

A BILL

FOR

AN ACT TO ESTABLISH THE NATIONAL ELECTORAL OFFENCES COMMISSION AND FOR RELATED MATTERS, 2019

Sponsor: Senator Abukakar Kyari

Co-sponsors:

Senator Ovie Omo-Agege

Senator Kabiru Gaya

[] Commencement

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

1 PART I - ESTABLISHMENT OF NATIONAL ELECTORAL OFFENCES

2 COMMISSION, ETC.

3 I.-(1)There is hereby established a body to be known as the
4 National Electoral Offences Commission ("NEOC") (in this Bill referred to
5 as "the Commission").

Establishment
of the National
Electoral Offences
Commission

6 (2) The Commission shall-

7 (a) be a body corporate with perpetual succession, a common seal
8 and may sue and be sued in its corporate name;

9 (b) for the purposes of its functions, have power to acquire, hold or
10 dispose of properties;

11 (c) have power to enter into contracts;

12 (d) have power to enforce compliance with this Bill;

13 (e) have power to appoint and maintain, as its officers, employees,
14 investigators, prosecutors, experts and other persons with qualifications,
15 experience and skills in fields that are relevant to the Commission's

16 functions, to perform such duties as may be necessary from time to time;

17 (f) be independent in the performance of its functions, subject to
18 the provisions of clause 174 of the Constitution of the Federal Republic of

1 Nigeria, 1999 (as amended) (on the power of the Attorney-General of the
2 Federation to institute, continue, takeover or discontinue criminal proceedings
3 against any person in any court of law); and

4 (g) have all such powers that are necessary for or incidental to the
5 performance of its functions under this Bill.

Members of
the Commission

6 2.-(1) The Commission shall consist of the following members who
7 shall not be registered members of any political party-

8 (a) a Chairman, who shall be-

9 (i) the Chief Executive and Accounting Officer of the Commission;

10 (ii) a distinguished Nigerian with unblemished public reputation and
11 not less than Fifteen (15) years cognate experience;

12 (b) a Secretary who shall be the Commission's head of administration;

13 (c) a representative each of the following Federal Ministries-

14 (i) Justice;

15 (ii) Internal Affairs;

16 (iii) Defence;

17 (iv) Information.

18 (d) the Inspector-General of Police or his representative;

19 (e) the Chairman, Independent National Electoral Commission or his
20 representative;

21 (f) the Chairman, National Human Rights Commission or his
22 representative;

23 (g) the Commandant General, Nigeria Security and Civil Defence
24 Corps;

25 (h) the Director General Nigeria Financial Intelligence Unit or his
26 representative;

27 (i) the Director-General Legal Aid Council of Nigeria; and

28 (j) six Nigerians, with cognate experience in any of the following, that
29 is law, security, electoral management, engineering and information
30 technology, one representing each geo-political zone of the country; at least

1 two of whom shall be women.

2 (2) The members of the Commission, other than the Chairman and
3 Secretary, shall be part-time members.

4 (3) The Chairman and members of the Commission other than the
5 ex-officio members mentioned in Clause 2(1)(c) - (i) shall be appointed by
6 the President, subject to confirmation by the Senate.

7 3.-(1) The Chairman and members of the Commission other than
8 the ex officio members mentioned in Clause 2(1)(c) - (i) shall hold office for
9 a period of five (5) years and may be re-appointed for a further term of five
10 (5) years and no more. Tenure of office

11 (2) A member of the Commission may be removed from office by
12 the President acting on an address supported by a simple majority of the
13 Senate praying that he be so removed for inability to discharge the functions
14 of his office (whether arising from infirmity of mind or body or any other
15 cause) or for misconduct; or if it is not in the interest of the public that the
16 member should continue in office.

17 (3) A member of the Commission may resign his membership by
18 notice in writing addressed to the President and that member shall, on the
19 date of the receipt of the notice by the President, cease to be a member of the
20 Commission.

21 4. Where a vacancy occurs in the membership of the Commission,
22 it shall be filled by the appointment of a successor to hold office for the
23 remainder of the term of office of his predecessor, but the successor shall
24 represent the same interest or appointment criteria stipulated as his
25 predecessor, and as stipulated by this Bill. Vacancy in
Membership

26 5. The Commission may make standing orders regulating its
27 proceedings or those of any of its committees or units. Standing Orders

28 PART II - FUNCTIONS OF THE COMMISSION

29 6.-(1) The Commission shall- Functions of the
Commission
30 (a) enforce and administer the provisions of this bill;

1 (b) investigate all electoral offences created in any law relating to
2 elections in Nigeria;

3 (c) prosecute offenders under this Bill subject to the provisions of
4 clause 174 of the Constitution of the Federal Republic of Nigeria, 1999 (as
5 amended) (on the power of the Attorneys-General of the Federation
6 respectively to institute, continue, takeover or discontinue criminal
7 proceedings against any person in any court of law);

8 (d) liaise with the Attorney-General of the Federation and electoral
9 bodies in the Federation and government security and law enforcement bodies
10 and agencies in discharges its duties under this Bill;

11 (e) maintain records of all persons it investigated and prosecuted;

12 (f) liaise with other bodies within or outside Nigeria involved in the
13 investigation or prosecution of electoral offences;

14 (g) adopt measures to prevent, minimize and eradicate the
15 commission of electoral offences throughout the Federation; and

16 (h) carry out such other activities as shall be necessary or expedient
17 for the full discharge of all or any of its functions under this Bill.

Powers of the
Commission

18 7.-(1) The Commission shall have power to-

19 (a) investigate, arrest and prosecute any person, corporate body or
20 organization-

21 (i) alleged to have committed an offence under this Bill, the Electoral
22 Act No. 6, 2010 (as amended) or any other law relating to elections in force in
23 the Federation or a part thereof,

24 (ii) alleged to have corruptly perverted or undermined the course of
25 electoral justice.

