

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. Kingsley Chinda

Co-Sponsors:

- | | |
|---------------------------|------------------------|
| Prof. Julius Ihumvere | Hon. Aliyu Madaki |
| Hon. Alilsa Jessy | Hon. Abdulsamad Dasuki |
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| Hon. Ginger Onwusibe | Hon. Midala Belani |
| Hon. Salman Idris | |

[] Commencement

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

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| 1 | PART I - OBJECTIVE | |
| 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. | |
| 4 | PART II - ELECTORAL OFFENCES COMMISSION | |
| 5 | 2.-(1) There is established a body known as the Electoral Offences | Establishment of |
| 6 | Commission (in this Act referred to as "the Commission"). | the Electoral
Offences
Commission |

- 1 (2) The Commission-
- 2 (a) shall be a body corporate with perpetual succession and a common
- 3 seal;
- 4 (b) may sue or be sued in its corporate name; and
- 5 (c) may acquire, hold or dispose of property (whether movable or
- 6 immovable).
- 7 (3) The Commission shall be charged with the responsibility of
- 8 enforcing the provisions of the 1999 Constitution of the Federal Republic of
- 9 Nigeria (hereinafter referred to as "The Constitution"), this Act, the Electoral
- 10 Act and any other law relating to electoral offences, investigation and
- 11 prosecution of electoral offences.
- 12 (4) The Commission shall be independent in the discharge of its
- 13 functions and powers under this Act.
- 14 (5) The Headquarters of the Commission shall be in Abuja, Nigeria
- 15 and the Commission may establish an office in any State of the Federation and
- 16 which shall perform such functions as the Commission may, from time to time,
- 17 assign to such office.
- 18 (6) The common seal of the Commission shall be kept in the custody
- 19 of the Secretary and shall be authenticated by the signature of the Chairman or
- 20 such other officer as the Commission may designate.
- 21 **3.**(1) The Commission shall consist of the following Members—
- 22 (a) a Chairman who shall be a person of proven integrity; and
- 23 (b) twelve other persons, who shall be known as National
- 24 Commissioners.
- 25 (2) In appointing the members of the Commission, regards shall be
- 26 had to federal character and the gender policy of the Federal Government.
- 27 (3) Members of the Commission shall be non-partisan and of proven
- 28 integrity and in—
- 29 (a) the case of the Chairman, be not less than forty years of age; and

1 (b) the case of other members, be not less than thirty – five years of
2 age.

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

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

8 **4.-(1)** The Chairman and members of the Commission shall be
9 appointed by the President subject to confirmation by the National
10 Assembly.

Appointment and
tenure of office
of the members of
the Commission

11 (2) Members of the Commission shall hold office for a period of
12 five years from the date of appointment and shall be eligible for re-
13 appointment for another term of five years and no more and shall vacate
14 office upon attaining the age of seventy years.

15 (3) The Chairman and members of the Commission shall have at
16 least a first degree or its equivalent from a recognized institution in addition
17 to a minimum of ten years' cognate experience in the relevant field.

18 **5.-(1)** The office of the Chairman or a member of the Commission
19 shall become vacant where-

Cessation of
Membership

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

21 (b) he resigns his office by a notice in writing under his hand
22 addressed to the President; (c) he is incapable of performing the functions of
23 his office due to mental or physical illness;

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

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

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

30 (g) he is declared guilty of gross misconduct by a court of

1 competent jurisdiction or tribunal;

2 (2) A member may be removed or suspended from office by the
3 President-

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

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

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

14 (4) Where a vacancy occurs in the office of the Chairman, the
15 members shall elect one of their members to act in the capacity of a chairman
16 for a maximum period of 3 months and no more.

17 (5) Where a member has served in the capacity of Chairman for the
18 maximum period and the vacancy persists, the members shall elect another
19 member to act in the capacity of chairman. Provided that the member being
20 elected has not been previously elected under subsection (4) above.

Emoluments,
allowances, etc.

