

PUBLIC COMPLAINTS COMMISSION ACT

ARRANGEMENT OF SECTIONS

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PUBLIC COMPLAINTS COMMISSION ACT

An Act to establish the Public Complaints Commission with wide powers to inquire into complaints by members of the public concerning the administrative action of any public authority and companies or their officials, and other matters ancillary thereto.

[1975 No. 31.]

[16th October, 1975]

[Commencement.]

1. **Establishment of Public Complaints Commission**

(1) There shall be established a commission to be known as the Public Complaints Commission (in this Act referred to as "the Commission") which shall consist of a Chief Commissioner and such number of other Commissioners as the National Assembly may, from time to time, determine.

(2) The Commission may establish such number of branches of the Commission in the States of the Federation as the National Assembly may from time to time determine.

1. **Appointment, tenure of office, etc., of Chief Commissioner and Commissioners**

(1) The Chief Commissioner and other Commissioners shall be appointed by the National

Assembly and shall be persons of proven integrity and shall possess such other qualifications as the National Assembly may determine.

(2) Subject to subsection (3) of this section, a Commissioner shall hold office for a term of three years in the first instance and shall be eligible for re-appointment for a second term of three years and shall vacate his office at the expiration of a period of six years.

(3) A Commissioner may at any time be removed from his office of appointment by the National Assembly.

(4) There shall be paid to the Chief Commissioner and other Commissioners such salaries and allowances as the President may from time to time direct.

(5) There shall also be paid to every Commissioner upon completion of his period of service a gratuity calculated in such manner as the President may direct.

(6) The amounts payable under this section shall be charged upon and paid out of the Consolidated Revenue Fund of the Federation.

(7) A Commissioner shall not while holding office hold any other office of emolument whether in the public service or elsewhere.

1. Appointment and tenure of office of other staff

(1) The Chief Commissioner shall appoint such additional officers and servants (not being Commissioners) as he may determine to assist him and other Commissioners in the discharge of their functions under this Act.

(2) The remuneration and tenure of office of the other officers and servants of the Commission shall be determined by the Chief Commissioner after consultation with the Federal Civil Service Commission.

1. Application of Pensions Act

(1) The Federal Civil service Commission may by order published in the Federal *Gazette* declare the office of any person employed in the Commission to be a pensionable office for the purposes of the Pensions Act; and any order so made may be given retrospective effect but shall not be made to take effect on a date earlier than 16 October 1975.

(2) Subject to subsections (3) and (4) of this section, the Pensions Act shall, in its application by virtue of subsection (1) of this section to any office, have effect as if the office were in the public service of the Federation within the meaning of the Constitution of the Federal Republic of Nigeria, 1999.

(3) For the purposes of the application of the provisions of the Pensions Act in accordance with subsection (2) of this section, any power exercisable thereunder by a Minister or other authority of the government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

(4) Nothing in the foregoing provisions of this section shall prevent the appointment of a person to any office in the Commission on terms which preclude the grant of a pension or gratuity in respect of service in that office.

(5) It is hereby declared for the avoidance of doubt, that references in this section to persons employed in the Commission do not include references to Commissioners.

5. Powers and duties of Commissioners

(1) All Commissioners shall be responsible to the National Assembly but the Chief Commissioner shall be responsible for co-ordinating the work of all other Commissioners.

[1979 No. 21.]

(2) A Commissioner shall have power to investigate either on his own initiative or following complaints lodged before him by any other person, any administrative action taken by-

- (a) any Department or Ministry of the Federal or any State Government;
- (b) any Department of any local government authority (howsoever designated) set up in any State in the Federation;
- (c) any statutory corporation or public institution set up by any Government in Nigeria;
- (d) any company incorporated under or pursuant to the Companies and Allied Matters Act whether owned by any Government aforesaid or by private individuals in Nigeria or otherwise howsoever; or
- (e) any officer or servant of any of the aforementioned bodies.

(3) For the purposes of this Act-

- (a) the Chief Commissioner may determine the manner by which complaints are to be lodged;
- (b) any Commissioner may decide in his absolute discretion whether, and if so, in what manner, he should notify the public of his action or intended action in any particular case;
- (c) any Commissioner shall have access to all information necessary for the efficient performance of his duties under this Act and for this purpose may visit and inspect any premises

belonging to any person or body mentioned in sub-section (2) of this section;

(d) every Commissioner shall ensure that administrative action by any person or body mentioned in subsection (2) will not result in the commitment of any act of injustice against any citizen of Nigeria or any other person resident in Nigeria and for that purpose he shall investigate with special care administrative acts which are or appear to be—

(i) contrary to any law or regulation;

(ii) mistaken in law or arbitrary in the ascertainment of fact;

(iii) unreasonable, unfair, oppressive or inconsistent with the general functions of administrative organs;

(iv) improper in motivation or based on irrelevant considerations;

(v) unclear or inadequately explained; or

(vi) otherwise objectionable; and

(e) a Commissioner shall be competent to investigate administrative procedures of any court of law in Nigeria.

(4) Where concurrent complaints are lodged with more than one Commissioner, the Chief Commissioner shall decide which Commissioner shall deal with the matter and his decision thereon shall be final.

(5) All Commissioners and all the staff of the Commission shall maintain secrecy in respect of matters so designated by reason of source or content, so however that a Commissioner may, in any report made by him, disclose such matters as in his opinion ought to be disclosed in order to establish grounds for his conclusions and recommendations.