26 (b) adopt measures to prevent, minimize and eradicate the
27 commission of electoral offences throughout the Federation.

28 PART III - STAFF OF THE COMMISSION

Staff of the
Commission

29 8.-(1) There shall be established for the Commission a secretariat
30 which shall be headed by the Secretary of the Commission.

1 (2) The Secretary shall be-

2 (a) the head of the Commission's secretariat;

3 (b) responsible for the administration of the Commission's
4 secretariat and the keeping of the Commission's books and records;

5 (c) subject to the supervision and control of the Chairman of the
6 Commission and the Commission.

7 (3) The Commission may appoint such other staff or second
8 officers from government security or law enforcement agencies or such
9 other private or public services as it may deem necessary, to assist the
10 Commission in the performance of its functions under this Bill.

11 (4) The staff of the Commission appointed under sub-clause (3) of
12 this Clause shall be appointed upon such terms and conditions as the
13 Commission may determine, subject to consultation with and approval by
14 the Federal Civil Service Commission.

15 (5) For the purpose of carrying out or enforcing the provisions of
16 this Bill, officers of the Commission involved in the enforcement of the
17 provisions of this Bill shall have the same powers, authorities and privileges
18 (including power to search persons or premises, effect arrest of any person
19 and bear arms) as are given by law to members of the Nigeria Police Force.

20 9.-(1) The Commission shall have power to initiate, develop and
21 implement specific training programmes for its law enforcement and other
22 personnel charged with the eradication of electoral offences and such
23 programmes shall include-

Special Programmes

24 (a) methods used in the detection of electoral offences;

25 (b) techniques used by persons involved in electoral offences and
26 appropriate counter-measures;

27 (c) collection of evidence;

28 (d) law enforcement techniques;

29 (e) legal prosecution and defence; and

30 (f) dissemination of information on electoral offences and good

1 electoral conducts.

Establishment
of Special Units

2 **10.**-(1) The Commission shall have the following Units-

3 (a) Investigation, Legal and Prosecution Unit;

4 (b) Elections Monitoring and Operations Unit;

5 (c) Administration Unit; and

6 (d) Research and Training Unit.

7 (2) Notwithstanding the provisions of sub-clause (1) of this Clause,
8 the Commission may set up any unit or committee as may be necessary for the
9 optimal exercise of its powers and performance of its functions.

Special Duties
of the Units

10 **11.**-(1) The Investigation, Legal and Prosecution Unit shall be
11 charged with responsibilities for-

12 (a) the prevention and detection of electoral offences;

13 (b) the arrest and apprehension of perpetrators of electoral offences;

14 (c) dealing with matters connected with mutual international
15 assistance in criminal matters involving electoral offences;

16 (d) prosecuting persons accused of committing electoral offences,
17 electoral corruption, violation of electoral due process and perversion of
18 electoral justice; and

19 (e) performing such other legal duties as the Commission may refer to
20 it from time to time.

21 (2) There shall be appointed for each of the units a principal officer
22 who shall be known by such designation as the Commission may determine.

23 (3) The responsibilities of other units shall be as prescribed by the
24 Commission from time to time.

25 **PART IV - ELECTORAL OFFENCES**

Offences arising
from violating
existing laws

26 **12.**-(1) Any person who violates or acts in breach of the provisions of
27 the Electoral Act No. 6., 2010 (as amended) or any other law on or regarding
28 elections in force in the Federation, or a part thereof, shall be guilty and
29 sanctioned to the extent of such violation or breach as prescribed in the relevant
30 or applicable law.

1 (2) All national officers or executives of any association or political
2 party, as the case may be, that contravene the provision of Clauses 221,
3 225(1), (2), (3) and (4) and 227 of the Constitution of the Federal Republic
4 of Nigeria 1999 (as amended) shall be guilty of an offence and shall be
5 liable, on conviction to imprisonment for a term of at least five (5) years or to
6 a fine of at least Ten Million Naira (N10,000,0000), or both.

7 **13.** Any person who-

Offences by any
Person

8 (1) knowingly makes any false statement on or in connection with
9 any application to be placed on the National Register of Voters kept by the
10 Independent National Electoral Commission; or

11 (2) forges or fraudulently defaces or fraudulently destroys any
12 document for the purpose of nomination for an elective office, or delivers to
13 the Independent National Electoral Commission or a State Electoral
14 Commission any document for the purpose of nomination for an elective
15 office knowing it to be forged; or

16 (3) forges or counterfeits or fraudulently defaces or fraudulently
17 destroys any electoral document or the official perforation, stamp or mark
18 on any electoral document issued by the Independent National Electoral
19 Commission or a State Electoral Commission; or

20 (4) without due authority supplies any electoral document issued
21 by the Independent National Electoral Commission or a State Electoral
22 Commission to any person; or

23 (5) sells or offers to sell any electoral document issued by the
24 Independent National Electoral Commission or a State Electoral
25 Commission to any person or purchases or offers to purchase any electoral
26 document from any person; or

27 (6) not being a person entitled to be in possession of any electoral
28 document which has been marked with any official perforation, stamp or
29 mark of the Independent National Electoral Commission or a State Electoral
30 Commission has any such electoral document in his possession; or

1 (7) puts into any ballot box approved by the Independent National
2 Electoral Commission or a State Electoral Commission anything other than the
3 ballot paper which he is authorised by law to put in; or

4 (8) without due authority takes out of a polling station any electoral
5 document or is found in possession of any electoral document outside a polling
6 station; or

