



HOUSE OF REPRESENTATIVES

AD-HOC COMMITTEE ON CONSTITUTION REVIEW

(Sub-Committee on Electoral Offences Commission)

NATIONAL ASSEMBLY COMPLEX P. M. B, 141, GARKI

THREE - ARMS ZONE, ABUJA-NIGERIA

NASS/HR/SUB7/05

10th August, 2009

His Excellency,
The Executive Governor,
Government House,
Kwara State.

PUBLIC HEARING ON A BILL FOR AN ACT TO ESTABLISH ELECTORAL OFFENCES COMMISSION AND OTHER MATTERS CONNECTED THEREWITH

Your Excellency is aware that the President of the Federal Republic of Nigeria had forwarded some Bills to the House of Representatives for the purpose of amending certain provisions of the 1999 Constitution. The Bills are currently undergoing the requisite legislative processes and in furtherance of this, the Sub-committee of the Ad-hoc Committee on Constitution Review has scheduled to hold Public Hearing on a Bill for an Act to Establish Electoral Offences Commission and Other Matters Connected Therewith.

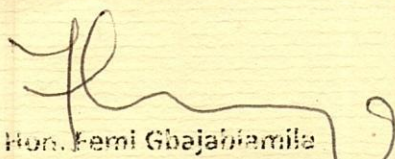
2. The Bill seeks to establish the Electoral Offences Commission with powers to investigate offences committed in relation to the conduct of general elections and undertake the prosecution of persons found contravening any of the comprehensive penal provisions set out in the Electoral Act, 2006 as supplemented by this Act.

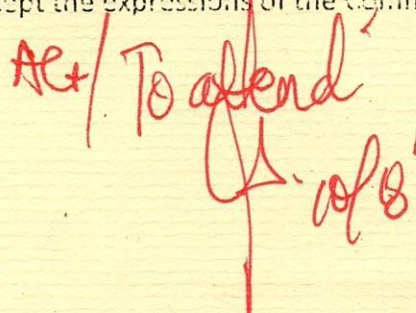
3. In view of your esteemed position as a stakeholder, I have the pleasure of the Ad-hoc Committee on Constitution Review to invite you to a **one-day** Public Hearing on the Bill as follows:

Date: Friday, 14th August 2009
Venue: House of Representatives, Conference Room 231
New Wing, National Assembly Complex, Abuja
Time: 9:00am prompt

4. Please, find attached a copy of the Bill for your perusal and you may direct your submission and further enquiries to the Secretariat of the Sub Committee in Room 18, White House, House of Representatives, National Assembly Complex, Abuja or by e-mail to Kwayama99@yahoo.com

5. While we look forward to receiving you, please accept the expressions of the Committee's regard.


Hon. Femi Gbajaniemi
Chairman (Sub-Committee)

Act/ To attend


ARRANGEMENT OF CLAUSES

Clause:

PART I

1. Establishment of the Electoral Offences Commission
2. Establishment and Composition of the Governing Board
3. Members of the Commission Disqualified from Holding Elective Office
4. Removal of Member
5. Establishment of Offices in the States and the Federal Capital Territory
6. Appointment of the Secretary and other Staff
7. Staff Regulations.
8. Pension

PART II

9. Funds of the Commission
10. Account and Audit
11. Annual Reports
12. Training

PART III

13. Legal Proceeding
14. Powers and Immunities of Officers
15. Special Powers
16. Attempt or Conspiracy
17. Power to Investigate
18. Power to Examine Persons

PART IV

19. General Provisions as to Summons
20. Warrant to Search Premises
21. Obligation to give Information
22. Obstruction of Inspection and Search

A BILL

FOR

AN ACT TO ESTABLISH THE ELECTORAL OFFENCES COMMISSION AND FOR OTHER MATTERS CONNECTED THEREWITH

[]

Commence-
ment.

