

NATIONAL ELECTORAL OFFENCES COMMISSION BILL BEFORE THE 9TH HOUSE OF REPRESENTATIVES

This Factsheet contains highlights of the provisions of the consolidated Nigerian Electoral Offences Commission Bill currently before the House of Representatives. The Bill seeks to establish a National Electoral Offences Commission (NEOC) that will be in charge of investigating and prosecuting electoral offences created under the Bill, the Electoral Act, or any other law related to Electoral Offences.

In June 2022, the House of Representatives consolidated about 5 Bills dealing with the establishment of an Electoral Offences Commission and Electoral Offences Tribunal [HBs 695, 1372, 1427, 753, & 1589 (Senate Bill)]. The consolidated bill is now subject of a Public Hearing being organised by the House of Representatives Committee on Electoral Matters. Below is a summary of the bill's provisions.

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| | PART I | ESTABLISHMENT OF NATIONAL ELECTORAL OFFENCES COMMISSION |
| 1 | Clause 1 Establishment of the National Electoral Offences Commission | This Bill establishes the National Electoral Offences Commission. The Commission shall be a corporate body with perpetual succession, have a common seal, may sue and be sued in its corporate name and may for the purpose of its functions, acquire, hold or dispose of property. The Commission shall have its headquarters in the FCT and establish offices in all the States of the Federation including the FCT. |
| 2 | Clause 2 Membership of the Commission | The Commission shall consist of members who shall not be registered members of any political party. Members are to include: <ul style="list-style-type: none"> • the Chairman (<i>a person who has held office not below the rank of a retired Justice of the Court of Appeal</i>), • the Secretary and • representatives of the Federal Ministries of Justice, interior, Defense and information. |

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| | | <ul style="list-style-type: none"> Others are the Inspector General of Police, Chairman Independent National Electoral Commission (INEC), Chairman, Nigeria Human Rights Commission, Commandant General National Security Civil Defense Corp (NSCDC), Director General, National Financial Intelligence Unit (NFIU), Director General, Legal Aid Council of Nigeria or their Representatives. Also included are six Nigerians with cognate experience representing each Geopolitical Zone and at least two of whom shall be women. <p>Appointment of these persons is to be made by the President, subject to nomination by the National Judicial Council and confirmation by the Senate.</p> |
| 3 | Clause 3 Tenure of Office | The Chairman and <i>non-ex officio</i> members shall hold office for a period of five years and may be re-appointed for a further term of five years. Removal of members of the commission by the President requires the approval of 2/3rd majority of the Senate. A member may also resign his/her membership by notice in writing addressed to the President. |
| 4 | Clause 4 Vacancy in Membership | This deals with filling of vacancy occurring in the membership of the Commission. In such case, a successor is to be appointed to hold office for the remainder of the term of office of the predecessor. |
| 5 | Clause 5 Standing Orders | This empowers the commission to make regulations for the running of its affairs or proceedings. |
| | PART II | FUNCTIONS OF THE COMMISSION |
| 6 | Clause 6 Functions of the Commission | <p>The functions of the commission include the following:</p> <ul style="list-style-type: none"> Investigation of all electoral offences created in any law relating to elections in Nigeria Prosecution of offenders under the bill subject to the provisions of Section 174 of the constitution (this section deals with the powers of the Attorney-General on public prosecutions) Liaising with the Attorney-General of the Federation and Electoral bodies in the Federation, security and law enforcement agencies in discharging its duties. Maintaining records of all persons investigated and prosecuted |