7 (9) without due authority destroys, takes, opens or otherwise
8 interferes with any ballot box, ballot paper or packet of ballot papers or
9 electoral documents in use or intended to be used for the purposes of an
10 election; or

11 (10) without due authority prints any electoral document or ballot
12 paper or what purports to be or is capable of being used as an electoral
13 document or ballot paper at an election; or

14 (11) for the purposes of an election, manufactures, constructs,
15 imports, has in his possession, supplies or uses, or causes to be manufactured,
16 constructed, imported, supplied or used, any appliance, device or mechanism
17 by which a ballot paper or results of elections may be extracted, affected or
18 manipulated after having been deposited in a ballot box during the polling at
19 any election; or

20 (12) not being authorized to do so under the provisions of this Bill,
21 makes any mark on any ballot paper issued to any person other than to himself;

22 (13) votes at any election when he is not entitled to vote,
23 shall be guilty of an offence and shall be liable, on conviction, to imprisonment
24 for a term not exceeding fifteen (15) years.

Offences relating
to Register of
Voters's cards,
etc.

25 **14.** Any person who-

26 (a) without due authority makes, prepares or prints a document or
27 paper purporting to be a register of voters or a voter's card; or

28 (b) without due authority makes, prepares or prints any electoral
29 document or purporting to be an electoral document; or

30 (c) not being a person authorised to be in possession of any voter's

1 card bearing the name of another person or which has not been written in the
2 name of any person, has such voter's card in his possession; or

3 (d) without due authority supplies a voter's card to any person; or

4 (e) without due authority destroys, damages, defaces or makes any
5 alteration on a voter's card; or

6 (f) sells or offers to sell any voter's card to any person or purchases
7 or offers to purchase any voter's card from any person; or

8 (g) aids, abets, counsels or procures the commission of or attempts
9 to commit any of the offences referred to in paragraphs (a) to (f), (?) shall be
10 guilty of an offence and liable, on conviction, in the case of an offence under
11 paragraphs (a) to (f), (?) to imprisonment for a term not exceeding fifteen
12 (15) years, and in the case of an offence under paragraph (g), to
13 imprisonment for a term not exceeding ten (10) years.

14 **15.** Any person having any duty to perform pursuant to any written
15 law relating to any election who -

Offences by
Election Officials

16 (a) makes, in any record, return or other document which he is
17 required to keep or make under such written law, any entry which he knows
18 or has reasonable cause to believe to be false, or does not believe to be true;

19 (b) permits any person whom he knows or has reasonable cause to
20 believe not to be a blind person or an incapacitated person to vote in the
21 manner provided for blind persons or incapacitated persons, as the case may
22 be; or

23 (c) refuses to permit any person whom he knows or has reasonable
24 cause to believe to be a blind person or an incapacitated person to vote in the
25 manner provided for blind persons or incapacitated persons, as the case may
26 be; or

27 (d) willfully prevents any person from voting at the polling station
28 at which he knows or has reasonable cause to believe such person is entitled
29 to vote; or

30 (e) willfully rejects or refuses to count any ballot paper which he

1 knows or has reasonable cause to believe is validly cast for any candidate in
2 accordance with the provisions of such written law; or

3 (f) willfully counts any ballot paper as being cast for any candidate,
4 which he knows or has reasonable cause to believe was not validly cast for such
5 candidate; or

6 (g) gives false evidence or withholds evidence at the trial of an
7 election petition for the purpose of perverting the course of justice; or

8 (h) announces or declares a false result or a result which is false or he
9 ought to know is false at an election; or

10 (i) is without reasonable cause guilty of any act or omission in breach
11 of his official duty,

12 shall be guilty of an offence and liable, on conviction, to imprisonment for a
13 term of at least ten (10) years.

Personation

14 16.-(1) A person who at an election applies for a ballot paper in the
15 name of some other person, whether that name be that of a person living or
16 dead, or of a fictitious person or who, having voted once at any such election,
17 applies at the same election for a ballot paper in his own name, shall be guilty of
18 the offence of personation and shall be liable, on conviction, to imprisonment
19 for a term of not more than one (1) year.

20 (2) For the purposes of this clause, a person who has applied for a
21 ballot paper for the purpose of voting in person shall be deemed to have voted.

Undue Influence

22 17. A person shall be guilty of the offence of undue influence who
23 directly or indirectly, by himself or by any other person acting on his behalf,
24 makes use of or threatens any force, violence or restraint, or any temporal or
25 spiritual injury, damage or loss, or any fraudulent device, trick or deception, or
26 social boycott, calamity of any kind, fear or promise, or by boast, coercion,
27 blackmail or intimidation for the purpose of or on account of-

28 (a) inducing or compelling a person to give or refrain from giving his
29 vote, whether to a particular candidate or not, at an election; or

30 (b) otherwise impeding or preventing the free exercise of the

1 franchise of a voter; or

2 (c) inducing or compelling a person to refrain from becoming a
3 candidate or to withdraw if he has become a candidate; or

4 (d) impeding or preventing a person from being nominated as a
5 candidate for an election or from being registered as a voter.

