

**NATIONAL HUMAN RIGHTS COMMISSION (AMENDMENT)
ACT 2010**



ARRANGEMENT OF SECTIONS

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WHEREAS considering that the United Nations Charter and the provisions of the Constitution of the Federal Republic of Nigeria 1999 are based on the principles of dignity and equality of all human beings and seek, among other basic objectives, the promotion and respect for human rights and fundamental freedom for all without distinction as to race, sex, language or religion:

AND WHEREAS to facilitate Nigeria's implementation of its various treaty obligations including, but not limited to, the Universal Declaration of Human Rights, the International Convention for Economic, Social and Cultural Rights, the International Convention on the Elimination of all forms of Racial Discrimination and the African Charter on Human and Peoples' Rights:

AND WHEREAS the Federal Government of Nigeria is desirous of creating an enabling environment for extra-judicial recognition, promotion and enforcement of all rights recognised and enshrined in the Constitution of the Federal Republic of Nigeria 1999, the International and Regional Instruments and under any other existing legislation:

AND WHEREAS in furtherance of the above objectives and its determination to provide a forum for public enlightenment and dialogue on and to limit controversy and confrontation over allegations of human rights violations by individuals, corporate bodies, public officers and agencies and to re-affirm the sacred and inviolable nature of human and other fundamental rights:

Now **THEREFORE THE NATIONAL ASSEMBLY** hereby enacts as follows:

**PART I – ESTABLISHMENT OF THE NATIONAL HUMAN RIGHTS COMMISSION,
ETC.**

Establishment of the
National Human
Rights Commission

1. (1) There is hereby established a body to be known as the National human Rights Commission (in this Act referred to as the "Commission").

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

Governing Council
of the Commission

2. (1) There shall be for the Commission a Governing Council (in this Act referred to as "the Council") which shall be responsible for the discharge of the functions of the Commission.

(2) The Council shall consist of –

(a) a Chairperson who shall be a retired Justice of the Supreme Court, or Court of Appeal, or a retired Judge of the Federal High Court or High Court of a State or a legal practitioner with 20 years post qualification experience and requisite experience in human rights;

(b) a representative each of the Federal Ministry of:

(i) Justice, who shall not be below the rank of a Director,

(ii) Foreign Affairs, who shall not be below the rank of a Director,

(iii) Internal Affairs, who shall not be below the rank of a Deputy Controller of Prisons:

Provided that ex-officio members shall not have voting powers in the council;

(c) 3 representatives of registered human rights organizations in Nigeria;

- (d) 2 legal practitioners who shall not have less than 10 years post qualification experience to be appointed on the recommendation of the National Executive Committee of the Nigerian Bar Association;
- (e) 3 representatives of the print and electronic media, 1 to represent the public and 2 to represent the private media;
- (f) 1 representative of the organised labour;
- (g) 2 other persons who shall be women with sufficient experience in human rights issues; and
- (h) the Executive Secretary of the Commission.

(3) The Chairperson and members of the Council shall each be –

- (a) persons of proven integrity; and
- (b) appointed by the President, subject to the confirmation by the Senate.

(4) Every member of the Council shall, before starting his duties, make and subscribe to an oath that he shall faithfully and impartially and to the best of his ability, discharge the duties devolving upon him under the Act, that he shall not divulge the proceedings, votes or opinions of the members of the Council or any other matter relevant to the functions of the Commission.

Cap. O1 LFN.

(5) Such oath shall be in accordance with the Oaths Act and in this Act, “Oath” includes affirmation and declaration.

(6) The supplementary provisions set out in the Schedule to this Act shall have effect with respect to the proceedings of the Council and other matters contained therein.

Tenure of office, etc

3. (1) A member of the Council, other than the Executive Secretary shall hold office for a term of four years and may be re-appointed for one further term of four years and no more.

(2) A member of the Council may at any time resign his office in writing addressed to the President, Commander-in-Chief of the Armed Forces and which resignation shall become effective on acceptance by the President, Commander-in-Chief of the Armed Forces.