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| | | <ul style="list-style-type: none"> • Liaising with other bodies within or outside Nigeria involved in the investigation or prosecution of electoral offences. • Facilitation of exchange of scientific and technical matters and conduct joint operation to adopt measures to prevent, minimize, eradicate the commission of electoral offences throughout the Federation. • Liaison with the Independent National Electoral Commission, the Electoral offences Tribunals, the Attorney General of the Federation and States and other institutions involved or associated in the conduct of elections. • Etc. |
| 7 | <p>Clause 7</p> <p>Powers of the Commission</p> | <p>This provision outlines the powers of the commission which include:</p> <ul style="list-style-type: none"> • power to investigate, arrest and persecute any person, corporate body or organization alleged to have committed an offence under this Bill, the Electoral Act 2022, or other law related to elections; or any person alleged to have corruptly perverted or undermined the course of electoral justice. • power to adopt measures to prevent, minimize and eradicate the commission of electoral offences throughout the Federation. • power of seizure of any property (moveable or immovable) that is used or suspected to be used in the Commission of an electoral offence |
| | PART III | STAFF OF THE COMMISSION |
| 8 | <p>Clause 8</p> <p>Staff of the Commission</p> | <p>This clause establishes the Secretariat of the Commission to be headed by the Secretary of the Commission. The Secretary will be responsible for the administration of the Commission's secretariat and the keeping of the Commissions books and records. The Commission may appoint such other staff or second officers from government security or law enforcement agencies or such other private or public services as it may deem necessary to assist the commission in the performance of its functions.</p> |
| 9 | <p>Clause 9</p> <p>Special Programmes</p> | <p>This empowers the Commission to initiate, develop and implement specific training programmes for its law enforcement and other personnel charged with the eradication of electoral offences.</p> |

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| 10 | Clause 10 Establishment of Special units | Provides that the commission shall have the: <ul style="list-style-type: none"> • investigations, legal and prosecution unit • elections monitoring and operations unit • administration unit • research and training unit in addition to any unit the commission may deem necessary |
| 11 | Clause 11 Special Duties of the Units | Outlines the duties of the Investigation, Legal and Prosecution Unit to include: <ul style="list-style-type: none"> • the prevention and detection of electoral offences; • the arrest and apprehension of perpetrators of electoral offences; • dealing with matters connected with mutual international assistance in criminal matters involving electoral offences. • etc. |
| | PART IV | ELECTORAL OFFENCES |
| 12 | Clause 12 Offences arising from violating existing law | This provides for the sanctioning of various offences such as violation of the provisions of the Electoral Act 2022 or any other law on elections in force in the Federation or a part of the Federation. |
| 13 | Clauses 13 to 32 | <p>These clauses define specific electoral offences and penalties for persons, political parties, organisations or corporate bodies who may be convicted of such. The offences are as follows:</p> <p>13. Offences by a Person</p> <p>Includes making false statement to INEC during registration, forgery of nomination or election documents, unauthorised sale or supply of election documents, unauthorised movement of electoral documents outside a polling unit, production of election devices or other mechanism capable of manipulating election results. Penalty is imprisonment for a term not exceeding 15 years, or a minimum of N3,000,000 or both.</p> <p>14. Offences Relating to Register of Voters, Voter's card, etc.</p> <p>Includes unauthorised printing, possession, supply of voters' card, unauthorised destruction of voters' card, buying and selling of voters' card. This carries a penalty of up to 15 years imprisonment for offenders and 10 years for accomplices.</p> |

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| | <p>Clauses 13 to 32 (cont'd)</p> | <p>15. Offences by Election Officials Includes making of false entries or records, granting special voting access to persons who are not PWDs (persons with disabilities) and equally, refusing to provide voting access to PWDs, wrongly refusing persons from voting, willfully refusing to count valid ballots, or counting them wrongly, giving false evidence or withholding same, announcing, or declaring a false election result. The penalty is imprisonment for a term of at least ten (10) years.</p> <p>16. Impersonation Impersonation of a voter by a person. Penalty is imprisonment for a term of not more than one (1) year.</p> <p>17. Undue Influence Includes threat of force, violence or restraint, threat of temporal or spiritual injury, damage, or loss, as well as coercion, blackmail or intimidation directed at a voter or candidate in the exercise of their political rights.</p> <p>18. Bribery This offence includes inducement via procuring, giving or promising money, loan, valuable consideration, employment, or other benefit to or for any voter or person, or on behalf of any voter or person in order to induce their votes, or induce a voter to refrain from voting. This offence extends to inducements to a person to agree to be nominated as a candidate or to refrain from becoming a candidate or to withdraw.</p> <p>19. Punishment and Incapacities for Corrupt practice This clause provides the penalty for personation, undue influence, and bribery, which is imprisonment for a term of at least 15 years. It also criminalises the publishing of false statements on the withdrawal of a candidate in any print or electronic media or the Internet, before or during any election with the aim of promoting another candidate. The penalty for this is imprisonment for a term of at least 10 years or a minimum fine of N5,000,000 or both.</p> |
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**Clauses 13 to 32
(cont'd)**

