

A BILL

FOR

AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA CAP. C.23, LAWS OF THE FEDERATION OF NIGERIA, 2004 FOR THE ESTABLISHMENT OF THE CODE OF CONDUCT TRIBUNAL AS PART OF THE JUDICATURE UNDER THE CONSTITUTION IN ORDER TO ENSURE ITS INDEPENDENCE AND FOR RELATED MATTERS

Sponsored by Hon. Olajide Olatubosun

[] Commencement

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

- 1 1. The Constitution of the Federal Republic of Nigeria Cap. C23, Alteration of
2 Laws of the Federation of Nigeria, 2004 (in this Act referred to as "the Cap. C23, LFN
3 Principal Act") is altered as set out under this Bill. 2004
- 4 2. Section 6 of the Principal Act is altered in subsection (5) by Alteration of
5 inserting immediately after the existing paragraph (cc) a new paragraph Section 6 of the
6 "(ccc)": Principal Act
7 "(ccc) the Code of Conduct Tribunal"
- 8 3. Section 84(4) of the Principal Act is altered by inserting Alteration of
9 immediately after the words "Judge of the National Industrial Court", the Section 84 of the
10 words "Chairman of the Code of Conduct Tribunal, Member of the Code of Principal Act
11 Conduct Tribunal".
- 12 4. Section 240 of the Principal Act is altered by inserting Alteration of
13 immediately after the words "National Industrial Court" the words "Code of Section 240 of
14 Conduct Tribunal". the Principal Act
- 15 5. Section 243 of the Principal Act is altered by: Alteration of
16 (a) inserting immediately after the words "National Industrial Section 243 of
17 Court" in the marginal note, the words "Code of Conduct Tribunal"; and the Principal Act
- 18 (b) inserting immediately after the existing section 243, new

1 subsections "(5)-(6)":

2 "(5) An appeal shall lie from the decision of the Code of Conduct
3 Tribunal as of right to the Court of Appeal on questions of fundamental rights
4 as contained in Chapter IV of this Constitution as it relates to matters upon
5 which the Code of Conduct Tribunal has jurisdiction.

6 (6) An Appeal shall only lie from the decision of the Code of Conduct
7 Tribunal to the Court of Appeal as may be prescribed by an Act of the National
8 Assembly: Provided that where an Act or Law prescribes that an appeal shall
9 lie from the decisions of the Code of Conduct Tribunal to the Court of Appeal,
10 such appeal shall be with the leave of the Court of Appeal."

11 (c) renumbering section 243 as new section "243 (1)".

Inserting of new
sub-heading "(ccc)"
and sections
254G-254L

12 6. Chapter VII Part I of the Principal Act is altered by inserting
13 immediately after section 254F a new sub-heading "(ccc)" and sections "254G-
14 254M":

15 "ccc- The Code of Conduct Tribunal

Establishment
of the Code of
Conduct Tribunal

16 254G- (1) There shall be a Code of Conduct Tribunal.

17 (2) The Code of Conduct Tribunal shall consist of:

18 (a) the Chairman of the Tribunal who shall have overall control and
19 supervision of the administration of the Tribunal; and

20 (b) such number of Members of the Code of Conduct Tribunal as may
21 be prescribed by an Act of the National Assembly.

Appointment of
Chairman and
Members of the
Code of Conduct
Tribunal

22 254 H- (1) The appointment of a person to the office of Chairman of
23 the Code of Conduct Tribunal shall be made by the President on the
24 recommendation of the National Judicial Council subject to confirmation of
25 such appointment by the Senate.

26 (2) The appointment of a person to the office of a Member of the Code
27 of Conduct Tribunal shall be made by the President on the recommendation of
28 the National Judicial Council.

29 (3) A person shall not be eligible to hold the office of a Chairman of
30 the Code of Conduct Tribunal unless the person is qualified to practice as a

1 legal practitioner in Nigeria and has been so qualified for a period of not less
2 than ten years and has considerable knowledge and experience public
3 service administration.

4 (4) A person shall not be eligible to hold the office of a Member of
5 the Code of Conduct Tribunal unless the person is a legal practitioner in
6 Nigeria and has been so qualified for a period of not less than ten years and
7 has considerable knowledge and experience public service administration in
8 Nigeria.

9 (5) If the office of the Chairman of the Code of Conduct Tribunal is
10 vacant, or if the person holding the office is for any reason unable to perform
11 the functions of the office, then, until a person has been appointed to and
12 assumed the functions of that office or until the person holding the office has
13 resumed those functions, the President shall appoint the most senior
14 Member of the Tribunal having the qualification to be appointed as
15 Chairman of the Code of Conduct Tribunal as provided under subsection (3)
16 of this section to perform those functions.