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

25 PART III - FUNCTIONS AND POWERS

Functions of
the Commission

26 7. The Commission shall-

27 (a) investigate, enforce and subject to the powers of the Attorney-
28 General under section 174 of The Constitution prosecute all electoral
29 malpractices and electoral offences created under the constitution, Electoral
30 Act and any other law;

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

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

7 (d) adopt measures to prevent and eradicate the commission of
8 electoral malpractices including coordination, preventive and regulatory
9 actions, introduction of investigative and control techniques, and the
10 collaboration with election observers within and outside
11 Nigeria;

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

15 (f) inform and educate the public on matters related to electoral and
16 related offences; and

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

20 **8.-(1)** The Commission shall have powers to-

21 (a) investigate and subject to the powers of the Attorney-General
22 under section 174 of The Constitution, prosecute any person suspected to
23 have conspired to commit or has attempted to commit or has committed an
24 electoral offence or an offence under the Constitution, this Act, the Electoral
25 Act, or any other law;

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

30 (c) appoint, promote, dismiss and exercise disciplinary control

Powers of the
Commissaion

- 1 over the staff of the Commission in accordance with the provisions of this Act;
- 2 (d) adopt measures including coordination, prevention and regulatory
- 3 actions, to-
- 4 (i) identify, trace and prosecute political thuggery, electoral fraud,
- 5 political terrorism and other electoral offences;
- 6 (ii) prevent the commission of electoral malpractices; and enlist and
- 7 foster public support in combating electoral offences.
- 8 (2) The Commission shall-
- 9 (a) formulate and provide the general policies and guidelines relating
- 10 to the functions of the Commission;
- 11 (b) monitor the implementation of the policies and programmes of the
- 12 Commission;
- 13 (c) submit to the relevant statutory bodies for approval the terms and
- 14 conditions of service, including remuneration of the employees of the
- 15 Commission after consideration by the Management of the Commission;
- 16 (d) cause to be kept, proper accounts and records of the Commission
- 17 in respect of each financial year and shall cause the accounts to be audited not
- 18 later than 6 months after the end of each year by auditors appointed from the list
- 19 and in accordance with the guidelines provided by the Auditor-General of the
- 20 Federation; and
- 21 (e) do any other thing which in the opinion of the Commission is
- 22 necessary or expedient to ensure the efficient performance of its functions.

23 PART IV - MANAGEMENT AND STAFF OF THE COMMISSION

Appointment
and tenure of the
Secretary to the
Commission

- 24 **9.** -(1) There shall be for the Commission, a Secretary who shall be
- 25 appointed by the Commission.
- 26 (2) The Secretary shall hold office for a term of four years in the first
- 27 instance and be eligible for re-appointment for another term of four years and
- 28 no more.
- 29 (3) The Secretary shall possess at least a first degree or its equivalent
- 30 from a recognized Institution with at least fifteen years cognate experience in a

1 relevant field.

2 (4) The Secretary shall-

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

4 (b) keep records,

5 (c) conduct correspondence of the Commission; and

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

8 **10.**-(1) The Commission may, from time to time, appoint such
9 other staff or appoint officers on secondment from government security or
10 law enforcement agencies or such other private or public services as it may
11 deem necessary, to assist the Commission in the performance of its
12 functions under this Act.

Other Staff of the
Commission

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

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

19 **11.**-(1) The Commission may, subject to the provisions of this Act,
20 make staff regulations relating generally to the conditions of service of the
21 employees of the Commission and, without prejudice to the generality of the
22 foregoing, the regulations may provide for-

Staff regulations

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

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

30 (2) Staff regulations made under subsection (1) of this section shall

1 not have effect until approved by the Commission, published in the Gazette and
2 brought to the notice of all affected persons in such manner as the Commission
3 may, from time to time, determine.

Pensionable
service

4 **12.**-(1) Service in the Commission shall be public service for the
5 purposes of the Pensions Reform Act and accordingly, officers and other
6 persons employed by the Commission shall in respect of their service in the
7 Commission, be entitled to pensions, gratuities and other retirement benefits as
8 are prescribed thereunder.

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

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

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

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

Appointment
of Experts

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

28 PART V - FINANCIAL PROVISIONS

Funds of the
Commission

29 **14.**-(1) The Commission shall establish and maintain a fund from
30 which shall be defrayed all expenditures reasonably incurred by the

1 Commission for the execution of its functions under this Act.

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

4 (a) such monies as may, in each year, be approved by the Federal
5 Government for the purposes of the Commission; all such moneys as shall,
6 from time to time, be appropriated to the Commission by the National
7 Assembly;

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

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

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

15 (3) The fund shall be managed in accordance with rules made by
16 the Commission, and without prejudice to the generality of the power to
17 make rules under this subsection, the rules shall, in particular, contain
18 provisions-

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

22 (b) requiring the keeping of proper accounts and records for the
23 purpose of the fund in such form as may be specified in the rules.