20. Perversion of Electoral Justice

Includes acceptance by a Judicial Officer or Officer of a Court or Tribunal of money, gift, loan, property, valuable consideration, office, place, employment or appointment, or a promise of personal enrichment for the purpose of giving, rendering, procuring or directing a judicial decision in favour of or against a particular person or party in an election petition. Penalty is imprisonment for a term of at least 15 years without an option of a fine.

21. Election official, security personnel not to cause influence

An election official or election security personnel performing any act intended to make any particular candidate successful or unsuccessful in an election commits the offence of breach of electoral peace and is liable to imprisonment for at least 6 months or a fine of at least N500,000, or both.

22. Prohibition on Disturbing Public Peace

Doing the following in a polling unit or its neighbourhood on election day, starting from 3 hours to voting to the end of election on that day.

- Using loudspeakers, megaphones or similar devices
- Playing musical instruments, singing and dancing, holding assembly or function of any kind whatsoever, making or causing to make commotion, or manhandling, or shouting. Penalty is at least at least 6 months imprisonment or a fine of at least N100,000, or both.

23. Prohibition on damaging of character

Includes making false accusation, damaging or defaming the character of any candidate in an election or his family member by making, saying, printing, publishing, distributing, posting, airing, or televising such before or during any election, in the print or electronic media including radio, television, the Internet, online or social media with an intention to prejudice the result of the election. Penalty is imprisonment for a term of at least 10 years or a fine of at least N10,000,000, or both.

**Clauses 13 to 32
(cont'd)**

24. Restriction on election campaigns

- Producing election campaign materials for distribution physically or dissemination via internet, traditional or social media, etc. without the name and address of the political party, aspirant, candidate, or person to whom/which they belong.
- Posting of election campaign materials on religious, archaeological, or historical buildings, monuments or structures.
- Posting of election campaign materials on a private house, shop, wall, or other structure without consent of the owner.
- Penalty for all of the above is imprisonment for a term of at least 5 years or a fine of at least N10,000,000, or both.

25. Prohibition on Campaign against National Interest

Propagating information that undermines or can undermine the independence, sovereignty, territorial integrity, or unity of Nigeria; that promotes or is capable of promoting feeling of enmity or hate on the basis of any religion, community, caste, tribe, language or territorial region; or causes or is capable of causing people to vote on the basis of any religion, community, caste, tribe, language or territorial region. Penalty is imprisonment for at least 20 years without an option of a fine.

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

Before, during or after an election: grabbing, looting, damaging or destroying ballot boxes, ballot papers or any other electoral document or material, or unauthorised taking or attempting to take ballot boxes or ballot papers or any other electoral document or material. Penalty is imprisonment for at least 20 years or a fine of at least N40,000,000.

27. Certain expenditure to be illegal practice

- Paying or contracting to pay to convey voters to an election with the aim of promoting or procuring the election of a candidate.
- Lending/putting out for hire or hiring/borrowing a vessel to convey voters (except family members) to an election.
- Paying or contracting to pay a voter to use any house, land, building, or premises to advertise bills or notices aimed at promoting or procuring the election of a candidate.

**Clauses 13 to 32
(cont'd)**

Exceptions exist:

- where several voters hire a vessel at their joint cost for the purpose of being conveyed to or from the poll.
- where voters are unable to reach their polling units from their place of residence without crossing the sea or a river, in this case, the conveyance must be offered equally to all the voters.
- where a voter is an advertising agent paid to exhibit bills and advertisements in the ordinary course of business.