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows—

PART I

1

2 1.—(1) There is established a body to be known as the Electoral Offences
3 Commission (in this Act referred to as “the Commission”) which shall be
4 constituted in accordance with and shall have such functions as are conferred
5 upon it by this Act.

Establishment
of the
Electoral
Offences
Commission.

6 (2) The Commission shall be a body corporate with perpetual succession
7 and a common seal and may sue and be sued in its name.

8 (3) The Commission shall be charged with the responsibility of enforcing
9 the provisions of this Act and of the Electoral Act, 2006 in so far as they relate
10 to the investigation and prosecution of electoral offences set out in Part VIII of
11 the Electoral Act 2006 or as may be amended from time to time and in accordance
12 with the provisions of this Act and any other law relating to electoral offences.

13 2.—(1) There shall be appointed for the Commission, a Governing Board
14 (in this Act referred to as “the Board”)

Establishment
and
Composition
of the
Governing
Board.

15 (2) The Board shall consist of the following members—

16 (a) a Chairman who shall be the Chief Executive Officer;

17 (b) Deputy Chairman;

18 (c) Six persons, one each representing a geopolitical zone;

19 (d) a representative of the Federal Ministry of Justice who shall be in the
20 Directorate level nominated by the Attorney-General of the Federation; and

21 (e) a representative of the Nigeria Police Force not below the rank of an
22 Assistant Inspector-General of Police nominated by the Inspector General of
23 Police;

1 Commission.

2 (3) The Commission may, from time to time, appoint such other staff or
3 on secondment from government security or law enforcement agencies or such
4 other private or public services as it may deem necessary, to assist the
5 Commission in the performance of its functions under this Act.

6 (4) The staff of the Commission appointed under subsection (3) of this
7 section, shall be upon such terms and conditions as the Commission may, after
8 consultation with the Federal Civil Service, determine.

9 7.—(1) The Commission may, subject to the provisions of this Act, make
10 staff regulations relating generally to the conditions of service of the employees
11 of the Commission and, without prejudice to the generality of the foregoing, the
12 regulations may provide for—

Staff
Regulations.

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

15 (b) appeals by such employees against dismissal or other disciplinary
16 measures, and until the regulations are made, any instrument relating to the
17 conditions of service of officers in the Civil Service of the Federation shall
18 be applicable, with such modifications as may be necessary, to the employees
19 of the Commission

20 (2) Staff regulations made under subsection (1) of this section shall not
21 have effect until approved by the Commission, and when so approved the
22 regulations may not be published in the Gazette but the Commission shall cause
23 them to be brought to the notice of all affected persons in such manner as it may
24 from time to time. determine.

25 8.—(1) It is declared that service in the Commission shall be public
26 service for the purposes of the Pensions Reform Act 2004 and, accordingly,
27 officers and other persons employed in the Commission shall in respect of their
28 service in the Commission, be entitled to pensions and other retirement benefits
29 as are prescribed thereunder, so however that nothing in this Act shall prevent
30 the appointment of a person to any office on terms which preclude the grant of
31 a pension in respect of that office.

Pension.

1 (e) dissemination of information on electoral and related offences

2 PART III

3 13.—(1) No suit shall commence against the Commission before the
4 expiration of a period of 30 days after written notice of intentions to commence
5 the suit shall have been served on the Commission by the intending plaintiff or
6 his agent and the notice shall clearly and explicitly state—

Legal
Proceeding.

7 (a) the cause of action;

8 (b) the particulars of the claim

9 (c) the name and place of abode of the intending plaintiff;

10 (d) the relief which it claims

11 (2) For the purpose of this section:

12 "Suit" means civil proceedings commenced by writ of summons or in
13 such other manner as may be prescribed by rules of court and includes an
14 action, but not a criminal proceeding.

15 (3) The notice referred to in subsection (1) of this section and any summons,
16 notice or other documents required or authorized to be served on the commission
17 in connection with a suit by or against the Commission, may be served by—

18 (a) Delivery it to the Director- General or

19 (b) Sending it by registered post addressed to the Director-General at the
20 head office of the Commission.