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

28 **15.** The Commission shall apply the proceeds of the fund
29 established pursuant to section 14 of this Act to the following purposes, the-

30 (a) cost of administration of the Commission;

Administration
of the Commission's
Fund

	1	(b) cost of acquiring any property, equipment or other facility
	2	necessary to the discharge of the functions and duties of the Commission under
	3	this Act; and
	4	(c) payments of salaries, allowances and other remunerations,
	5	payable to members, experts or employees of the Commission.
Accounts and audit	6	16. The Commission shall cause to be kept, proper books of accounts
	7	and records in respect of each financial year and shall cause its accounts to be
	8	audited not later than six months after the end of each financial year by auditors
	9	appointed in accordance with guidelines issued by the Office of the Auditor-
	10	General of the Federation
Statement of estimated income and expenditure	11	17. The Commission shall submit to the National Assembly, for
	12	approval not later than 31 st August, in each financial year, a statement of its
	13	estimated income and expenditure for the following financial year.
Bank Account	14	18. Subject to applicable Federal Government financial regulations,
	15	the Commission shall open and maintain with any bank or financial institution,
	16	an account in which there shall be deposited all moneys received by the
	17	Commission within the contemplation of section 14 of this Act and from which
	18	all payments for and on behalf of the Commission shall be made.
Investment of Funds	19	19. The funds of the Commission, which are not immediately
	20	required for current or contingent expenditure, may upon the decision of the
	21	Commission -
	22	(a) be invested in call deposit or short-term fixed deposit with any
	23	bank or financial institution; or
	24	(b) be deposited with the Central Bank of Nigeria or any other bank or
	25	financial institution in an investment account in such manner and for such
	26	periods as the Commission may, upon a resolution, approve.
Annual reports	27	20. The Commission shall submit to the National Assembly not later
	28	than 30th June in each financial year, a report on its activities during the
	29	immediate preceding year and shall include in such report the audited accounts
	30	of the Commission.

1 PART VI - SPECIAL POWERS OF THE COMMISSION

2 21. The Commission shall initiate, develop or improve specific Training
3 training programmes for its law enforcement and other personnel charged programme
4 with responsibility for the detection, investigation and prosecution of
5 offences created by this Act and such programs shall include-

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

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

10 (c) collection of evidence;

11 (d) law enforcement techniques;

12 (e) capacity building for prosecutors; and

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

14 22.-(1) Subject to the provisions of this Act, an officer of the Powers and
15 Commission, when investigating or prosecuting an electoral offence shall immunities of
16 have all the powers and immunities of a police officer under the Police Act officers
17 and any other laws conferring power on the police or empowering and
18 protecting law enforcement agents.

19 (2) Where, in the course of any investigations or proceedings in a
20 court in respect of the commission of an electoral offence or an offence
21 under this Act by any person, there is disclosed an offence under any other
22 written law, not being an electoral offence or offence under this Act,
23 irrespective of whether the offence was committed by the same person or
24 any other person, the officer of the Commission responsible for the
25 investigation or proceedings, as the case may be, shall notify the Attorney -
26 General of the Federation or any other officer charged with responsibility
27 for the prosecution of criminal cases, who may issue such direction as shall
28 meet the justice of the case.

29 23.-(1) The Commission shall investigate and subject to the Power to investigate
30 powers of the Attorney General under section 174 of The Constitution, and prosecute
electoral offences

1 prosecute all electoral offences created under the Electoral Act or any other law
2 or Regulations on electoral offences.

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

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

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

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

23 (6) Any document certified by any officer of the Commission under
24 subsection (2) in respect of a report under subsection (1) shall be admissible as
25 evidence of the contents of the original and of the time, place and manner in
26 which the report was recorded.