Penalty for offences in this clause is imprisonment for at least 15 years.

28. Employers to allow employees reasonable period for voting

- Refusal by an employer to grant employees time to vote on election day, intimidation, or undue influence on employee that interferes with exercise of their voting right.
- Making deductions from the pay or remuneration of an employee/voter or punishing them by reason of their absence from office to vote on election day.
- Penalty for the employer is a fine of at least N6,000,000 or imprisonment for at least 3 years, or both.
- Exceptions: Federal Government security and law enforcement personnel; employees serving as election officials, and those in essential public or private service.

29. Limitation of Political propaganda on polling day

Supplying any musical instrument or loudspeaker to any person for the purpose of political propaganda on polling day. Penalty is a fine of at least N1,000,000 or imprisonment for a term of at least one (1) year, or both.

30. Offences relating to false information

Giving of false information to a public officer by a person responsible for discharging a duty under this bill. Penalty is imprisonment for a term of at least 2 years and not more than 3 years. If the offender is a public officer also, imprisonment of at least 3 years and not more than 5 years.

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| | <p>Clauses 13 to 32 (cont'd)</p> | <p>31. Offences relating to Election Expenses</p> <ul style="list-style-type: none"> • Failure of a candidate to submit a statement of election expenses to the Electoral Offences Commission, 6 months after the election. Penalty is imprisonment for 6 months plus a fine equal to the amount of money specified in the relevant law as the maximum for election expenses for the elective office in question. • False statement of election expenses or election expenses substantially above legal ceiling for the elective office in question. Penalty is a fine not exceeding the legally stipulated ceiling for election expenses for that office. • In the aforesaid cases, the Commission may compound the offences by imposing a fine on the candidate. Such monies shall be paid into the Consolidated Revenue Fund of the Federation. <p>32. Prohibition of Hate Speech</p> <p>Using or directing the use of threatening words, behaviour or action, or displaying or directing the display of any written material which is threatening or incites violence, with intention to stir up ethnic, religious, or racial hatred, social or political insecurity or violence against anyone or group of persons. Even if not intended, it is still an offence if circumstances show that these effects are likely to be stirred by such threatening speech or behaviour. Penalty is imprisonment for at least 10 years or a fine of at least N40,000,000, or both.</p> <p><i>Exceptions:</i></p> <p>Discussion, criticism or expressions of antipathy, dislike, ridicule, insult or abuse of particular beliefs or practices of their adherents; proselytising or urging adherents of a different belief system to cease practicing their belief system; and subjective descriptions of a person's actions or behaviour unless the motive to spread hate is clearly defined.</p> |
| | <p>PART V</p> | <p>COURTS</p> |
| <p>14</p> | <p>Clause 33</p> <p>Jurisdiction and special powers of the Court</p> | <p>This provision gives the Federal High Court, High court of a State or the High Court of the Federal Capital Territory, Abuja the jurisdiction to try alleged offenders under this Bill. The Chief Judge of any of the aforesaid Courts has the powers to designate a Court or Judge or such numbers of courts or judges as he/she may deem appropriate to hear and determine matters brought pursuant to the provisions of</p> |