(3) Members of the Council shall be paid such allowances as may be determined by the President, on the recommendation of the Revenue Mobilization, Allocation and Fiscal Commission.

Cessation of membership

4. (1) A member of the Council shall be removed from office by the President, Commander-in-Chief of the Armed Forces subject to confirmation by simple majority of the Senate, if he:

- (a) becomes of unsound mind;
- (b) becomes bankrupt or makes a compromise with his creditors;
- (c) is convicted of a felony or any offence involving dishonesty; or
- (d) is guilty of serious misconduct in relation to his duties.

(2) Where a vacancy occurs in the membership of the Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, so however that the successor shall represent the same interest and shall be appointed by the President, Commander-in-Chief of Armed Forces.

PART II – FUNCTIONS AND POWERS

5. The Commission shall –

Cap. C23 LFN

Cap. A9 LFN

- (a) deal with all matters relating to the promotion and protection of human rights guaranteed by the Constitution of the Federal Republic of Nigeria, the United Nations Charter and the Universal Declaration on Human Rights, the International Convention on Civil and Political Rights, the International Convention on the Elimination of all forms of Racial Discrimination, the International Convention on Economic, Social and Cultural Rights, the Convention on the Elimination of all forms of Discrimination Against Women, the International Convention on the Elimination of all forms of Racial Discrimination, the Convention on the Rights of the Child, the African Charter on Human and Peoples' Rights and other international and regional instruments on human rights to which Nigeria is a party;
- (b) monitor and investigate all alleged cases of human rights violations in Nigeria and make appropriate recommendations to the Federal Government for the prosecution and such other actions as it may deem expedient in each circumstance;
- (c) assist victims of human rights violations and seek appropriate redress and remedies on their behalf;
- (d) undertake studies on all matters pertaining to human rights and assist the Federal, State and Local Governments where it considers it appropriate to do so in the formulation of appropriate policies on the guarantee of human rights;
- (e) publish and submit, from time to time, to the President, National Assembly, Judiciary, State and Local Governments, reports on the state of human rights promotion and protection in Nigeria;
- (f) organise local and international seminars, workshops and conferences on human rights issues for public enlightenment;
- (g) liaise and cooperate, in such manner as it considers appropriate, with local and international organizations on human rights with the purpose of advancing the promotion and protection of human rights;
- (h) participate in such manner as it considers appropriate in all international activities relating to the promotion and protection of human rights;
- (i) maintain a library, collect data and disseminate information and materials on human rights generally;
- (j) receive and investigate complaints concerning violations of human rights and make appropriate determination as may be deemed necessary in each circumstance;

- (k) examine any existing legislation, administrative provisions and proposed bills or bye-laws for the purpose of ascertaining whether such enactments or proposed bills or bye-laws are consistent with human rights norms;
- (l) prepare and publish, in such manner as the Commission considers appropriate, guidelines for the avoidance of acts or practices with respect to the functions and powers of the Commission under this act;
- (m) promote an understanding of public discussions of human rights issues in Nigeria;
- (n) undertake research and educational programmes and such other programmes for promoting and protecting human rights and co-ordinate any such programme on behalf of the Federal, State or Local Governments on its own initiative or when so requested by the Federal, State or Local Government and report concerning the enactment of legislation on matters relating to human rights;
- (o) on its own initiative or when requested by the Federal, State or Local Government, report on actions that should be taken by the Federal, State or Local Government to comply with the provisions of any relevant international human rights instruments;
- (p) refer any matter of human rights violation requiring prosecution to the Attorney-General of the Federation or of a State, as the case may be;
- (q) where it considers it appropriate to do so, act as a conciliator between parties to a complaint;
- (r) where it considers it appropriate, with the leave of the court hearing the proceedings and subject to any condition imposed by the court, intervene in any proceeding that involves human right issues; and
- (s) carry out all such other functions as are necessary or expedient for the performance of these functions under the Act.