(6) **In** the exercise of the powers conferred upon a Commissioner by this section, the Commissioner shall not be subject to the direction or control of any other person or authority.

(7) **It** shall be the duty of any body or person required by a Commissioner to furnish information pursuant to subsection (3) (c) of this section to comply with such requirement not later than thirty days from receipt thereof.

1. **Restrictions**

(1) A Commissioner shall not investigate any matter—

(a) that is clearly outside his terms of reference;

(b) that is pending before the National Assembly, the Council of State or the President;

(c) that is pending before any court of law in Nigeria;

(d) relating to anything done or purported to be done in respect of any member of the armed forces in Nigeria or the Nigeria Police Force under the Armed Forces Act, or the Police Act, as the case may be;

[Cap. A20. Cap. P19.]

(e) in which the complainant has not, in the opinion of the Commissioner, exhausted all available legal or administrative procedures;

(f) relating to any act or thing done before 29 July 1975 or in respect of which the complaint is lodged later than twelve months after the date of the act or thing done from which the complaint arose;

(g) in which the complainant has no personal interest.

(2) For the purposes of paragraph (b) of subsection (1) of this section, a notice signed by the Secretary to the Federal Government and addressed to the Commissioner, certifying that any matter is pending before any of the bodies mentioned in that paragraph, shall be conclusive as to the pendency of the matter.

(3) In every case where a Commissioner decides not to investigate a complaint he shall state the reason there for.

1. Recommendations after investigation

(1) A Commissioner may recommend to the appropriate person or responsible administrative agency, after due investigation of any complaint, any of the following steps, that is-

(a) that a further consideration of the matter be made;

(b) that a modification or cancellation of the offending administrative or other act be effected;

(c) that an alteration of a regulation or ruling be effected;

(d) that full reasons behind a particular administrative or other act be given.

(2) Where appropriate, a Commissioner may refer cases, where he feels that existing laws or administrative regulations or procedures are inadequate, to the National Assembly or the appropriate House of Assembly of a State or to any other appropriate person or body.

(3) In every case where a Commissioner discovers that a crime may have been committed by any person, he shall report his findings to the appropriate authority or recommend that that person be prosecuted.

(4) In every case where a Commissioner is of the opinion that the conduct of any person is such that disciplinary action against such a person be taken, he shall make a report in that regard to the appropriate authority which shall take such further action as may be necessary in the circumstances.

1. Offences and penalties therefor

(1) Any complaint lodged before the Commission shall not be made public by any person except a Commissioner and any person who contravenes the provisions of this subsection shall be guilty of an offence and shall be liable on conviction to a fine of N500 or imprisonment for a term of six months or to both such fine and imprisonment.

(2) If any person required to furnish information under this Act fails to do so or in purported compliance with such requirement to furnish information knowingly or recklessly makes any statement which is false in a material particular, he shall be guilty of an offence and liable on conviction to a fine of N500 or imprisonment for a term of six months or to both such fine and imprisonment.

(3) Any person who wilfully obstructs, interferes with, assaults or resists any Commissioner or any other officer or servant of the Commission in the execution of his duty under this Act or who aids, invites, induces or abets any other person to obstruct, interfere with, assault or resist any such Commissioner, officer or servant, shall be guilty of an offence and liable on conviction to a fine of N500 or imprisonment for a term of six months or to both such fine and imprisonment.

(4) Any person who in respect of any complaint lodged by him knowingly makes to a Commissioner any statement, whether or not in writing, which is false in any material particular, shall be guilty of an offence and shall on conviction be sentenced to imprisonment for one year without the option of a fine.

1. Power to summon persons

(1) In the discharge of his functions under this Act, a Commissioner shall have power to summon in writing any person who in the opinion of the Commissioner is in the position to testify on any matter before him, to give evidence in the matter and any person who fails to appear when required to do so shall be guilty of an offence under this Act.

(2) Any person guilty of an offence under this section shall on conviction be liable to a fine of N500 or imprisonment for a term of six months or to both such fine and imprisonment.

10. Immunity from legal process

(1) No Commissioner shall be liable to be sued in any court of law for any act done or omitted to be done in the due exercise of his duties under or pursuant to this Act.

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(2) Any report, statement or other communication or record of any meeting, investigation or proceedings which a Commissioner, officer or servant of the Commission may make in the due exercise of his functions under this Act, shall be privileged in that its production may not be compelled in any legal proceedings if the Attorney-General of the Federation certifies that such production is not in the public interest.

11. Interpretation

In this Act, unless the context otherwise requires-

“Commission” means the Public Complaints Commission established under section 1 of this Act;

“Commissioner” means any person appointed as such pursuant to section 2 of this Act and references to Commissioner or Commissioners include, where appropriate, references to the Chief Commissioner;

“law” means any Act or Law, and includes any subsidiary legislation made under any of them.

12. Short title, etc.

(1) This Act may be cited as the Public Complaints Commission Act.

(2) The provisions of this Act are in addition to and do not in any manner derogate from the provisions of any other laws guaranteeing liberty of access to courts of law for redress.

(3) For the avoidance of doubt, the powers granted to a Commissioner under this Act may be exercised by him notwithstanding the provisions of other laws which declare the finality of any administrative Act.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation