

# A BILL

## FOR

AN ACT TO AMEND THE ECONOMIC AND FINANCIAL CRIMES COMMISSION ACT TO PROVIDE FOR QUICK RECOVERY PROCEDURES FOR STOLEN ASSET; IMPLEMENT ACTIVE PURSUIT OF CASES, BUILD CAPACITY AND IMPROVE TRUST AND CO-OPERATION WITH FOREIGN COUNTERPARTS; ENSURE ADEQUATE FUNDING OF THE COMMISSION; ESTABLISH THE ECONOMIC AND FINANCIAL CRIMES COURT AND FOR OTHER RELATED MATTERS

*Sponsored by Hon. Barr. Bassey Eko Ewa*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria and by the Authority of Same-

1. The Economic and Financial Crimes Commission Act, 2004 Laws of the Federation of Nigeria 2004 (hereinafter referred to as the Principal Act) is amended as set out in this Act.

Amendment of the Economic and Financial Crimes Commission Act, LFN, 2004

2. Section 3 of the Principal Act is amended by inserting a new sub-sections (4) and (5) and re-arranging accordingly-

"(4)" Petitions against the Chairman or any of the Members of the Economic and Financial Crimes Commission emanating from the public or the private sector shall be submitted to the National Assembly. If upon investigation and found culpable, a simple majority vote of the Members of the National Assembly is required in considering the fate of the Chairman or any of the affected member.

"(5)" The National Assembly shall after thorough investigation forward the recommendations to the President of the Federal Republic of Nigeria for implementation, but if the President objects to the removal of the Chairman or any affected Member of the Commission, he shall communicate in writing to the National Assembly advancing reasons against the removal of the Chairman or an affected member within 30 days.

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Amendment of  
section 12 of  
the Principal  
Act

1 However, a two third majority vote of the National Assembly shall be required  
2 to veto the decision of the President for the affected member to be removed.

3 3. Section 12 of the Principal Act is amended by-

4 (a) Deleting the word "and" immediately after the "Unit" in paragraph  
5 (d);

6 (b) Insert a new paragraph (f) to read "Financial Investigation Unit" to  
7 be headed by a Retired Assistant Inspector-General of Police, and or its  
8 equivalent in the Nigerian Military.

9 (c) Insert a New Sub-Section (3) and re-number accordingly-

10 "(3) All petitions to the Commission shall comply with section 6 (a)  
11 and (b) of the Evidence Act".

12 4. Section 6 of the Principal Act is amended by inserting new  
13 paragraphs (q), (r), (s), (t), (u) and (v) and re-arrange accordingly-

14 (q) Adopt and implement comprehensive strategic policies to combat  
15 corruption, misappropriation or misapplication of public funds and recover  
16 stolen assets, credible intent of political actors, public servants and other  
17 organs of government political will which is a precondition for fighting foreign  
18 corruption and stolen asset recovery;

19 (r) Implement institutional reforms that encourage the active and  
20 speedy pursuit of cases, build capacity, and improve trust and co-operation  
21 with foreign counterparts;

22 (s) Device specialized systems or units with trained practitioners and  
23 adequate resources for addressing the complex and lengthy nature of these  
24 cases;

25 (t) Enable the rapid tracing and freezing of stolen assets and multiple  
26 avenues for asset recovery, including confiscation without a conviction, and  
27 private (civil recovery) actions;

28 (u) facilitate international co-operation including the direct  
29 enforcement of foreign orders and the granting of mutual legal assistance in the  
30 absence of a bilateral legal assistance agreement when dealing with asset

recovery that permit mutual legal assistance requests to freeze assets on an ex parte basis;

(v) Ensure preventive measures requiring financial institutions to identify and monitor and collect beneficial ownership information;

(w) Supporting law enforcement efforts in pursuing kleptocracy cases;

(x) Advocating for pertinent policies, laws and institutional development;

(y) Incorporating stolen asset recovery efforts into development policies;

(z) Establish placement of mentorship and training programmes for foreign law enforcement agencies, including exchanges and secondments of law enforcement officials;

5. Section 12 of the Principal Act is amended by inserting new paragraph (c) and (d) re-arrange accordingly.

"(c)" Asset Confiscation and Recovery Unit.

"(d)" Financial Investigation Unit.

6. Section 13 of the Principal Act is amended by inserting new subsections (3) and (4) re-arrange accordingly.

"(3)" The Asset Confiscation and Recovery Unit shall be charged with the responsibility for-

(a) Employing a dynamic, innovative approach to criminal asset confiscation, with intelligence, operations, legal, policy and other resources from the participating agencies all working together;

(b) Using a proactive intelligence-led approach to identify potential criminal asset confiscation matters; and

(c) Focusing on developing the most effective and appropriate enforcement strategy in each individual case.

"(4)" The Financial Investigation Unit shall have access to all accounts and investigate any account without complying with Section 6(a)

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1 and (b) of the Evidence Act; Provided that the investigation emanates from the  
2 Financial Investigation Unit-

3 (a) The Unit shall be headed by financial expert drawn from the public  
4 or private sector with a requisite experience of not less than 15 years;

5 (b) Accessing unconditionally the bank accounts of individuals,  
6 Public or Politically Exposed Persons working or had worked in any strategic  
7 position exposed to public funds;

8 (c) Monitor cash transactions of all accounts in Nigeria to determine  
9 inflow and outflow daily;

10 (d) The Unit shall engage in any assignment as provided under this  
11 Act for the overall mandate of the Commission.

12 7. Section 18 of the Principal Act is amended by inserting new  
13 paragraph (c) and re-arrange accordingly-

14 "(c)" all convicted persons shall serve an imprisonment of a term not  
15 less than 20 years and have their ill-gotten property, accounts, or investment  
16 confiscated to the government;

17 "(d)" Where the accused person open investigation accepts to refund  
18 the total amount standing in his/her name and willing to plea bargain, he or she  
19 shall be convicted for not than 2 years;

20 "(e)" Any company found guilty of offenses under this Act, both its  
21 asset and finances shall be frozen and the company blacklisted from doing  
22 business in Nigeria for 50 years.

23 8. Section 35 of the Principal Act is amended by inserting new sub-  
24 section (3) and (4) and re-arrange accordingly.

25 "(3)" 0.1% of all contracts awarded by the federal government shall  
26 be credited to the Commission to facilitate prosecutions, practitioner networks  
27 (global or regional asset recovery), enforcement efforts to combat Economic  
28 and Financial crimes and asset recovery;

29 "(4)" 0.1% of Internally Generated Revenue shall be credited to the  
30 funds of the Commission;