Powers of the
Commission

6. (1) The Commission shall have power to –
- (a) conduct its investigations and inquiries in such manner as it considers appropriate;
 - (b) institute any civil action on any matter it deems fit in relation to the exercise of its functions under this Act;
 - (c) appoint any person, whether or not such person is in the public service, to act as an interpreter in any matter brought before it and to translate any such book, paper or writing produced to it;
 - (d) visit prisons, police cells and other places of detention in order to ascertain the conditions thereof and make recommendations to the appropriate authorities;

- (e) make determination as to the damages or compensation payable in relation to any violation of human rights where it deems this necessary in the circumstances of the case;
- (f) co-operate with and consult with other agencies and organizations, governmental and non-governmental, as it may deem appropriate; and
- (g) do such other things as are incidental, necessary, conducive or expedient for the performance of its functions under this Act.

(2) Whenever it appears to the Chairman upon information and after such inquiry as he shall think necessary, that there is reasonable cause to suspect that in any place there is evidence of the commission of any offence under this Act, he may by written order direct an officer of the Commission to obtain a court order to –

- (a) enter upon any land or premises or by any agent or agents duly authorized in writing for any purpose which, in the opinion of the Council is material to the functions of the Commission, and in particular, for the purpose of obtaining evidence or information or of inspecting or taking copies of any document required by, or which may be of assistance to, the Commission and for safeguarding any such document or property which in the opinion of the Council ought to be safeguarded for any purpose of its investigations or proceedings;
- (b) summon and interrogate any person, body or authority to appear before it for the purpose of a public inquiry aimed at the resolution of a complaint of human rights violation;
- (c) issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the Commission;
- (d) compel any person, body or authority who, in its opinion, has any information relating to any matter under its investigation to furnish it with any information or produce any document or other evidence which is in his or her custody and which relates to any matter being investigated; and
- (e) compel the attendance of witnesses to produce evidence before it.

(3) In exercising its functions and powers under this Act, the Commission shall not be subject to the direction or control of any other authority or person.

(4) It is an offence for any person, body or authority to –

- (a) refuse to provide evidence, including documentary evidence, to the Commission in response to a written request to do so;
- (b) obstruct or do anything to prevent any member of the Council or an employee of the Commission from the lawful exercise of any of the functions conferred on the Commission by this Act;
- (c) punish intimidate, harass or discriminate against any person for co-operating with the Commission in the exercise of its functions under this Act;

(d) refuse to comply with lawful directives, determination, decision or finding of the Commission.

(5) A person who commits an offence under subsection (4) of this section is liable on conviction to imprisonment for a term of 6 months or to a fine of ₦100,000.00 or to both such imprisonment and fine.

PART III - STAFF

Executive Secretary
of the Commission

7. (1) There shall be for the Commission an Executive Secretary who shall be –
- (a) a legal practitioner with not less than 20 years post qualification experience and requisite experience in human rights issues;
 - (b) a person of proven integrity and be the Chief Executive and Accounting Officer of the Commission; and
 - (c) appointed by the President subject to confirmation by the Senate.

(2) The Executive Secretary shall hold office for a term of five years in the first instance on such terms and conditions as the President, Commander-in-Chief of the Armed Forces, may on the recommendation of the Attorney-General of the Federation determine, and may be reappointed for one further term of five years and no more.

(3) Subject to such general directions as the Council may give, the Executive Secretary shall be responsible for the day-to-day administration of the Commission and the implementation of the decisions of the Council.

(4) The Executive Secretary shall perform the functions of keeping the record of proceedings and decisions of the Council and such other functions as the Council may, from time to time, direct.

Other staff of the
Commission etc

8. (1) The Council shall have power to appoint directly, and either on transfer or on secondment from any public service in the Federation, such number of employees as may, in the opinion of the Council, be required to assist the Commission in the discharge of any of its functions under this act, and shall have power to pay to persons so employed such remuneration (including allowances) as the Council may determine.

