

FACTSHEET

FACTSHEET OF THE NIGERIA ELECTORAL OFFENCES COMMISSION BILL PASSED BY THE HOUSE OF REPRESENTATIVES

This Factsheet contains some of the highlights of the Nigerian Electoral Offences Commission Bill (HB 504 & HB 546) that was passed by the House of Representatives on Wednesday, 31st January 2018. The Bill seeks to establish a Nigeria Electoral Offences Commission that will be the primary body in charge of investigating and prosecuting electoral offences created under the Constitution, Electoral Act or any other law related to Electoral Offences.

S/No.	BILL'S PROVISIONS	HIGHLIGHTS
1.	Clause 1 Nigerian Electoral Offences Commission	This establishes a Nigerian Electoral Offences Commission to be headquartered in Abuja. However, the Commission may establish an office or more branches in each state of the Federation and the Federal Capital Territory, Abuja to carry out its functions under the Bill.
2.	Clause 2 Composition of the Commission	Under the Bill, the Commission shall compose of a Chairman who is the Chief Executive Officer and accounting officer and 12 other Members known as National Commissioners. The Chairman and 12 other Members shall be appointed by the President on a renewable term of four years subject to Senate's confirmation - clause 3. The Chairman and/or Members of the Commission can be suspended or removed by the President if he is satisfied that it is either not in the interest of the Commission or the public for the person to continue in office. The President can also remove the Chairman and/or Members for the inability to discharge the functions of his office for reason of infirmity of mind or of body under clause 3(4).

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		However, the removal or suspension by the President must be approved by either a confirmation by Senate or on a motion supported by Senate's two-thirds majority vote. The Office of the Chairman or Member of the Commission shall become vacant on the attainment of reaching 70 years old or becoming a member of , holds an office in or is employed by any political party among others.
3.	Clause 5 Functions and Powers of the Commission	Functions of the Commission include co-ordinating, enforcing and administering the Bill's provisions. It also includes the investigation, enforcement and prosecution of all electoral malpractices and offences created under the Constitution, Electoral Act or any law related to Electoral offences. The Commission is responsible for the sensitisation, enlightenment and orientation of the public, the adoption of measures to prevent and eradicate the commission of electoral malpractices and the execution of such activities that are necessary or expedient for the full discharge of all or any of the functions conferred on it under this Bill. Powers of the Commission under this clause include the power to investigate and prosecute any person suspected to have conspired to commit an electoral offence or has already committed one under this Bill or the Electoral Act. Others include the power to issue summons to persons to appear in person or to produce documents that would help in the investigation or prosecution of an electoral offence. The Commission also has the power to seize any property that is used or is suspected to have been used to commit an electoral offence. In addition to this is a general omnibus power to formulate and provide the general policies and guidelines relating to the Commission.

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4.	Clause 6 Standing Orders	This gives the Commission power to issue administrative orders to regulate its proceedings that may enhance efficient and effective functioning. The Commission also has a separate power to make regulations in the exercise of any of the duties, functions or powers of the Commission under the Act. Regulations made under this Bill shall be transmitted to Senate within 90 days after gazetting-clause 35
5	Clause 7 Appointment and Tenure of the Secretary of the Commission	The Secretary, who is the head of administration of the Commission, must be a legal practitioner with at least ten years of experience. Like the Chairman and Members of the Commission, the Secretary shall hold office for a renewable term of 4 years. In addition to the secretary, other staff of the Commission can be appointed from government security or law enforcement agencies- clause 8. The Commission may also appoint experts to assist it in carrying out its functions and duties- clause 11.
6	Clause 12 Funds of the Commission	Clause 12 establishes a fund for the Commission. Some of its sources of its funds include monies approved and appropriated by the National Assembly, monies lent or granted to the Commission by the Government of the Federation, a State or Local Government and charges paid to the Commission in relation to the registration of political parties, grants of licenses, permits and authorizations among others- clause 12 The Commission is also given powers to invest or deposit funds that are not immediately required in a financial institution or the Central Bank of Nigeria- clause 17 A statement of its estimated income and expenditure shall be submitted to the National Assembly no later than 31st August in each financial year (clause 15) while an annual report of the Commission must be submitted to the National Assembly no later than 30th June in each financial year –clause 18