17 (6) Except on the recommendation of the National Judicial
18 Council, an appointment pursuant to the provisions of subsection (5) of this
19 section shall cease to have effect after the expiration of three months from
20 the date of such appointment and the President shall not re-appoint a person
21 whose appointment has lapsed.

22 254 I- (1) Notwithstanding the provisions of sections 251, 257, 272
23 and anything contained in this Constitution and in addition to such other
24 jurisdiction as may be conferred upon it by an Act of the National Assembly,
25 the Code of Conduct Tribunal shall have and exercise jurisdiction to the
26 exclusion of any other court in matters of code of conduct in Part I of the
27 Fifth Schedule to the Constitution, as referred to it by the Code of Conduct
28 Bureau.

Jurisdiction and
Appeals

29 (2) Notwithstanding anything to the contrary in this Constitution,
30 appeal shall lie from the decision of the Code of Conduct Tribunal to the

1 Court of Appeal as of right.

Constitution of
the Tribunal

2 254J- (1) For the purpose of exercising any jurisdiction conferred
3 upon it by this Constitution or as may be conferred by an Act of the National
4 Assembly, the Code of Conduct Tribunal shall have all the powers of a High
5 Court.

6 (2) Notwithstanding subsection (1) of this section, the National
7 Assembly may by law, make provisions conferring upon the Code of Conduct
8 Tribunal powers additional to those conferred by this section as may appear
9 necessary or desirable for enabling the Tribunal to be more effective in
10 exercising its jurisdiction.

Punishment that
the Code of
Conduct Tribunal
can impose

11 254K- (1) Where the Code of Conduct Tribunal finds a public officer
12 guilty of contravention of any of the provisions of the Code of Conduct for
13 Public Officers in Part 1 of the Fifth Schedule to this Constitution, it shall
14 impose upon that officer any of the punishments specified under sub-section
15 (2) of this section and such other punishment as may be prescribed an Act of the
16 National Assembly.

17 (2) The punishment which the Code of Conduct Tribunal may impose
18 shall include any of the following:

19 (a) vacation of office or seat in any legislative house, as the case may
20 be;

21 (b) disqualification from membership of a legislative house and from
22 the holding of period not exceeding ten years; and

23 (c) seizure and forfeiture to the State of any property acquired in
24 abuse or corruption.

25 (3) The sanctions mentioned in sub-section (2) hereof shall be without
26 prejudice to the penalties that may be imposed by any law where the conduct is
27 also a criminal offence.

28 (4) Where the Code of Conduct Tribunal gives a decision as to
29 whether or not a person is guilty of a contravention of any of the provisions of
30 the Code of Conduct for Public Officers in Part 1 of the Fifth Schedule to this

1 Constitution, an appeal shall lie as of right from such decision or from any
2 punishment imposed on such person to the Court of Appeal at the instance of
3 any party to the proceedings.

4 (5) Any right of appeal to the Court of Appeal from the decisions of
5 the Code of Conduct Tribunal conferred by sub-section (4) hereof shall be
6 exercised in accordance with the provisions of an Act of the National
7 Assembly and rules of court for the time being in force regulating the
8 powers, practice and procedure; of the Court of Appeal.

9 (6) Nothing in this section shall prejudice the prosecution of a
10 public officer punished under this section or preclude such officer from
11 being prosecuted or punished for an offence in a court of law.

12 (7) The provisions of this Constitution relating to prerogative of
13 mercy shall not apply to any punishment imposed in accordance with the
14 provisions of this paragraph.

15 254L-(1) Subject to the provisions of any Act of the National
16 Assembly, the Chairman of the Code of Conduct Tribunal may make rules
17 for regulating the practice and procedure of the Code of Conduct Tribunal.

Practice and
Procedure.

18 (2) For the purpose of exercising its jurisdiction, the provisions of
19 the Criminal Code, Penal Code, Administration of Criminal Justice Act,
20 Criminal Procedure Act, Criminal Procedure Code, Evidence Act or any
21 relevant law shall apply.

22 254M- The Chairman shall have power to:

Powers of the
Chairman

23 (1) establish zonal offices of the Tribunal in any State of the
24 Country as exigencies may demand for effective dispensation of justice;
25 provided that more than one office shall not be established in a state.

26 (2) constitute a Panel of the Tribunal of not less than three
27 members, one of whom shall be designated as Chairman for the purposes of
28 sitting and administration at each of the zonal office;

29 (3) make rules of procedure or practice direction for the Tribunal;
30 and

1 (4) carry out any other function as may be necessary for effective
2 administration of the Tribunal.