(2) The terms and conditions of service (including terms and conditions as to remuneration, allowances, pensions, gratuities and other benefits) of the person employed by the Commission shall be as determined by the Council from time to time.

(3) The Council may engage such consultants and advisers as it may require for the proper and efficient discharge of the functions of the Commission.

Staff regulations

9. The Commission may, subject to the provisions of this Act, make staff regulations relating generally to the conditions of service of the employees of the Commission and without prejudice to the generality of the foregoing, such regulations may provide for –
- (a) the appointment, promotion and disciplinary control (including dismissal) of employees of the Commission; and
 - (b) appeals by such employees against dismissal or other disciplinary measures.

Conditions of service 10. The Council shall determine the conditions of service, including salaries, pensions and gratuities as are appropriate for its employees.

Pensions Cap. P4 LFN 11. (1) It is hereby declared that service in the Commission is a scheduled service and shall be deemed to be pensionable under the Pensions Act and, accordingly, employees of the Commission shall in respect of their service in the Commission, be entitled to pensions, gratuities and other retirement benefits as are prescribed thereunder.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension or gratuity in respect of that office.

PART IV – FINANCIAL PROVISIONS

Funds of the Commission 12. (1) The Commission shall establish and maintain a fund which shall be applied towards the discharge of its functions under this act.

(2) The Fund of the Commission shall be a charge on the Consolidated Revenue Fund of the Federation.

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

(a) such sums as may be provided by the Government of the Federation for the Commission;

(b) any fees charged for services rendered by the Commission; and

(c) all other sums accruing to the Commission by way of gifts, testamentary depositions, endowments and contributions from philanthropic persons and organizations or otherwise however.

Power to accept gifts 13. (1) The Commission may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The Commission shall not accept any gift if the conditions attached by the person or organisation making the gift are inconsistent with the functions of the Commission.

Borrowing powers etc 14. (1) The Commission may borrow by way of loan or overdrafts from any source such specific amount as may be required by the Commission for meeting its obligations and discharging its functions under this act.

(2) The Commission, may subject to this Act and the conditions of any trust created in respect of any property, invest all or any of its funds.

Cap.T22 LFN (3) The Commission may, from time to time, invest any surplus funds of the Commission in securities prescribed by the Trustee Investments Act or such other securities.

Cap.L5 LFN (4) Subject to the provisions of the Land Use Act, the Commission may acquire or lease any land required for its purpose under this Act.

Establishment of the Fund of the Commission

15. (1) There is hereby established the Human Rights Fund (in this Act referred to as “the Fund”) which shall be applied by the Commission towards –
- (a) the conduct of research on human rights issues; and
 - (b) the facilitation of human rights activities of the Commission in collaboration with other human rights non-governmental organizations, civil society organizations and other stakeholders.
- (2) There shall be paid and credited to the Fund established pursuant to subsection (1) of this section –
- (a) such sums as may be provided by the Federal, State or Local Government for purposes of the Fund; and
 - (b) such contributions from national and multi-national public and private companies and institutions carrying on business in Nigeria.
- (3) Such contributions made to the Fund under subsection (2)(b) of this section shall be tax deductible.

Annual estimates

16. (1) The Council shall cause to be prepared, not later than 30th September in each year, an estimate of the expenditure and income of the Commission during the next succeeding year and when prepared they shall be submitted to the Federal Executive Council for approval.

Accounts and audit

- (2) The Council shall cause to be kept proper accounts and proper records in relation thereto and when certified by the Council, such accounts shall be audited as provided in subsection (3) of this section.

- (3) The accounts of the Commission shall be audited by auditors appointed from the list of auditors and in accordance with the guidelines issued by the Auditor-General of the Federation and the fees of the auditors and the expenses for the audit generally shall be paid from the funds of the Commission.

Annual reports

17. The Commission shall not later than 6 months after the end of each year, submit to the President and the National Assembly, a report on the activities of the Commission and its administration during the immediately preceding year and shall include in the report the audited accounts of the Commission and the auditors comments thereon.