Power to examine
persons

27 **24.**-(1) An officer of the Commission investigating an electoral
28 offence or an offence under this Act may-

29 (a) order any person to attend before him for the purpose of being
30 examined in relation to any matter which may, in his opinion, assist in the

1 investigation of the offence;

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

5 (c) by written notice require any person to furnish a statement in
6 writing made under oath or affirmation setting out therein all such
7 information required under the notice, being information which, in such
8 officer's opinion, would be of assistance in the investigation of the offence.

9 (2) Subsection (1) (b) shall not apply to banker's books save in
10 accordance with the provisions of the Evidence Act.

11 (3) A person to whom an order under subsection (1) (a) has been
12 given shall-

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

16 (b) during such examination disclose all information which is
17 within his knowledge.

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

23 (5) A person to whom a written notice has been given under
24 subsection (1) (c) shall, in his statement, furnish and disclose truthfully all
25 information required under the notice which is within his knowledge, or
26 which is available to him.

27 (6) Any person who contravenes any provision of this section shall
28 be guilty of an offence punishable with a term of imprisonment not
29 exceeding three months.

General provisions
as to summons

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

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

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

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

22 (5) Where a summons has been served upon the person to whom it is
23 addressed or is delivered to any other person, the person to whom it is
24 addressed or delivered, as the case may be, shall sign a receipt on the duplicate;
25 and where service is not effected by handing the summons to an individual but
26 by some other method approved by this Act, the person effecting service shall
27 endorse on the duplicate particulars of the method by which the service was
28 effected.

29 (6) A person required to sign a receipt on the back of the duplicate
30 summons to the effect that he has received the summons who refuses to do so

1 may be arrested by the person serving the summons and shall be guilty of an
2 offence and upon conviction be liable to one month imprisonment or a fine
3 of five thousand Naira.

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

8 **26.**-(1) Whenever it appears to the Chairman upon information,
9 and after such inquiry as he shall consider necessary, that there is reasonable
10 cause to suspect that in any place there is any evidence of the commission of
11 an electoral offence or offence under this Act, he may by a written order
12 direct an officer of the Commission to obtain a court order to-

Warrant to search
premises

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

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

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

22 (d) break open, examine, and search any article, container or
23 receptacle; or

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

25 (2) Whenever directed, an officer of the Commission exercising
26 any of the powers prescribed under subsection (1) of this section shall obtain
27 a warrant from a judge or magistrate to-

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

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

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

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

Obligation to
give information

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

Obstruction of
inspection and
search

14 **28.** Any person who-

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

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

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

23 (d) fails to produce, or conceals or attempts to conceal from an officer
24 of the Commission, any book, document, or article, in relation to which such
25 officer has reasonable grounds for suspecting or believing that an electoral
26 offence or offence under this Act has been or is being committed, or which is
27 liable to seizure under this Act;

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

30 (f) destroys anything to prevent the seizure thereof or the securing of

1 the thing, shall be guilty of an offence punishable with imprisonment for one
2 year without the option of a fine.

3 **29.** Any person who-

Attempt or
conspiracy

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

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

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

10 **30.**-(1) Every electoral offence or offence under this Act shall be a
11 bailable offence for the purposes of the Criminal Procedure Act or Code.

Bail of offenders,
etc.

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

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

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

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

25 (4) Any person arrested under subsection (3) who is not released on
26 bail shall, without unreasonable delay, and in any case within twenty-four
27 hours (excluding the time for any necessary journey) be produced before the
28 Court and if it appears to the Court that any condition on which such person
29 was released or otherwise admitted for bail has been or is likely to be broken,
30 the court may-

1 (a) remand such person in custody; or

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

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

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

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

19 PART VII - ESTABLISHMENT, JURISDICTION AND PROCEDURE OF THE
20 ELECTORAL OFFENCES TRIBUNAL

Establishment
of the Electoral
Offences Tribunal

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

Composition
of the Tribunal

24 **32.**-(1) The Tribunal shall consist of nineteen (19) persons who shall
25 be persons of proven ability and expertise, to be appointed by the President on
26 the recommendation of the Secretary to the Government of the Federation and
27 subject to confirmation by the National Assembly:

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

30 (b) 18 other Members, all of whom shall be Legal Practitioners of not

1 less than 10 years' experience.

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

5 33.-(1) For the purpose of exercising any jurisdiction conferred by
6 this Act, the Tribunal shall be duly constituted if it consists of 3 members of
7 the Tribunal.