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7	Clause 13 Administration of the Commission's Fund	The Commission is mandated to apply the proceeds of its fund to the cost of administration, acquiring property, equipment or facility for the discharge of its functions or the payment of salaries, allowances or remuneration for members, experts or employees of the Commission.
8	Clause 20 Powers and Immunities of Officers	This gives an officer of the Commission investigating or prosecuting an electoral offence, all the powers and immunities of a police officer under the Police Act. There are also details on how a report relating to the commission of an electoral offence should be made and recorded in clause 21.
9	Clause 22 Power to examine persons	This gives an officer of the Commission power to examine persons, order any person to produce a book, document or certified copy thereof or written notice that can assist in the investigation of an offence.
10	Clause 24 Warrant to Search Premises	This gives the Chairman of the Commission power to direct an officer of the Commission to obtain a court order to enter premises, inspect a book, search a person, stop, search or seize any vehicle or conveyance. However, no person shall be searched under this provision unless it is by a person who is of the same gender as the person to be searched.- clause 24(3). Persons who refuse to submit to a search by any person authorised to search him under the Bill, assault or obstructs any officer or destroy anything to prevent the seizure thereof shall be guilty of an offence punishable with imprisonment for one year without the option of a fine.
11	Clause 25 Obligation to give information	This makes it mandatory for persons to give any information which an officer of the Commission may lawfully require. Failure to do so is an offence and the offender is liable to imprisonment for six months or a fine of ten thousand Naira or both.
12	Clause 26 Obstruction of inspection and search	This penalises any person who refuses an officer access to any premises, fails to submit to a search, assaults, obstructs an officer or destroys anything to prevent the seizure or the securing of a thing among others.

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13.	Clause 27 Attempt or Conspiracy	This penalises any person who attempts or conspires to commit an electoral offence, does any act preparatory to or in furtherance of the commission of any electoral offence, abets or is engaged in criminal conspiracy to commit any electoral offence.
14.	Clause 28 Bail of Offenders	This makes every electoral offence under the Bill, a bailable offence for the purposes of the Criminal Procedure Act or Criminal Procedure Code. While any person arrested under this Bill may be released from custody on executing a bond with sureties, such a person may be re-arrested without warrant if an officer of the Commission believes that he has breached his bail condition or on being notified by his surety that the person has either broken the condition on which he was released or is likely to break it and the surety wishes to be relieved of his obligation as surety.
15	Clause 29 Public Inquiry	This gives the Commission power to hold a public inquiry on a matter relating to the general administration of the Bill or any other legislation, which will serve the objects of this Bill. The public inquiry could be held in response to a written request from a person or entity or on the Commission's initiative if it is satisfied that the matter is of significant interest to the public. Where the Commission decides to hold a public inquiry, it must give notice for a period not less than 21 days stipulating the form in which members of the public are to make submissions. In addition, the Commission has a general power of investigation under clause 30 pertaining to the Bill's administration and information gathering powers. For instance, it can by written notice direct any person to give to the Commission in the manner and form specified under the notice, any such document whether physical or in electronic form and make copies of any document- clause 32.

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		Persons who fail to disclose or omit to give relevant information in response to the Commission's directive shall on conviction be liable to a fine of N1,000,000 or to imprisonment for a term not exceeding one year or both.
16	Clause 34 Appeals and Review of Decisions	This provides for persons aggrieved by any decision of the Commission to request in writing for the review of the Commission's decision and specify the reasons and basis for the request within 45 days from the date the decision is made. Upon such written request, the Commission shall meet to review its decision taking into consideration the submissions of the aggrieved person and conclude its review of the decision not later than 30 days from the date of receipt of the aggrieved person's written submissions.
17	Clause 36 Offences by an Officer of the Commission	An officer of the Commission who commits an offence, aids or abets the commission of an offence may be liable to the maximum punishment prescribed for such offences.
18	Clause 37 Legal Proceedings	No civil action shall be commenced against the Commission or its unauthorised officers until after a 30-day pre-trial notice has been served on the Commission. Also, no execution can be levied or an attachment process issued against the property of the Commission unless notice of at least three months has been given to the Commission- clause 38 In addition, a member of the Commission, Secretary to the Commission or Staff shall be indemnified out of the assets of the Commission in proceedings against him in his capacity as a member of the Commission where the act complained of is not ultra vires his powers-clause 39
19	Clause 40 Transitional Provisions	This states that any person who immediately before the commencement of the Act is a staff of the Independent National Electoral Commission and handles issues relating to the investigation and prosecution of political offences shall continue in office. The said staff are also deemed to have been appointed under this Bill for the purposes of pension.

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		Also, any part-heard proceeding pending before any court immediately before the coming into force of this Bill shall be continued and completed as if this Bill has not been made. It provides for the Bill and the Electoral Act (as amended) to be read and construed in a manner necessary to give effect to the intendment and tenor of this Bill. Lastly, the functions conferred on INEC in relation to the prosecution of electoral offences and other matters related to the Electoral Act shall be exercisable by the Commission from the date of its commencement. Accordingly all references to INEC whether express or implied in the Electoral Act shall, unless the context otherwise requires be construed as references to the Electoral Offences Commission.
20	Clause 42 Short Title	Bill may be cited as the Nigerian Electoral Offences Commission Bill, 2017.
21	Long Title	A Bill for an Act to Establish the Nigerian Electoral Offences Commission
22	Explanatory Memorandum	Bill seeks to establish a Nigerian Electoral Offences Commission and for Related Matters

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About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens' participation in Nigeria. PLAC works to enhance citizens' engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes.

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