6 **18.** A person shall be guilty of the offence of bribery who -

Bribery

7 (a) directly or indirectly, by himself or by any other person on his
8 behalf, gives, lends, or agrees to give or lend, or offers, promises, or
9 promises to procure or to endeavour to procure, any money or valuable
10 consideration to or for any voter, or to or for any person on behalf of any
11 voter or to or for any other person, in order to induce any voter to give or
12 refrain from giving his vote, whether to a particular candidate or not, or
13 corruptly does any such act as aforesaid on account of such voter having
14 given or refrained from giving his vote at any election, whether to a
15 particular candidate or not; or

16 (b) directly or indirectly, by himself or by any other person on his
17 behalf, gives or procures, or agrees to give or procure, or offers, promises, or
18 promises to procure or to endeavor to procure, any office, place or
19 employment to or for any voter, or to or for any person on behalf of any
20 voter, or to or for any other person, in order to induce such voter to give or
21 refrain from giving his vote, whether to a particular candidate or not, or
22 corruptly does any such act as aforesaid on account of any voter having so
23 given or refrained from giving his vote at any election; or

24 (c) directly or indirectly by himself or by any other person on his
25 behalf, makes any such gift, loan, offer, promise, procurement, or agreement
26 as aforesaid to or for any person in order to induce such person to procure or
27 endeavour to procure the election of any person, or the vote of any voter at
28 any election; or

29 (d) upon or in consequence of any such gift, loan, offer, promise,
30 procurement or agreement, procures or engages, promises or endeavours to

1 procure, the election of any person, or the vote of any voter at an election; or

2 (e) advances or pays or causes to be paid any money to, or to the use
3 of, any other person with the intent that such money or any part thereof shall be
4 expended in bribery at any election or who knowingly pays or causes to be paid
5 any money to any person in discharge or repayment of any money wholly or in
6 part expended in bribery at any such election; or

7 (f) being a voter, before or during any election directly or indirectly,
8 by himself or by any other person on his behalf, receives, agrees, or contracts
9 for any money, gift, loan, or valuable consideration, office, place or
10 employment, for himself or for any other person, for giving or agreeing to give
11 or for refraining or agreeing to refrain from giving his vote, whether to a
12 particular candidate or not, at any such election; or

13 (g) after any election, directly or indirectly, by himself or by any other
14 person on his behalf, receives any money or valuable consideration on account
15 of any person having given or refrained from giving or having induced any
16 other person to give or to refrain from giving, his vote, whether to a particular
17 candidate or not, at any such election; or

18 (h) directly or indirectly, by himself or by any other person on his
19 behalf, on account of and as payment for voting or for having voted or for
20 agreeing or having agreed to vote for any candidate at an election, or on
21 account of and as payment for his having assisted or agreed to assist any
22 candidate at an election, applies to such candidate, or to his agent or agents,; for
23 the gift or loan of any money or valuable consideration, or for the promise of
24 the gift or loan of any money or valuable consideration or for any office, place
25 or employment or for the promise of any office, place or employment; or

26 (i) directly or indirectly, by himself or by any person on his behalf, in
27 order to induce any other person to agree to be nominated as a candidate or to
28 refrain from becoming a candidate or to withdraw if he has become a candidate,
29 gives or procures any office, place or employment, or agrees to give or procure
30 or offers or promises to procure or to endeavor to procure any office, place or

1 employment, to or for such other person, or gives or lends, or agrees to give
2 or lend, or offers, or promises to procure or to endeavour to procure any
3 money or valuable consideration to or for any person or to or for such other
4 person, or to or for any person on behalf of such other person.

5 19.-(1) A person who-

6 (a) commits the offence of personation, undue influence or bribery
7 in Clauses 18, 19 and 20 of this Bill respectively; or

8 (b) makes or publishes in print and electronic media including on
9 the Internet, before or during any election, for the purpose of promoting or
10 procuring the election of any candidate, any false statement of the
11 withdrawal of any other candidate at such election,

12 (c) or aids, abets, counsels or procures the commission of or
13 attempts to commit any such offence shall be guilty of corrupt practice and
14 liable, on conviction, in the cases referred to in paragraph (a) of this clause,
15 to imprisonment for a term of at least fifteen (15) years, and in any other case
16 in this clause, to imprisonment for a term of at least ten (10) years.

17 20.-(1) A judicial officer or officer of a Court or Tribunal shall be
18 guilty of corruptly perverting electoral justice if before, during or after an
19 election, he directly or indirectly receives or accepts for himself or for any
20 other person or on behalf of other persons, any money, gift, loan, property,
21 valuable consideration, office, place, employment or appointment, or a
22 promise of personal enrichment for the purpose of giving, rendering,
23 procuring or directing a judicial decision in favour of or against a particular
24 person or party in an election petition or any matter relating to an election
25 conducted pursuant to the provisions of the Constitution of the Federal
26 Republic 1999 (as amended), Electoral Act No. 6, 2010 (as amended) or any
27 other law regarding elections in force in the Federation or a part thereof.

28 (2) A judicial officer or officer of a Court or Tribunal who is guilty
29 under sub-clause (1) of this clause shall be liable, on conviction, to

Punishment and
incapacities for
corrupt practice

Corrupt Perversion
of Electoral Justice

1 imprisonment for a term of at least twenty (20) years without an option of a
2 fine.

Election official,
security personnel
not to cause
influence

3 **21.**-(1) No person, including election official or security personnel,
4 engaged by the Independent National Electoral Commission or a State
5 Electoral Commission for the conduct of an election shall, in the course
6 performing his official duties, perform or cause to be performed any act, except
7 the act of giving his vote for any candidate according to law, with an intention
8 of making any particular candidate successful or unsuccessful in the election.

9 (2) Any person who commits an act in contravention of sub-clause
10 (1) of this Clause shall be guilty of an offence of serious corrupt practice and
11 liable, on conviction to imprisonment for a term of at least fifteen (15) years or
12 a fine of at least Thirty Million Naira (N30,000,000), or both.