Constitution of
the Tribunal

8 (2) The Chairman of the Tribunal shall constitute a panel of three
9 (3) from its membership whenever he deems it necessary for the purpose of
10 exercising the jurisdiction vested in the Tribunal by this Act or any other Act
11 provided that:

12 (a) a member presiding as chairman of any panel shall be a legal
13 practitioner who by year of call, is the most senior of all three panelists; and

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

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

Tenure of office
of Members of
the Tribunal

20 35. A member of the Tribunal shall cease to hold office if-

21 (a) he becomes of unsound mind;

22 (b) he becomes bankrupt or he makes a compromise with his
23 creditors;

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

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

26 (e) he becomes a member of, holds an office in or is employed by
27 any political party;

28 (f) he is offered and he accepts a political appointment other as a
29 member of the Tribunal; or

30 (g) in the case of a person who has a professional qualification, he

Disqualification
of members of
the Tribunal

	1	is disqualified or suspended (other than at his own request) from practicing his
	2	profession in any part of Nigeria by the order of any competent authority made
	3	in respect of him personally.
Resignation and removal	4	36. -(1) The Chairman or a member of the Tribunal may, by notice in
	5	writing under his hand addressed to the President resign his office.
	6	(2) The Chairman or a member of the Tribunal shall be removed from
	7	office by an order made by the President and assented to by a simple majority of
	8	members of the National Assembly on-
	9	(a) any of the grounds referred to in section 35 of this Act; or
	10	(b) the ground of proven charge of misbehavior or incapacity after
	11	due inquiry has been made and the member concerned has been informed of the
	12	charge against him and given an opportunity of being heard in respect of the
	13	charge.
Filling up of vacancies	14	37. If, for any reason other than temporary absence, any vacancy
	15	occurs in the office of a member of the Tribunal then the President shall appoint
	16	another person in accordance with the provisions of this Act to fill the vacancy.
Salaries, allowances and other conditions of service of members of the Tribunal	17	38. The salaries and allowances of the Chairman, members and Chief
	18	Registrar of the Tribunal shall be equivalent to that of the Chief Judge, Judges
	19	and Chief Registrar of the Federal High Court respectively.
Chief Registrar to the Tribunal	20	39. -(1) The Tribunal shall appoint a legal practitioner with not less
	21	than ten (10) years post-call experience to be Chief Registrar of the Tribunal,
	22	who shall perform such duties in exercise of powers and as may from time to
	23	time, be assigned to him by the rules of the Tribunal and subject thereto by any
	24	special order of the Chairman.
	25	(2) The Chief Registrar, Deputy Chief Registrar and Registrar, shall
	26	have power to administer oaths and perform such other duties with respect to
	27	any proceedings in the Tribunal as may be prescribed by the rules or by any
	28	special order of the Chairman.
Other staff of the Tribunal	29	40. -(1) The Tribunal shall employ the services of such staff as the
	30	Tribunal may deem necessary for the efficient performance of its functions

1 under or pursuant to this part of this Act.

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

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

8 **41.**-(1) The Tribunal shall, to the exclusion of any other court of
9 law or body in Nigeria, exercise jurisdiction to hear and determine any
10 question of law or dispute arising from electoral offences as defined under
11 this Act after investigation by the Commission established under this Act.

Jurisdiction of
the Tribunal

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

14 **42.** The Tribunal, shall in the exercise of its powers under this Act,
15 conduct its proceedings in such manners as to avoid undue delays and shall
16 dispose of any matter before it finally within ninety (90) days from the date
17 of the commencement of the hearing of the substantive action. Provided that
18 the Tribunal shall have the power to extend the number of days for trials,
19 where for unforeseen circumstances it is unable to dispose of any matter
20 within 90 days from the commencement of the hearing of the substantive
21 suit.

Proceedings of
the Tribunal

22 **43.**-(1) The Tribunal may make rules regulating its procedures.

Powers of the
Tribunal

23 (2) The Tribunal shall have, for the purposes of discharging its
24 functions under this Act, power to-

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

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

28 (c) receive evidence on affidavits;

29 (d) call for the examination of witness or documents;

30 (e) review its decisions;

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

2 (g) do anything which in the opinion of the Tribunal is incidental or
3 ancillary to its functions under this Act.

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

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

Judgment of the
Tribunal

9 **44.**-(1) The Tribunal shall give its judgment in writing.

