunal

PART VIII - MISCELLANEOUS

Power to make
regulation

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Offence by an
officer of the
Commission

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Legal Proceedings

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Restriction on
execution against
property of the
Commission

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Indemnity of
officers of the
Commission

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Transitional
Provisions

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48.-(1) The Commission may make rules or regulations with respect to the exercise of any of the duties, functions or powers of the Commission under the Act.

(2) Regulations made under this Act shall be transmitted before the Senate within 90 days after gazetting.

49. Where an officer of the Commission commits an offence, or aids or abets the commission of an offence under this Act or any other law, he may be liable on conviction to the maximum punishment prescribed for such an offence.

50. No civil action shall be commenced against the Commission or its authorised officers until 30 days pre-trial notice have been served on the Commission

51. In any action or suit against the Commission, no execution shall be levied or attachment process issued against the property of the Commission; unless not less than three months' notice of the intention to execute or attach has been given to the Commission.

52. A member of the Commission, Secretary to the Commission or Staff of the Commission shall be indemnified out of the assets of the Commission against any proceedings brought against him in his capacity as a member of the Commission, Secretary to the Commission or Staff or employee of the Commission where the act complained of is not ultra vires his powers.

53.-(1) Any person who immediately before the commencement of the Act was a staff of the Independent National Electoral Commission but handling issues relating to prosecution of electoral offences shall continue in office and be deemed to have been appointed under this Act for purposes of Pension.

(2) Any part-heard proceedings pending before any court, in relation to any electoral offence, immediately before the coming into force of this Act, shall be continued and completed as if this Act had not been made.

1 (3) This Act and the Electoral Act (as amended) shall be read and
2 construed together in so far as it is necessary to give effect to the intendment
3 and tenor of this Act.

4 (4) Without prejudice to subsection (3) of this section, the
5 functions conferred upon the Independent National Electoral Commission
6 in relation to the prosecution of electoral offences and other related matters
7 in the Electoral Act, shall, as from the commencement of this Act, be
8 conferred upon and exercisable by the Commission established under
9 section 2 of this Act and accordingly, all references to the "Independent
10 National Electoral Commission", whether express or implied, in the
11 Electoral Act shall, unless the context otherwise requires, be construed as
12 references to the "Electoral Offences Commission."

13 **54. In this Act:**

Interpretation

14 "Commission" means the Electoral Offences Commission" established
15 under this Act;

16 "electoral offence" means Political thuggery, electoral fraud, political
17 terrorism and any other offence prescribed under the Constitution, this Act,
18 the Electoral Act, any Act of the National Assembly or in a regulation;

19 "Political Party" has the same meaning as in the Electoral Act; and

20 "public officer" means any person employed in the public service of the
21 Federation or of a State.

22 **55. This Bill may be cited as the Electoral Offences Commission**
23 **and Tribunal (Establishment) Bill, 2021.**

Short title

FIRST SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

[Section 3 (5)]

Proceedings of the Commission

1. Subject to the provisions of this Act and section 27 of the Interpretation Act, the Commission shall have power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, notices to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Commission may, from time to time determine.

2. There shall be at least one ordinary meeting of the Commission in each quarter of the year and subject thereto, the Commission shall meet whenever it is convened by the Chairman, and if the Chairman is requested to do so by notice given to him by not less than four other members, he shall convene a meeting of the Commission to be held within 30 days from the date on which the notice was given.

3. Every meeting of the Commission shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of them to preside at the meeting.

4. The minutes of the Commission shall be recorded by the Secretary and signed by the Chairman or the person who presided at the meeting, after confirmation by the Commission.

5. A quorum at a meeting of the Commission shall be two-third of the total number of members.

6. The Commission may co-opt any person to attend and participate at any of its meetings provided that the person so co-opted shall only be in attendance and shall not count towards the quorum or votes at the meeting.

Convening of Meetings of the Commission

7. The Chairman shall, at any time, if five other members request in writing, convene an emergency meeting of the Commission, provided that not less than 48 hours' notice is given to members for the meeting.

8. If the office of Chairman is at any time vacant, or the Chairman is absent from Nigeria or is in the opinion of the Commission permanently or temporarily unable to perform the functions of his office, the Secretary to the Commission shall convene such meetings of the Commission as are required during the period of vacancy, absence or otherwise.

9. The Commission shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.

10. A question put before the Commission at a meeting shall be decided by consensus and where this is not possible, by a majority of the votes of the members present and voting.

11. The Chairman shall, in the case of an equality of votes, have a casting vote in addition to his deliberative vote.

12. Where the Commission seeks the advice of any person on a particular matter, the Commission may invite that person to attend for such period as it deems fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Commission and shall not count towards the quorum.

Committees

13. The Commission may appoint one or more committees to carry out on behalf of the Commission such of its functions as the Commission may determine and report on any matter with which the Commission is concerned.

14. A committee appointed under paragraph 13 of this Schedule shall be presided over by a member of the Commission and shall consist of such number of persons (not necessarily all members of the Commission) as, may be determined by the Commission, and a person other than a

1 member of the Commission shall hold office on the committee in accordance
2 with the, terms of his appointment.

3 15. A person who is not a member of the Commission shall hold
4 office on the committee in accordance with his letter of appointment.

5 16. A decision of a committee of the Commission shall be of no effect
6 until it is confirmed by the Commission.

7 *Seal of the Commission*

8 17. The application of the common seal of the Commission shall be
9 authenticated by the signature of the Chairman or the Secretary to the
10 Commission on behalf of the Commission.

11 18. A contract or an instrument which, if made or executed by any
12 person not being a body corporate, would not be required to be under seal, may
13 be made or executed on behalf of the Commission by the Secretary to the
14 Commission or by any person generally or specifically authorized to act for
15 that purpose by the Commission.

16 19. A document purporting to be a contract, an instrument or other
17 document signed or sealed on behalf of the Commission shall be received in
18 evidence and, unless the contrary is proved, be presumed without further proof,
19 to have been properly signed or sealed.

20 *Miscellaneous*

21 20. The validity of any proceeding of the Commission or its
22 committees shall not be affected by:

23 (a) any vacancy in the membership of the Commission or its
24 committees;

25 (b) reason that a person not entitled to do so took part in the
26 proceedings; or

27 (c) any defect in the appointment of a member.

28 21. Any member of the Commission or committee who has a personal
29 interest in any arrangement entered into or proposed to be considered by the
30 Commission or any committee shall:

- 1 (a) disclose his interest to the Commission or committee; and
2 (b) not vote on any question relating to the arrangement.
3 22. A resolution of the Commission is valid, even though it is not
4 passed at a meeting of the Commission, if:
5 (a) the notice in writing of the proposed resolution was given to
6 each member; and
7 (b) the resolution is signed or assented to by a majority of members
8 of the Commission, including the Secretary to the Commission.

EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of the Act but is intended
to explain its purport)*

This Bill seeks to establish the Electoral Offences Commission with powers to provide legal framework for the investigation and prosecution of electoral offences.

