

# A BILL

## FOR

AN ACT TO AMEND THE ECONOMIC AND FINANCIAL CRIMES COMMISSION (ESTABLISHMENT, ETC.) ACT CAP, E1, LAWS OF THE FEDERATION OF NIGERIA, 2004 TO PROVIDE FOR THE RESTRUCTURING OF THE COMPOSITION OF THE COMMISSION BY INCLUDING MEMBERS OF INDEPENDENT ORGANIZATIONS IN ITS MEMBERSHIP, ESTABLISHMENT OF OPERATIONS REVIEW COMMITTEE, WITNESS PROTECTION UNIT, DETENTION UNIT AND COMPENSATION OF VICTIMS OF FINANCIAL CRIMES AND DISQUALIFICATION OF CONVICTED PERSONS FROM HOLDING OR CONTINUING TO HOLD PUBLIC OFFICE AND FOR RELATED MATTERS

*Sponsored by Hon. Ossai Nicholas Ossai*

[ ] Commencement

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

- 1           **1.** The Economic and Financial Crimes Commission      Amendment of  
2 (Establishment, etc.) Act Cap. E1, Laws of the Federation of Nigeria,      the Principal Act  
3 2004(in this Bill referred to as "the Principal Act") is amended as follows:
- 4           **2.** Section 2(1)(0) is amended by:      Amendment of  
5           Substituting existing paragraph "(o) with the a new paragraph "(o)      Section 2  
6 as follows:
- 7           "(o) (i) a Legal Practitioner of not less than 15 years at the bar to be
- 8 nominated by the Nigerian Bar Association;
- 9           (ii) a Banker of not less than 15 years post-associate of the Institute
- 10 of Bankers to be nominated by the Nigerian Institute of Bankers;
- 11           (iii) a Chartered Accountant to be nominated in rotation by the
- 12 Institute of Chartered Accountants of Nigeria (ICAN) and the Association of
- 13 National Accountants of Nigeria (ANAN); and
- 14           (iv) a representative of organized labour to be nominated in

1 rotation by the Nigerian Labour Congress (NLC) and The Trade Union  
2 Congress (TUC)."

Amendment of  
Section 12

3 **3.**-(1) Section 12(1) of the Principal Act is amended by inserting new  
4 paragraphs "(f)" and "(g)" after the existing paragraph "(e)" as follows:

5 "(f) the Witness Protection Unit"; and

6 "(g) the Detention Unit"

7 (2) The subsequent paragraphs are rearranged accordingly.

Amendment of  
Section 13

8 **4.** Section 13 of the Principal Act is amended thus:

9 (a) substituting the existing subsections "(1)" "(2)" and "(3)" with the  
10 new sub-sections "(1)" "(2)" "(3)" and "(4)" as follows:

11 "13 (1) Subject to the provisions of Section 174 of the Constitution of  
12 the Federal Republic of Nigeria, 1999 as amended, there shall be established  
13 for the Commission an Operations Review Committee which shall consist of:

14 (a) a retired Chief Justice of Nigeria;

15 (b) a Justice of the Supreme Court of Nigeria;

16 (c) the Chairman of the Economic and Financial Crimes  
17 Commission;

18 (d) a retired Inspector-General of Police;

19 (e) the President of the Nigerian Bar Association;

20 (f) the Governor of the Central Bank of Nigeria;

21 (g) President, Nigerian Union of Journalists

22 (2) The Committee shall be charged with the responsibility for  
23 receiving information about:

24 (i) any complaint before the Commission;

25 (ii) any investigation carried out by the Commission;

26 (iii) every case prosecuted or not prosecuted.

27 (3) The Committee shall act on every information or reports received  
28 from the Commission and advise the Commission, if necessary, on any  
29 appropriate step or action to take.

30 (4) The Commission shall make a quarterly report of every complaint

1 received by it, all cases investigated whether or not the matters are  
2 prosecuted by the Commission."

3 (b) The existing section 13 (1) (2) & (3) of the Principal Act will  
4 now read section 13(5)(6) & (7).