Alteration of
section 287 of
the Principal
Act

3 7. Section 287(3) of the Principal Act is altered by inserting "the
4 Code of Conduct Tribunal" immediately after, "the National Industrial Court",
5 wherever the words appear in the section.

Alteration of
section 289 of
the Principal
Act

6 8. Section 289 of the Principal Act is altered by inserting immediately
7 after the words "Judge of the National Industrial Court or", the words "Member
8 of the Code of Conduct Tribunal".

Alteration of
section 292 of
the Principal
Act

9 9. Section 292 of the Principal Act is altered in subsection (1)(a)(i),
10 line 2, by inserting immediately after the words "National Industrial Court" the
11 words, "Chairman of the Code of Conduct Tribunal".

Alteration of
section 294 of
the Principal
Act

12 10. Section 294(4) of the Principal Act is altered by inserting
13 immediately after the words "National Industrial Court" in line 2 the words "or
14 the Code of Conduct Tribunal".

Alteration of
section 295 of
the Principal
Act

15 11. Section 295 of the Principal Act is altered:

16 (a) in subsection (1), by inserting immediately after the words "the
17 National Industrial Court" in lines 4 and 7, the words, "the Code of Conduct
18 Tribunal";

19 (b) in subsection (1)(b), by inserting immediately after the words "the
20 National Industrial Court" in line 3, the words, "Code of Conduct Tribunal or";
21 and

22 (c) in subsection (2) by inserting immediately after the words "the
23 National Industrial Court or", the words, "the Code of Conduct Tribunal or"

Alteration of
section 316 of
the Principal
Act

24 12. Section 316 of the Principal Act is altered by inserting a new
25 subsection "(6)" after the existing subsection (5):

26 "(6) Notwithstanding the provisions of this section, the Code of
27 Conduct Bureau and Tribunal Act and any office or authority established and
28 charged with any function under the Act, shall be deemed to have been duly
29 established and shall continue to be charged with such function by virtue of this
30 Constitution or in accordance with the provision of a law made thereunder".

1 13. Section 318 of the Principal Act is altered by inserting the
2 words:

Alteration of
section 318 of
the Principal
Act

3 (a) "the office of the Chairman or Member of the Code of Conduct
4 Tribunal" immediately a after the words "National Industrial Court" in line 3
5 under the interpretation of Judicial office; and

6 (b) "the Code of Conduct Tribunal" immediately after the words
7 "the National Industrial Court" in paragraph (b), line 1 under the
8 interpretation of "Public Service of the Federation".

9 14. The Third Schedule to the Principal Act is altered:

Alteration of the
Third Schedule
to the Principal
Act

10 (a) in paragraph 12, by inserting immediately after paragraph (dd),
11 a new paragraph "(ddd)":

12 "(ddd) the Chairman of the Code of Conduct Tribunal";

13 (b) in paragraph 13 (a), by inserting new subparagraphs "(vie)" and
14 "(vid)" immediately after the existing subparagraph (vib):

15 "(vie) the Chairman of the Code of Conduct Tribunal"; and

16 "(vid) a Member of the Code of Conduct Tribunal, and";

17 (c) in paragraph 13 (c), by inserting immediately after the word
18 "National Industrial Court", in line 3 the words "the Code of Conduct
19 Tribunal";

20 (d) in paragraph 20, by inserting immediately after subparagraph
21 (ee), a new subparagraph m(eee)" -

22 "(eee) the Chairman of the Code of Conduct Tribunal"; and

23 (e) in paragraph 21 (a)(i), by inserting immediately after the words
24 "National Industrial Court", the words "the Chairman and Members of the
25 Code of Conduct Tribunal".

26 15.-(1) The Seventh Schedule to the Principal Act is altered by
27 inserting immediately after the words "National Industrial Court" under
28 "Judicial Oath", the words "Chairman/Member of the Code of Conduct
29 Tribunal."

Alteration of the
Seventh Schedule
to the Principal
Act

Alteration of the
Fifth Schedule
to the Principal
Act

- 1 (2) Part 1 of the Fifth Schedule to the Principal Act is amendment by
2 deleting:
3 (a) the words "Code of Conduct Tribunal" appearing immediately
4 after paragraph 14; and
5 (b) paragraphs 15, 16, 17 and 18

Citation

- 6 **16.** This Bill may be cited as the Constitution of the Federal Republic
7 of Nigeria 1999 (Alteration) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Constitution of the Federal Republic of Nigeria, Cap C23 Laws of the Federation of Nigeria 2004 to establish the Code of Conduct Tribunal as part of the judicature in order to guarantee its independence under the Constitution.