

LEGISLATIVE BRIEF

LONG TITLE: A BILL FOR AN ACT TO PROVIDE FOR THE AMENDMENT
OF THE CODE OF CONDUCT BUREAU AND TRIBUNAL ACT
CAP. C15 LAWS OF THE FEDERATION OF NIGERIA AND
FOR RELATED MATTERS HB (420)

SHORT TITLE: CODE OF CONDUCT BUREAU AND TRIBUNAL
(AMENDMENT) BILL, 2019

SPONSORED BY: HON. AWAJI-INOMBEK D. ABIANTE

INTRODUCTION

The Code of Conduct Bureau and Tribunal was established to maintain a high standard of morality in the conduct of government business and to ensure that the actions and behavior of public officers conform to the highest standards of public morality and accountability, and also impose punishment on erring public officers.

Public Service, either at the Local, State or Federal can boasts of officers with great professional acumen who can use their experience during their free periods to enhance the socio-economic development of this country, but are denied through the restrictions placed on them in consideration of the Principal Act. Also, in order to remove political interference in the activities of Members of the Code of Conduct Tribunal, there is a need to amend the sections that deals with their appointment and removal.

INTENDMENT OF THE BILL

Mr. Speaker, My Honorable Colleagues, this bill seeks to amend the Code of Conduct Bureau and Tribunal Act by removing the restriction placed on public officers from engaging in any enterprise other than farming and breaking the prison walls of same as well as putting the appointment and removal of the Chairman and Members of the Code of Conduct Tribunal under the jurisdiction of the National Judicial Council.

Accordingly, the following amendments are being proposed in the Bill:

The existing Section 6 of the Principal Act with the heading: Restrictions on specified officers should be deleted and a new Section 6 inserted and read as follows:

“(6) Restrictions on specified officers

(a) A public officer shall not receive or be paid the emoluments of any public office at the same time as he receives or is paid the emolument of any other public office.

(b) Subject to Section 5 of the Principal Act, a public officer may engage in any enterprise(s), provided there is no conflict of interest.

Also, there is a need to substitute the word “President” in line 1 of Section 20 (4) with “National Judicial Council” and the word “National Judicial Council” in line 2 of the same section with “Federal Judicial Service Commission”, thus Section 20 (4) of the Principal Act will now read “The Chairman and other members of the Tribunal shall be appointed by the National Judicial Council on the recommendation of the Federal Judicial Service Commission”.

Finally, the word “President” in line 2 of Section 22 (3) is to be substituted with “National Judicial Council”. Thus Section 22 (3) read as follows: “A person holding the office of chairman or member of the Tribunal shall not be removed from his office or appointment by the National Judicial Council except upon an address supported by two-thirds majority of each House of the National Assembly praying that he be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of this Act”.

CONCLUSION

Mr. Speaker, My Honorable Colleagues, I wish to express my profound gratitude for your attention and urge you all to support this bill, which is aimed at removing the restriction placed on agile and competent public officers from engaging or participating in the management of a business, profession or trade, and also removing political interference in the activities of the Chairman and Members of the Code of Conduct Tribunal.

Thank you.

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- (b) examine the assets declarations and ensure that they comply with the requirements of this Act and of any law for the time being in force;
- (c) take and retain custody of such assets declarations; and
- (d) receive complaints about non-compliance with or breach of this Act and where the Bureau considers it necessary to do so, refer such complaints to the Code of Conduct Tribunal established by section 20 of this Act in accordance with the provisions of sections 20 to 25 of this Act:

Provided that where the person concerned makes a written admission of such breach or non-compliance, no reference to the Tribunal shall be necessary.

4. Members of staff of the Bureau

(1) Subject to the provisions of this Act, the tenure of office of staff of the Bureau shall be the same as that provided for in respect of officers in the civil service of the Federation.

(2) The power to appoint members of staff of the Bureau and to exercise disciplinary control over them shall vest in the Bureau, and shall be exercisable in accordance with the provisions of rules and regulations as may, from time to time, be made by the President.

5. Conflict of interest with duty

A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.

6. Restrictions on specified officers

Without prejudice to the generality of section 5 of this Act, a public officer shall not—

- (a) receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office; or
- (b) except where he is not employed on full-time basis, engage or participate in the management or running of any private business, profession or trade; but nothing in this paragraph shall prevent a public officer from engaging in farming or participating in the management or running of any farm.

[No. 5 of 1990.]

7. Prohibition of foreign accounts

Any public officer specified in the Second Schedule to this Act or any other persons as the President may, from time to time, by order prescribe, shall not maintain or operate a bank account in any country outside Nigeria.

[Second Schedule.]

8. Retired public officers

A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as chairman, director or employee of a company owned or controlled by any Government or public authority or receive any other remuneration from public funds in addition to his pension and the emolument of one such remunerative position.

9. Certain retired public officers

(1) Retired public officers who have held offices to which this section applies are prohibited from service or employment in foreign companies or foreign enterprises.

(2) This section applies to the office of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.