Prohibition on
disturbing public
peace

13 **22.**-(1) No person shall, from three (3) hours prior to the
14 commencement of an election to the completion of the election on the day of an
15 election, directly or indirectly disturb public peace by doing any of the
16 following acts in the house, building or place where a polling station is located
17 or in any private or public house, building or land in the neighbourhood thereof
18 so as to cause obstruction to the election or to voters or to persons or election
19 officials who are conducting the election at the polling station:

20 (a) Using loudspeakers, megaphones or similar devices, or
21 (b) Playing musical instruments, singing and dancing, holding
22 assembly or function of any kind whatsoever, making or causing to make
23 commotion or manhandling or shouting.

24 (2) Any person who commits an act in contravention of sub-clause (1)
25 of this Clause shall be guilty of an offence of breach of electoral peace and
26 liable, on conviction to imprisonment for a term of at least six (6) months or a
27 fine of at least One Hundred Thousand Naira (N100,000), or both.

Prohibition on
damaging of
character

28 **23.**-(1) No person acting for himself or on behalf of any organisation
29 or political party or candidate or his agent or other person shall, with an
30 intention of prejudicing the result of any election, damage or defame, in any

1 manner, the character of any candidate in an election or his family member
2 by making, saying, printing, publishing, distributing, posting up, airing, or
3 televising, or cause to be made, said, printed, published, distributed, posted
4 up, aired or televised, before or during any election, any matter in the print or
5 electronic media including radio, television, the Internet, online or social
6 media, which he knows or believes to be false in relation to the personal
7 character or conduct of the candidate or his family member or by making
8 false accusation on any matter in a manner likely to make others believe
9 such matter to be true.

10 (2) Any person who commits an act in contravention of sub-clause
11 (1) of this Clause shall be guilty of an offence of serious corrupt practice and
12 liable, on conviction to imprisonment for a term of at least ten (10) years or a
13 fine of at least Ten Million Naira (N10,000,000), or both.

14 **24.-(1)** Election campaigns materials including posters,
15 pamphlets, bills, advertisements etc. prepared for the purpose of
16 campaigning in an election shall bear the name and address of the political
17 party, aspirant, candidate or person to whom/which they belong.

Restriction on
election campaigns

18 (2) No person shall print, publish, distribute, post up, air or televise
19 in print or electronic media including radio, television, the Internet, online
20 or social media as the case may be, or cause to be so printed, published,
21 distributed, posted up, aired or televised, any electioneering campaign
22 audio, video, or printed advertisement, handbill, placard or poster which
23 refers to any election and which does not clearly or loudly bear upon its face
24 or presentation the names and addresses of the political party, candidate or
25 person getting them printed, published, distributed, posted up, aired or
26 televised.

27 (3) No person shall affix, or cause to be affixed, any election
28 campaign material including posters, pamphlets, bills, advertisements or
29 such papers to, or write, or cause to be written on, any religious,
30 archaeological or historical buildings, monuments or structures.

1 (4) No person shall affix, or cause to be affixed, any election
 2 campaign materials including posters, pamphlets, bills, advertisements or such
 3 papers to, or write, or cause to be written on any private house, shop, wall or
 4 other structure without the permission of the owner thereof.

5 (5) No person shall, with the object of soliciting or giving votes for or
 6 against any political party or candidate at an election, convene or organise
 7 meetings, processions or raise slogans and campaign in any other manner
 8 within an election area during the period from Twenty-Four (24) hours prior to
 9 the day of the election to the end of the election.

10 (6) Any person who commits an act in contravention of sub-clause (1)
 11 to (5) of this clause shall be guilty of an offence and liable, on conviction, to
 12 imprisonment for a term of at least five (5) years or a fine of at least Ten Million
 13 Naira (N10,000,000), or both.

Prohibition on
 campaign against
 national interest

14 25.-(1) No person shall propagate or cause to be propagated anything
 15 or information that:

16 (a) undermines or is capable of undermining the independence,
 17 sovereignty, territorial integrity, or unity of the Federation;

18 (b) promotes or is capable of promoting feeling of enmity or hate on
 19 the basis of any religion, community, caste, tribe, language or territorial region;

20 (c) causes or is capable of causing people to vote on the basis of any
 21 religion, community, caste, tribe, language or territorial region.

22 (2) Any person who commits an act in contravention of subclause (1)
 23 of this clause shall be guilty of a serious electoral offence and liable, on
 24 conviction, to imprisonment for a term of at least twenty (20) years without an
 25 option of a fine.

Prohibition on
 obstructing votes
 counting or other
 acts inhibiting
 electoral due
 process

26 26.-(1) No candidate or agent of his or any other person shall grab,
 27 loot, damage or destroy in any manner ballot boxes or ballot papers or any other
 28 electoral document or material before, during or after an election, or take or
 29 attempt to take or cause to be taken ballot boxes or ballot papers or any other
 30 electoral document or material before, during or after an election without the

1 permission of election official in charge of the election at a polling station or
2 election official in charge of the electoral materials, or abet to the
3 commission of such act or cause obstruction of any kind in any manner to
4 any other acts relating to an election.

5 (2) Any person who commits any act in contravention of subclause
6 (1) of this clause shall be guilty of an electoral offence and liable, on
7 conviction, to imprisonment for a term of at least Twenty (20) years or a fine
8 of at least Forty Million Naira (N40,000,000).

9 27.-(1) No payment or contract for payment shall, for the purpose
10 of promoting or procuring the election of a candidate at any election, be
11 made-

Certain
expenditure

12 (a) on account of the conveyance of voters to or from the poll,
13 whether for the hiring of vehicles, vessels or animals of transport of any kind
14 whatsoever, or for railway fares, or otherwise; or

15 (b) to or with a voter on account of the use of any house, land,
16 building, or premises for the exhibition of any address, bill, or notice, or
17 account of the exhibition of any address, bill or notice.