5 5. Section 14 of the Principal Act is amended thus:

Amendment of  
Section 14

6 (a) substituting the existing subsections "(1)" "(2)" and "(3)" with  
7 the new sub-sections "(1)" "(2)" "(3)" and "(4)" as follows:

8 "14 (1) A person convicted of an offence under the provisions of  
9 this Bill shall, for a period of ten years from the date of conviction, be  
10 disqualified from being elected or appointed to, holding or continuing to  
11 hold any office or position or any title of honour or distinction in any public  
12 body;

13 (2) A Court may, if it considers the offence sufficiently serious,  
14 order that his name should be removed from any public buildings, places,  
15 roads, or institutions named after him"

16 (3) Where a person is charged with an offence under this Bill, or  
17 any other law and the Commission has attached or recovered all or a  
18 substantial part of the property traceable to the commission of the offence  
19 charged, it may if the accused person agrees to plead guilty to any lesser  
20 offence of the same kind as the offence charged, charge him with that lesser  
21 offence"; and

22 (4) Where a Court convicts an offender under this Bill or any other  
23 law, the Court shall order that any money or property recovered from him,  
24 which rightly belongs to the victim of the offence, shall be paid directly to  
25 him."

Compensation  
for the Victim  
of an offence

26 (b) While section 4 (1) will now read section 4 (5).

27 6. Section 16 of the Principal Act is amended in the following  
28 ways:

Amendment of  
Section 16

29 (a) Sub-section 1 of section 16 is amended by substituting the  
30 words "which is" after the word "information" with the words "willfully or

1 knowingly to be".

2 Sub-section 16(4) is added to section 16 and it reads thus: "Any  
3 person who is convicted of an offence under this Bill or any other law, shall be  
4 liable to make restitution or pay compensation to any person who his conduct  
5 has occasioned loss or damage which was reasonably foreseeable as the court  
6 may determine".

Amendment  
of Section 18

7 **7.** Section 18 of the Principal Act is amended thus:

8 (a) Sub-section 1 of section 18 is amended by inserting sub-sections  
9 "e", "f", as follows-

10 (e) owns or is in possession or in control of money, wealth or  
11 resources disproportionate to his present or past emoluments or earning; or

12 (f) is in possession or is in control of money, wealth or resources  
13 which is reasonably suspected to have been obtained corruptly or in  
14 circumstances which amount to an offence under this Bill or any other law  
15 shall, unless he gives an explanation satisfactory to the court as to how he came  
16 by the same, commits an offence punishable with imprisonment for five years.

17 (b) A new sub-section (3) of section 16 is added as follows:

18 "16(3) The Court convicting an offender under sub-section (1) of this  
19 Section may order forfeiture of such unexplained assets".

Substitution of  
Section "32"

20 **8.** The Principal Act is amended by substituting the existing Section  
21 "32" with the new Section "32" as follows:

22 (a) "(1) Any person who, knowing that the Commission has not  
23 authorized it, deals with, sells or otherwise disposes of any property or asset  
24 which is the subject of an attachment, interim order or final order, commits an  
25 offence and is liable on conviction to imprisonment for a term of five years  
26 without the option of a fine"; and

27 (b) "(2) A manager or person in control of the head office or branch of  
28 a bank, financial institution or designated non-financial institution who  
29 without lawful excuse fails to pay over to the Commission upon the production  
30 to him of a final order, commits an offence under this Act and is liable on

1 conviction to imprisonment for a term of three years."

2 **9.** This Bill may be cited as the Economic and Financial Crimes Citation

3 Commission Act (Amendment) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to amend The Economic and Financial Crimes Commission (Establishment, etc.) Act Cap. E1, Laws of the Federation of Nigeria 2004, to provide for the restructuring of the composition of the Commission by including members of independent organizations in its membership, establishment of Operations Review Committee, Witness Protection Unit, Detention Unit and compensation of victims of financial crimes and disqualification of convicted persons in holding from continuing holding public office.