PART V – MISCELLANEOUS PROVISIONS

Limitation of suit against the Commission
Cap. P41 LFN

18. (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any member of the Council, officer or employee of the Commission.

- (2) No suit shall lie or be instituted in any court against any member of the Council, the Executive Secretary or any other office or employee of the Commission for an act done in pursuance or execution of this act or any other law or enactment, or of any public duty or authority or in respect of any alleged neglect or default in the execution of this Act or such law or enactment, duty or authority unless –

- (a) it is commenced within 3 months next after the act, neglect or default complained of; or
- (b) in the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.

(3) No suit shall be commenced against any member of the Council, the Executive Secretary, officer or employee of the Commission before the expiration of a period of one month after written notice of intention to commence the suit shall have been served upon the Commission by the intending plaintiff or his agent.

(4) The notice referred to in subsection (3) of this section shall clearly state -

- (a) the cause of action;
- (b) the particulars of claim;
- (c) the name and place of abode of the intending plaintiff; and
- (d) the relief which he claims

Service of document

19. A notice, summons or other documents required or authorized to be served upon the Commission under the provisions of this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post and addressed to the Executive Secretary at the principal office of the Commission.

Restriction of execution against property of the Commission

20. Any sum of money, which may by the judgment of any court be awarded against the Commission, shall be paid from the general reserve fund of the Commission subject to any direction given by the court.

Indemnity of officers

21. A member of the Council, the Executive Secretary, any officer or employee of the Commission shall be indemnified out of the assets of the Commission against any proceedings, where civil or criminal, in which judgment is given in favour of another or in which he is acquitted, if any such proceeding is brought against him in his capacity as a member of the Council, the Executive Secretary, officer or employee of the Commission provided that he acted in good faith.

Recognition and enforcement of awards and recommendations

22. (1) An award or recommendation made by the Commission shall be recognized as binding and subject to this section and, this Act, shall, upon application in writing to the court, be enforced by the court.

(2) In this section, "court" means the Federal High Court or the High Court of the Federal Capital Territory, Abuja or the High Court of a State.

Regulations

23. The Commission may make such regulations, as it deems necessary or expedient to give effect to the provisions of this Act.

24. This Act may be cited as the National Human Rights Commission (Amendment) Act, 2010.

SCHEDULE *Section 2(6)*

Proceedings of the Council

1. (1) Subject to this Act and section 27 of the Interpretation Act, the Council may make standing orders regulating its proceedings or those of any of its committees.

(2) The quorum of the Council shall be 6 members, excluding the ex-officio members but including the Chairman or, in his absence, the person elected under paragraph 2(2) of this Schedule to preside and 5 other members, and the quorum of any Committee of the Council shall be determined by the Council.
2. (1) The Council shall meet at least once a month in each calendar year and subject thereto, the Council shall meet whenever it is summoned by the Chairman, and if the Chairman is required to do so, by notice given to him by not less than four other members, he shall summon a meeting of the Council to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Council, the Chairman shall preside but if he is absent, the members present at the meeting shall elect one of their number to preside at the meeting.

(3) Where the Council desires to obtain the advice of any person on a particular matter, the Council may co-opt him to the Council for such period as it thinks fit, but a person who is in attendance by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards a quorum.

Committees

3. (1) The Council may appoint one or more committees to carry out, on behalf of the Council, such of its functions as the Council may determine

(2) A committee appointed under sub-paragraph (1) of this paragraph shall consist of such number of persons (not necessarily members of the Council) as may be determined by the Council, and a person other than a member of the Council, shall hold office on the committee in accordance with the terms of his appointment.

(3) A decision of a committee of the Council shall be of no effect until it is confirmed by the Council.

Miscellaneous

4. The fixing of the seal of the Commission shall be authorised by the signature of the Chairman or any person specifically authorised to act for that purpose by the Council.