18 (2) Subject to such exception as may be allowed in pursuance of
19 this Bill, if any payment or contract for payment is knowingly made in
20 contravention of this clause either before, during, or after an election, the
21 person making such payment or contract shall be guilty of an illegal
22 practice, and any person receiving such payment or being a party to any such
23 contract, in contravention of this clause, shall also be guilty of an illegal
24 practice.

25 (3) A person shall not let, lend, or employ for the purpose of
26 conveyance of voters to and from the poll any vehicle, vessel or animal of
27 transport of any kind whatsoever which he keeps or uses for the purpose of
28 letting out for hire, and if he lets, lends, or employs such vehicle, vessel or
29 animal of transport knowing that it is intended to be used for the conveyance
30 of voters to and from the poll he shall be guilty of an illegal practice.

1 (4) A person shall not hire, borrow, or use for the purpose of
2 conveyance of voters to and from the poll any vehicle, vessel or animal of
3 transport of any kind whatsoever which he knows the owner thereof is
4 prohibited by subclause (3) of this clause to let, lend, or employ for that
5 purpose, and if he does so he shall be guilty of an illegal practice.

6 (5) Nothing in sub-clause (3) or (4) of this clause shall prevent a
7 vehicle, vessel or animal of transport of any kind being let to, or hired,
8 employed, or used by a voter or several voters at their joint cost for the purpose
9 of being conveyed to or from the poll.

10 (6) Notwithstanding anything to the contrary in this clause-

11 (a) where it is the ordinary business of a voter as an advertising agent
12 to exhibit for payment bills and advertisements, a payment to or contract with
13 such voter, if made in the ordinary course of business, shall not be deemed to be
14 an illegal practice within the meaning of this clause;

15 (b) where voters are unable at an election to reach their polling
16 stations from their place of residence without crossing the sea or a branch or
17 arm thereof or a river, means may be provided for conveying such voters to
18 their polling stations, or to enable them to cross in order to reach their polling
19 stations:

20 PROVIDED that such means of conveyance shall be made available
21 equally to all such voters who wish to avail themselves thereof.

22 (7) A person who aids, abets, counsels or procures the commission of,
23 commits or attempts to commit any illegal practice under this clause shall be
24 liable, on conviction, to imprisonment for a term of at least fifteen (15) years.

Employers to
allow employees
reasonable period
for voting

25 28.-(1) Every employer shall, on polling day, allow to every voter in
26 his employ a reasonable period for voting, and no employer shall make any
27 deduction from the pay or other remuneration of any such voter or impose upon
28 or exact from him any penalty by reason of his absence during such period.

29 (2) Any employer who, directly or indirectly, refuses or by
30 intimidation, undue influence, or in any other manner, interferes with the

1 granting to any voter in his employ, of a reasonable period for voting, as
2 provided in this clause, shall be guilty of an offence and liable, on
3 conviction, to a fine of at least Six Million Naira (N6,000,000) or to
4 imprisonment for a term of least three (3) years, or both.

5 (3) The provisions of this clause shall not extend to-

6 (a) members of the Armed Forces, the Nigerian Police Force, State
7 Security Service, the Nigerian Prisons Service and all Federal Government
8 security and law enforcement agencies;

9 (b) any employee who at the election in question is acting as an
10 election official under the Electoral Act No. 6, 2010 (as amended) or any
11 electoral law in force in the Federation or a part thereof; and

12 (c) other employees in reasonably essential public or private
13 service.

14 **29.**-(1) No person shall furnish or supply any musical instrument or
15 loud speaker to any person with intent that it shall be used by any person in
16 any way or used in or upon vessels, animals, motor cars, trucks, or other
17 vehicles as or for the purpose of political propaganda on polling day and no
18 person shall with any such intent use himself or use in or upon any vessel,
19 animal, motor car, truck, or other vehicle any such musical instrument or
20 loud speaker on polling day.

Limitation of
political
propaganda on
polling day

21 (2) Any person who contravenes any of the provisions of subclause
22 (1) of this clause shall be guilty of an offence and liable, on conviction, to a
23 fine of at least One Million Naira (N1,000,000) or to imprisonment for a
24 term of at least one (1) year, or both.

25 **30.**-(1) Any person who in the discharge of his duty under this Bill
26 gives information which is false in any material particular to a public officer
27 or any person who is to take decision or do any other act in relation thereto
28 commits an offence under this Bill and the onus shall be on him to prove that
29 he exercised due diligence to prevent the commission of the offence having
30 regards to the nature of his function and circumstances.

Offences relating
to false information

1 (2) The penalty for the offence under subclause (1) of this clause shall
2 be imprisonment for a term of at least Two (2) years and not more than Three
3 (3) years,

4 PROVIDED that where the offender is a public officer the penalty
5 shall be imprisonment for a term of least Three (3) years and not more than Five
6 (5) years.

Offences relating
to Election
Expenses

7 **31.**-(1) Every candidate at an election shall submit a statement of
8 election expenses to the Commission at most Six (6) months after the election.
9 The statement shall be in a form to be prescribed by the Commission from time
10 to time.

11 (2) A candidate at an election who contravenes the provisions of
12 subclause (1) of this clause shall be guilty of an offence and shall be liable, on
13 conviction, to imprisonment for a term of at least Six (6) months and a fine
14 equal to the amount of money specified in the relevant law as the maximum for
15 election expenses for the particular elective office in question.

16 (3) A statement of the election expenses submitted under subclause
17 (1) of this clause may be audited by an auditor appointed by the Commission
18 for compliance or otherwise with the law.

19 (4) A candidate at an election shall be guilty of an offence if his-

20 (a) statement of election expenses is false; or

21 (b) election expenses are substantially above the ceiling stipulated by
22 law for the elective office in question, and shall in these respects be liable, on
23 conviction, to a fine which shall not exceed the amount of money stipulated in
24 the law as the ceiling for election expenses for that office.