21 14.—(1) Subject to the provisions of this Act, an officer of the Commission
22 when investigating or prosecuting an electoral offence shall have all the powers
23 and immunities of a police officer under the Police Act and any other laws
24 conferring power on the police or empowering and protecting law enforcement
25 agents

Powers and
Immunities of
Officers.

26 (2) If, in the course of, any investigations or proceedings in a court in
27 respect of the commission of an electoral offence or an offence under this Act
28 by any person, there is disclosed an offence under any other written law, not
29 being an electoral offence or offence under this Act, irrespective of whether
30 the offence was committed by the same person or any other person. the officer
31 of the Commission responsible for the investigation or proceedings, as the case

Cap. 359
LFN.

1 addressed to the Chairman.

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

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

10 (4) A report made under subsection (1) of this section shall not be disclosed
11 by any person other than to the officers of the Commission until the accused
12 person has been arrested or charged to court for an offence arising from such
13 report.

14 (5) Any document certified by any officer of the Commission under
15 subsection (2) in respect of a report under subsection (1) shall be admissible as
16 evidence of the contents of the original and of the time, place and manner in
17 which the report was recorded.

18 **18.—**(1) An officer of the Commission investigating an electoral offence
19 or an offence under this Act may—

Power to
Examine
Persons.

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

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

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

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

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

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

11 (5) Where a summons has been served upon the person to whom it is
12 addressed or is delivered to any other person the person to whom it is addressed
13 or delivered, as the case may be, shall sign a receipt therefore on the duplicate;
14 and where service is not effected by handing the summons to an individual but
15 by some other method approved by this Act, the person effecting service shall
16 endorse on the duplicate particulars of the method by which the service was
17 effected.

18 (6) A person required to sign a receipt on the back of the duplicate summons
19 to the effect that he has received the summons who refuses to do so may be
20 arrested by the person serving the summons and shall be guilty of an offence
21 and upon conviction be liable to 12 month imprisonment or a fine of ₦100,000.00
22 or both.

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

27 **20.—**(1) Whenever it appears to the Chairman upon information, and
28 after such inquiry as he shall consider necessary, that there is reasonable cause
29 to suspect that in any place there is any evidence of the commission of an
30 electoral offence or offence under this Act, he may by written order direct an
31 officer of the Commission to obtain a court order to—

Warrant to
Search
Premises.

1 to submit to a search by any person authorized to search him under this Act;

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

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

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

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

13 (f) destroys anything to prevent the seizure thereof or the securing of the
14 thing, shall be guilty of an offence punishable with imprisonment for 12
15 months without the option of fine.

16 PART V

17 23.—(1) Every electoral offence or offence under this Act shall be a Bail, etc.
18 bailable offence for the purposes of the Criminal Procedure Act or Code.

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

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

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

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

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

- 1 **27.** In this Act, unless the context otherwise requires— Interpretation.
2 “Commission” means the Electoral Offences Commission established in
3 Section 1 of this Act.
4 “electoral entity” means any association or organization which participates
5 in the electoral process, including but not limited to the Independent National
6 Electoral Commission, the Political Parties Registration and Regulatory
7 Commission, the political parties and civil society organizations or groups
8 of person or persons
9 “electoral offence” means any offences prescribed in sections 124 to 139
10 of the Electoral Act, 2006 or under any Act of the National Assembly or
11 other law;
12 “Minister” means the Attorney-General of the Federation and Minister
13 of Justice
14 “public officer” means any person employed in the public service or the
15 Federation or of a State.
16 **28.** This Bill may be cited as the Electoral Offences Commission Citation.
17 (Establishment, etc.) Bill, 2009.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Electoral Offences Commission with powers to investigate offences committed in relation to the conduct of general elections and undertake the prosecution of persons found contravening any of the comprehensive penal provisions set out in the Electoral Act, 2006 as supplemented by this Act.