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submit to the Bureau a written declaration in the Form prescribed in the First Schedule to this Act or, in such form as the Bureau may, from time to time, specify, of all his properties, assets and liabilities and those of his spouse or unmarried children under the age of twenty-one years.

[First Schedule.]

(2) Any statement in any declaration that is found to be false by any authority or person authorised in that behalf to verify it, shall be deemed to be a breach of this Act.

(3) Any property or assets acquired by a public officer after any declaration required by subsection (1) of this section and which is not fairly attributable to income, gifts or loan approved by this Act, shall be deemed to have been acquired in breach of this Act unless the contrary is proved.

16. Allegation of breach of provisions of this Act

Any complaint that a public officer has committed a breach of or has not complied with the provisions of this Act shall be made to the Bureau.

17. Agents and nominees

A public officer who does any act prohibited by this Act through a nominee, trustee or other agent shall be deemed *ipso facto* to have committed a breach of this Act.

18. Exemption

(1) The President may by order exempt any cadre of public officers from the provisions of this Act if it appears to him that their position in the public service is below the rank which it considers appropriate for the application of those provisions.

(2) The President may by order confer on the Bureau such additional powers as may appear to it to be necessary to enable it to discharge more effectively the functions conferred upon it under this Act.

19. Indemnity of members of the Bureau

The chairman and other members of the Bureau shall not be liable, and shall be indemnified, in any action or litigation for any acts or omissions done or purported to be done in the course of the discharge of their duties under this Act.

PART II

Code of Conduct Tribunal

20. Establishment of Code of Conduct Tribunal

(1) There is hereby established a tribunal to be known as the Code of Conduct Tribunal (in this Act referred to as the "Tribunal").

(2) The Tribunal shall consist of a chairman and two other members.

(3) The chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record in Nigeria and shall receive such remuneration as may be prescribed by law.

(4) The chairman and other members of the Tribunal shall be appointed by the President on the recommendation of the National Judicial Council.

(5) The National Assembly may by law confer on the Tribunal such additional powers as may appear to it to be necessary to enable the Tribunal to discharge more effectively the functions conferred on it under this Act.

21. Staff

(1) The tenure of office of the staff of the Tribunal shall, subject to the provisions of this Act, be the same as that provided for in respect of officers in the civil service of the Federation.

(2) The power to appoint the staff of the Tribunal and to exercise disciplinary control over them shall vest in the members of the Tribunal and shall be exercisable in accordance with the provisions of this Act.

22. Tenure of office of Chairman and member

(1) Subject to the provisions of this section, a person holding the office of chairman or member of the Tribunal shall vacate his office when he attains the age of seventy years.

(2) A person who has held office as chairman or member of the Tribunal for a period of not less than ten years shall, if he retires at the age of seventy years, be entitled to pension for life at a rate equivalent to his last annual salary in addition to other retirement benefits to which he may be entitled.

(3) A person holding the office of chairman or member of the Tribunal shall not be removed from his office or appointment by the President except upon an address supported by two-thirds majority of each House of the National Assembly praying that he be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of this Act.

(4) A person holding the office of chairman or member of the Tribunal shall not be removed from office before retiring age, save in accordance with the provisions of this section.

23. Powers of the Tribunal to impose punishment

(1) Where the Tribunal finds a public officer guilty of contravening any of the provisions of this Act, it shall impose upon that officer any of the punishments specified under subsection (2) of this section.

(2) The punishment which the Tribunal may impose shall include any of the following—

- (a) vacation of office or any elective or nominated office, as the case may be;
- (b) disqualification from holding any public office (whether elective or not) for a period not exceeding ten years; and
- (c) seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

(3) The punishments mentioned in subsection (2) of this section shall be without prejudice to the penalties that may be imposed by any law where the breach of conduct is also a criminal offence under the Criminal Code or any other enactment or law.

(4) Where the Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Act, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Court of Appeal from the decision of the Tribunal conferred by subsection (4) of this section shall be exercised in accordance with the provisions of the rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

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

(7) The provisions of the Constitution of the Federal Republic of Nigeria, 1999, relating to prerogative of mercy, shall not apply to any punishment imposed in accordance with the provisions of this section.

[Cap. C23.]

24. Rules of procedure

(1) The rules of procedure of the Tribunal, and the rules of procedure of the Tribunal, shall be made in accordance with this Act.

(2) The rules of procedure of the Tribunal shall be made in accordance with the provisions of this Act.

(3) For the purpose of this section—

(a) after co-ordinator of officers or directly

(b) if the Tribunal in Nigeria

Provide
tion sha

(4) Any person or by a person

25. Power to issue writs

Notwithstanding of the Tribunal is building or other premises, which, in his opinion, it is necessary to enter, if necessary to seize and remove the contents of the building or other premises.

26. Interpretation

In this Act, unless the context otherwise requires—

“Bureau” means the Code of Conduct Bureau; and

“business” means any business, whether or not it is a business, and excludes farming; and

“child” includes any individual who is under the age of 18 years; and

“emolument” means any benefit, advantage or privilege, whether in money or in kind, which is payable to or for any employee of the Government; and

“foreign company” means any company which is incorporated outside Nigeria; and