25 (5) Subject to the provisions of clause 174 of the Constitution of the
26 Federal Republic of Nigeria, 1999 (as amended) (on the power of the Attorney-
27 General of the Federation to institute, continue, takeover or discontinue
28 criminal proceedings against any person in any court of law), where a
29 candidate contravenes the provisions of subclause (1) of this clause or is
30 deemed guilty under subclause (4) of this clause, the Commission may

1 compound these offences by imposing a fine on, and accepting same from,
2 the candidate:

3 PROVIDED that the fine shall not exceed the ceiling specified for
4 election expenses for the particular office in question.

5 (6) Prior to issuing an order for a fine on a candidate under
6 subclause (5) of this clause, the Commission shall give a reasonable
7 opportunity to the concerned person to defend himself and the Commission
8 shall not issue any such order if the candidate's failure to submit the
9 statement of election expenses is reasonably justified.

10 (7) All moneys received by the Commission under the provisions
11 of subclause (5) of this clause shall be paid into the consolidated Revenue
12 Fund of the Federation.

13 32.-(1) A person who, in the course of politics or elections, uses or
14 directs the use of threatening words, behaviour or action, or displays or
15 directs the display of any written material which is threatening or incites
16 violence, is guilty of an offence if-

Prohibition on
Hate Speech

17 (a) he/she intends thereby to stir up ethnic, religious, or racial
18 hatred, social or political insecurity or violence against anyone or group of
19 persons; or

20 (b) having regard to all the circumstances, ethnic, religious, or
21 racial hatred or social or political insecurity or violence is likely to be stirred
22 up thereby;

23 PROVIDED that nothing in this subclause shall be read or given
24 effect in a way which prohibits or restricts discussion, criticism or
25 expressions of antipathy, dislike, ridicule, insult or abuse of particular
26 beliefs or practices of their adherents, or of any other belief system or the
27 beliefs or practices of its adherents, or proselytising or urging adherents of a
28 different belief system to cease practising their belief system. Subjective
29 descriptions of a person's actions or behaviour, however abhorrent, crass or
30 objectionable, may not be considered an attempt to spread hate unless the

1 motive is clearly defined as such.

2 (2) Any person who commits offence under subclause (1) of this
3 clause shall be liable, on conviction, to imprisonment for a term of at least Ten
4 (10) years or a fine of at least Forty Million Naira (N20,000,000), or both.

5 PART V - COURTS

Jurisdiction and
special powers
of Court

6 33.-(1) The Federal High Court, High Court of a State or the High
7 Court of the Federal Capital Territory Abuja shall have the jurisdiction to try
8 alleged offenders under this Bill.

9 (2) Notwithstanding anything to the contrary in any other enactment,
10 the Federal High Court, High Court of a State or the High Court of the Federal
11 Capital Territory Abuja shall have power,-

12 (a) to impose the penalties provided for in this Bill;

13 (b) to ensure that all matters brought before the Court by the
14 Commission against any person, body or authority shall be given accelerated
15 hearing;

16 (c) to adopt measures necessary to avoid unnecessary delays and
17 abuse in the conduct of matters brought by the Commission against any person,
18 body or authority.

19 (3) The Chief Judge of the Federal High Court or a High Court of a
20 State or the High Court of the Federal Capital Territory Abuja, as the case may
21 be, may designate a court or judge or such number of courts or judges as he
22 shall deem appropriate to hear and determine matters brought pursuant to the
23 provisions of this Bill.

24 (4) A court or judge so designated under sub-clause 3 of this clause
25 shall give such matters priority over all other matters.

26 PART VI - FINANCIAL PROVISIONS

Commission's
fund, budgetary
appropriation
and gifts

27 34.-(1) The Commission shall establish and maintain a fund from
28 which shall be defrayed all expenditures reasonably incurred by it in the
29 execution of its functions.

30 (2) There shall be paid and credited to the fund established pursuant to

1 subclause (1) of this clause, such monies as may in each year be approved by
2 the National Assembly for the purpose of the Commission.

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

8 35. The Commission shall keep proper accounts, in a form which
9 conforms to accepted commercial standards of its receipts, payments, assets
10 and liabilities and shall submit the accounts annually, for auditing by a
11 qualified auditor appointed from the list of auditors and in accordance with
12 the guidelines supplied by the Auditor General of the Federation.

Keeping of
accounts

13 36. The Commission shall, not later than the 30th day of September
14 in each year, submit to the President and National Assembly, a report of its
15 activities during the immediately preceding year and shall include in such
16 report the audited accounts of the Commission.

Submission of
annual report

17 PART VII - MISCELLANEOUS PROVISIONS

18 37.-(1) The Commission shall seek and receive information from
19 any person, political party, organization, authority, corporation or company
20 without let or hindrance in respect of offences it is empowered to enforce
21 under this Bill.

Power to receive
information
without hindrances,
etc.

22 (2) A person who-

23 (a) willfully obstructs the Commission or any of its authorised
24 officers in the exercise of any of the powers conferred on the Commission;

25 (b) fails to comply with any lawful enquiry or requirements made
26 by any authorised officer of the Commission,

27 commits an offence under this Bill and shall be liable, on conviction to
28 imprisonment for a term of least Five (5) years or to a fine of at least Two
29 Million Naira (N2,000,000.00), or both.

Seizure and
forfeiture of
property

1 38.-(1) Any property used for the planning or execution of an electoral
2 offence under this Bill may be seized by the Commission-

3 (a) upon an application to a court for an interim order in the first
4 instance where the seizure is incidental to a lawful arrest or search executed by
5 the Commission; or

6 (b) upon an order of final forfeiture issued by a court following a
7 successful application made by the Commission.