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| | | the Bill and matters brought under this Bill shall be given priority over other matters |
| | PART VI | FINANCIAL PROVISIONS |
| 15 | Clause 34 Commission's fund, budgetary appropriation and gifts | The Bill provides that the Commission shall be funded via National Assembly appropriations. It shall establish and maintain a fund from which all expenditure reasonably incurred shall be defrayed. The Commission is also allowed to accept gifts of land, money, or other property both within and outside Abuja upon terms and conditions specified by the person, organization, corporate body making such gift provided they are not contrary to the objectives and functions of the commission |
| 16 | Clause 35 Accounts and Audit | The Commission shall keep proper accounts, in a form which conforms to accepted commercial standards of its receipts, payments, assets and liabilities and shall submit the accounts annually for auditing by a qualified auditor appointed in accordance with the guidelines supplied by the Auditor General of the Federation. |
| 17 | Clause 36 Submission of Annual Report | The Bill provides that the commission shall not later than 30th day of September in each year submit to the President and National Assembly, a report of its activities during the immediately preceding year and shall include in such report the audited accounts of the Commission |
| | PART VII | MISCELLANEOUS PROVISIONS |
| 18 | Clause 37 Power to receive information without hinderances | The Bill empowers the Commission to seek and receive information from any person, political party, organization, authority, corporation, or company without hinderance in respect of provisions it is empowered to deal with. And anybody who willfully obstruct such will be penalized if convicted in accordance with the provisions of the Bill. The stated penalty for willful obstruction of the Commission and failure to comply with any lawful enquiry or requirements is imprisonment for a term of least 5 years or to a fine of at least N2,000,000.00, or both. |
| 19 | Clause 38 Seizure and forfeiture | The Bill seeks to empower the Commission to seize any property used in the planning or execution of an electoral offence stipulated in the bill, however such seizure will be upon the application to a court for an interim order in the first instance, where the seizure is incidental to a lawful arrest or search executed by the commission or upon an order of final forfeiture issued by a Court following a successful application made by the Commission. |

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| 20 | Clause 39 Attempt to commit an electoral offence | This Bill makes it an offence for any person to attempt to commit any electoral offence provided in the Bill, the Electoral Act or any other law in or does any act in furtherance of the commission of any electoral offence. Such person shall on conviction be liable to the punishment provided for such offence. The Bill also provides that any person who aids, counsels or procures another person to commit an electoral offence shall be deemed to have taken part in the commission of such offence and may be charged with actually committing the offence. |
| 21 | Clause 40 Protecting informants and information and penalty for false information to officers of the commission | The proposed enactment protects the commission from divulging their sources of information. It succinctly provides that it shall not be compelled to disclose the source of information or identity of their informants except by the order of a court or tribunal upon successful application seeking the discretion of the court to do so. Penalty is also prescribed for any person who makes false, misleading, untrue information/statements to officials or any other public officer in the course of exercising their duties. |
| 22 | Clause 41 Appeals against interlocutory rulings, etc. | The Bill provides that an application for stay of proceedings in respect of any criminal matter brought by the Commission before the High Court shall not be entertained until judgement is delivered by the High Court. |
| 23 | Clause 42 Immunities | The Bill provides that an officer of the Commission, when investigating or prosecuting a matter under the Bill shall have powers and immunities of a police officer under the Police Act and any other law conferring powers on the Police or empowering and protecting officials or personnel of law enforcement agencies. |
| 24 | Clause 43 General Savings | The Bills empowers the commission to take over matters related to electoral matters by providing that any offence committed, or proceedings instituted before the commencement of this Bill under the provisions of the Electoral Act 2022 and any other law shall be enforced and continue to be enforced by the National Electoral Offences Commission. |
| 25 | Clause 44 Regulations | The Attorney General of the Federation is empowered to makes rules and regulations with respect to the exercise of any of the duties, functions, or powers of the Commission. |

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| 26 | Clause 45 Interpretation | <p>“Court”- means the Federal High Court or High court of the Federal Capital Territory or the High Court of a State</p> <p>“Election”- means any election held in accordance with the provisions of any written law in the federation or part thereof relating to the election or persons to public offices</p> <p>“Electoral offences” - means acts of commission or omission stipulated as offences punishable by law under this bill, the Electoral Act 2022 or any other law relating to the conduct of elections in the Federation</p> <p>“Federation” - means the Federal Republic of Nigeria</p> <p>“The Commission”- means the National Electoral Offences Commission (NEOC)</p> |
| 27 | Clause 46 Short Title | The Bill may be cited as the National Electoral Offences Commission Bill |

ABOUT PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organisation 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. The main focus of PLAC’s intervention in democratic governance is on building the capacity of the legislature and reforming the electoral process.

Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.