10 (2) The written judgment shall be signed by members of the panel
11 who adjudicated over the matter, provided that the absence of one signature out
12 of the three signatures does not invalidate or vitiate the judgment.

13 (3) A certified true copy of the decision of the Tribunal shall be
14 supplied to the parties upon request.

Appeal to the
Court of Appeal

15 **45.**-(1) Any person dissatisfied with a decision of the Tribunal may
16 appeal against such decision to the Court of Appeal.

17 (2) Where the appeal is to be made against a final decision of the
18 Tribunal, the appeal shall be as of right and shall be filed within 30 days from
19 the date of the final decision.

20 (3) Where the appeal is against an interlocutory decision, it shall be
21 with leave of the Tribunal, and shall be filed within fifteen (15) days from the
22 day the decision:

23 Provided that an appeal against an interlocutory decision of the
24 Tribunal shall not serve as a Stay of Proceedings.

Funds of the
Tribunal

25 **46.**-(1) The Tribunal shall establish and maintain a fund, into which
26 shall be paid and credited-

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

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

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

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

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

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

8 **47.** The Tribunal shall keep proper accounts of its receipts,
9 payments, assets and liabilities and the accounts shall be audited at least 2
10 months before the terminal period of the Tribunal, by a qualified auditor
11 appointed from a list of Auditors and in accordance with the guidelines
12 supplied by the Auditor-General for the Federation.

Account and
audit of the
Tribunal

13 PART VIII - MISCELLANEOUS

14 **48.**-(1) The Commission may make rules or regulations with
15 respect to the exercise of any of the duties, functions or powers of the
16 Commission under the Act.

Power to make
regulation

17 (2) Regulations made under this Act shall be transmitted to the
18 National Assembly within 90 days after gazetting.

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

Offence by an
Officer of the
Commission

23 **50.** No civil action shall be commenced against the Commission or
24 its authorised officers until 30 days pre-action notice has been served on the
25 Commission

Legal Proceedings

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

Restriction on
execution against
property of the
Commission

Indemnity of
officers of the
Commission

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

Transitional
Provisions

6 **53.**-(1) Any person who immediately before the commencement of
7 the Act was a staff of the Independent National Electoral Commission but
8 handling issues relating to prosecution of electoral offences shall continue in
9 office and be deemed to have been appointed under this Act for purposes of
10 Pension.

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

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

17 (4) Without prejudice to subsection (3) of this section, the functions
18 conferred upon the Independent National Electoral Commission in relation to
19 the prosecution of electoral offences and other related matters in the Electoral
20 Act, shall, as from the commencement of this Act, be conferred upon and
21 exercisable by the Commission established under section 2 of this Act and
22 accordingly, all references to the "Independent National Electoral
23 Commission", whether express or implied, in the Electoral Act shall, unless the
24 context otherwise requires, be construed as references to the "Electoral
25 Offences Commission."

Interpretation

26 **54.** In this Act-
27 "Commission" means the Electoral Offences Commission" established under
28 this Act;
29 "Electoral offence" means political thuggery, electoral fraud, political
30 terrorism and any other offence prescribed under the Constitution, this Act, the

1 Electoral Act, any Act of the National Assembly or in a regulation;
2 "Political Party" has the same meaning as in the Electoral Act; and
3 "Public officer" means any person employed in the public service of the
4 Federation or of a State;
5 "The President" means the President and Commander-in-chief of the Armed
6 Forces of the Federal Republic of Nigeria.

7 **55.** This Bill may be cited as the Electoral Offences Commission Short title
8 and Tribunal (Establishment) Bill, 2023.

1 FIRST SCHEDULE

2 SUPPLEMENTARY PROVISIONS RELATING TO THE COMMISSION

3 [Section 3 (5)]

4 *Proceedings of the Commission*

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

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

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

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

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

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

1 *Convening of Meetings of the Commission*

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

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

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

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

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

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

22 *Committees*

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

27 14. A committee appointed under paragraph 13 of this Schedule
28 shall be presided over by a member of the Commission and shall consist of
29 such number of persons (not necessarily all members of the Commission)
30 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 office
4 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 simple majority of
8 members 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 and a Tribunal with powers to provide legal framework for the investigation and prosecution of electoral offences.