8 (2) Whenever property is seized or forfeited under subclause (1) of
9 this clause, the Commission may-

10 (a) place the property under seal; or

11 (b) remove the property to a place designated by the Commission.

12 (3) Property taken or detained under this clause shall be deemed to be
13 in the custody of the Commission and owned by the Federal Government,
14 subject only to an order of a court of competent jurisdiction.

Attempt to commit
electoral offence,
etc.

15 39. A person who-

16 -(1) attempts to commit any electoral offence under this Bill, the
17 Electoral Act No. 6, 2010 or under any other law in force in the Federation or a
18 part thereof or does any act preparatory to or in furtherance of the commission
19 of any electoral offence shall be guilty of an offence and shall on conviction, be
20 liable to the punishment provided for such offence; or

21 (2) aids, counsels or procures another person to commit an electoral
22 offence shall be deemed to have taken part in the commission of that offence
23 and to be guilty of the offence and may be charged with actually committing the
24 offence.

Protecting
informants and
information, etc.,
and penalty for
false information

25 40.-(1) Officers of the Commission shall not be compelled to disclose
26 the source of information or identity of their informants except by the order of a
27 competent court or tribunal upon a successful application seeking the
28 discretion of the court to do so.

29 (2) Any person who makes or causes another person to make any
30 statement to an official of the Commission or to any other Public Officer who is

1 exercising the duties of his office, which statement to the knowledge of its
2 maker, or the person causing it to be made-

3 (a) is false, or intended to mislead or is untrue in any material
4 particular;

5 (b) is not consistent with any other statement previously made by
6 such person to any other person having authority or power under any law to
7 receive or require to be made such other statement notwithstanding that the
8 person making the statement is not under any legal or other obligation to tell
9 the truth, shall be guilty of an offence and shall be liable, on conviction, to a
10 fine of at least Two Million Naira (N2,000,0000) or to imprisonment for a
11 term of at least Two (2) years, or both.

12 (3) Where any person who has made a statement to an officer of the
13 Commission, subsequently makes any other statement to any person having
14 authority or power under any law to receive or require to be made such other
15 statement regardless of whether or not the person making the statement is
16 under a legal or other obligation to tell the truth, he shall if such other
17 statement is materially inconsistent with any statement previously made to
18 an officer of the Commission or such other public officer, be guilty of an
19 offence and shall be liable, on conviction, to a fine of at least Five Hundred
20 Thousand Naira (N500,0000) or to imprisonment for a term of at least Six
21 (6) months, or both.

22 (4) For the purpose of sub-clause (1) and (2) of this clause, any
23 statement made in the course of any legal proceedings before any court or
24 tribunal, whether civil or criminal, or any statement made by any person in
25 the course of any disciplinary proceedings, whether such legal proceedings
26 or disciplinary proceedings are against the person making the statement or
27 not, shall be deemed to be a statement made to a person having authority or
28 power under the law to receive the statement so made.

29 **41.** Subject to the provisions of the Constitution of the Federal
30 Republic of Nigeria, 1999 (as amended), an application for stay of

Appeals against
interlocutory ruling,
etc.

1 proceedings in respect of any criminal matter brought by the Commission
2 before the High Court shall not be entertained until judgment is delivered by
3 the High Court.

Immunities

4 **42.** Subject to the provisions of this Bill, an officer of the Commission
5 when investigating or prosecuting a case under this Bill, shall have all the
6 powers and immunities of a Police Officer under the Police Act and any other
7 law conferring power on the, police, or empowering and protecting officials or
8 personnel of law enforcement agencies.

General Savings

9 **43.** Any offence committed or proceedings instituted before the
10 commencement of this Bill under the provisions of-

11 (a) the Electoral Act No. 6, 2010 (as amended); and

12 (b) any other law or regulation relating to electoral offences,

13 shall, as the case may require, be enforced or continue to be enforced by the
14 National Electoral Offences Commission established under this Bill.

Regulations

15 **44.** The Attorney-General of the Federation may make rules or
16 regulations with respect to the exercise of any of the duties, functions or powers
17 of the Commission under this Bill.

Interpretation

18 **45.**-(1) In this Bill-

19 "Court" means the Federal High Court or the High Court of the Federal Capital
20 Territory or the High Court of a State,

21 "election" means any election held in accordance with the provisions of any
22 written law in the Federation or part thereof relating to the election of persons
23 to public offices;

24 "Electoral offences" means acts of commission or omission stipulated as
25 offences punishable by law under this Bill, the Electoral Act No. 6, 2010 (as
26 amended) or any other law relating to the conduct of elections in the Federation
27 or a part thereof;

28 "Federation" means the Federal Republic of Nigeria; and

29 "the Commission" means the National Electoral Offences Commission
30 ("NEOC") established under clause 1 of this Bill;

1 (2) Any word or expression used in this Bill, the meaning of which
2 is defined in any written law relating to any election, shall have the same
3 meaning in this Bill, for the purposes of and with reference to such election,
4 as it has in the said written law; and any reference in this Bill to any person or
5 official shall be construed, for the purposes of and with reference to any
6 election, as a reference to any equivalent person or official appointed under
7 or by virtue of any written law relating to such election.

8 46. This Bill may be cited as the National Electoral Offences Citation
9 Commission Bill, 2019.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Electoral Offences Commission and to prosecute offenders under this Bill subject to the provisions of clause 174 of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (on the power of the Attorneys-General of the Federation respectively to institute, continue, takeover or discontinue criminal proceedings against any person in any court of law).





