

## ARRANGEMENT OF SECTIONS

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FEDERAL CHARACTER COMMISSION (ESTABLISHMENT, ETC.) ACT

**An Act to establish the Federal Character Commission with responsibility to promote, monitor and enforce compliance with the principles of the proportional sharing of all bureaucratic, economic, media and political posts at all levels of government.**

[1996 No. 34.]

[Commencement. ]

[27th December, 1995]

PART I

*Establishment and functions, etc., of the Federal Character Commission*

**1. Establishment of the Federal Character Commission, etc.**

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

(2) The Commission-

- (a) shall be a body corporate with perpetual succession;
- (b) may sue and be sued in its corporate name;
- (c) shall have its headquarters in the Federal Capital Territory, Abuja; and
- (d) shall establish an office in each State of the Federation.

(3) The Commission shall not be subject to the direction, control or supervision of any other authority or person in the performance of its functions under this Act other than the President.

**2. Membership of the Commission**

(1) The Commission shall consist of-

- (a) a chairman who shall be the chief executive of the Commission;
- (b) a representative each of the States of the Federation; and

(c) a representative of the Federal Capital Territory, Abuja.

(2) The chairman and members of the Commission shall be appointed by the President, subject to confirmation by the Senate.

### **3. Tenure of office**

(1) The chairman and members of the Commission shall hold office for a period of five years in the first instance and for a further term of five years on such terms and conditions as may be specified in their letters of appointment.

(2) A member may only be removed from office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of the office.

(3) A member may resign his membership by notice in writing addressed to the President and that member shall, on the date of the receipt of the notice by the President, cease to be a member.

(4) There shall be paid to every member of the Commission such allowances as the Federal Government may, from time to time, direct.

(5) A member shall not while holding office hold any other office of emolument whether in the Federal or State public service.

### **4. Functions of the Commission**

(1) The functions of the Commission shall be-

(a) to work out an equitable formula, subject to the approval of the President, for the distribution of all cadres of posts in the civil and the public services of the Federation and of the States, the armed forces, the Nigeria Police Force and other security agencies, bodies corporate owned by the Federal or a State Government and Extra-Ministerial Departments and parastatals of the Federation and States;

(b) to promote, monitor and enforce compliance with the principles of proportional sharing of all bureaucratic, economic, media and political posts at all levels of government;

(c) to take such legal measures including the prosecution of the heads or staff of any Ministry, Extra-Ministerial Department or agency which fails to comply with any federal character principle or formula prescribed or adopted by the Commission;

(d) to work out-

(i) an equitable formula, subject to the approval of the President, for distribution of socio-economic services, amenities and infra structural facilities;

(ii) modalities and schemes, subject to the approval of the President, for redressing the problems of imbalances and reducing the fear of relative deprivation and marginalisation in the Nigerian system of federalism as it obtains in the public and private sectors;

- (e) to intervene in the operation of any agency of the Federal Government, subject to the approval of the President, where in the opinion of the Commission the function of the agency concerned is relevant to the functions of the Commission and the Commission is of the opinion that it is not being effectively implemented;
- (f) to advise the Federal, State, and local governments to intervene and influence providers of services, goods and socio-economic amenities to extend such services, goods and socio-economic amenities to deprived areas of the country;
- (g) to ensure that all Ministries and Extra-Ministerial Departments, agencies and other bodies affected by this Act have a clear criteria indicating conditions to be fulfilled and comprehensive guidelines on the procedure for-
  - (i) determining eligibility and the procedure for employment in the public and private sectors of the economy;
  - (ii) the provision of social services, goods and socio-economic amenities in Nigeria;
- (h) to ensure that public officers shall, in the performance of their functions, adhere strictly to rules and regulations made pursuant to this Act;
- (i) to advise the Federal Government of Nigeria on the structure and rationalisation of any Ministry, Extra-Ministerial Department or agency; and
- (j) carry out such other functions as the President shall, from time to time, assign to it.

(2) For the avoidance of doubt-

- (a) the posts mentioned in paragraphs (a) and (b) of subsection (1) of this section shall include those of the Permanent Secretary in the Civil Service of the Federation or the State Civil Service, Directors-General in Extra-Ministerial Departments and Parastatals, Directors in Ministries and Extra-Ministerial Departments, Senior Military Officers, Senior Diplomatic Posts, Managerial Cadres in the Federal and State Parastatals, bodies corporate, Agencies and Institutions; and
- (b) socio-economic services, amenities and facilities mentioned in paragraph (d) of subsection (1) of this section include those in the sectors of education, electricity, health, commerce and industry, telecommunications, transport and youth development.

(3) Any person who fails to comply with the guidelines issued under paragraph (h) of subsection (1) of this section is guilty of an offence under this Act and liable to penalties specified in section 15 (1) of this Act.

(4) Notwithstanding any provision in any other law or enactment, the Commission shall ensure that every public company or corporation reflects the federal character in the appointments of its directors and senior management staff.

## **5. Powers of the Commission**

(1) The Commission shall have power to-

- (a) formulate and provide guidelines for Government agencies and other employers and providers of services and socio-economic amenities;

- (b) monitor compliance with the guidelines and formulae at Federal, State, local governments and zonal levels in the employment and provision of socio-economic amenities;
- (c) enforce compliance with its guidelines and formulae in areas of the provision of employment opportunities, distribution of infra structural facilities, socio-economic amenities and other indicies;
- (d) compel boards of directors of Government-owned companies and other enterprises, which are subject to the provisions of this Act, to comply with the guidelines and formulae on ownership structure, employment and distribution of their products;
- (e) demand and receive returns on employment and socio-economic indices from any enterprise or body corporate and penalise any enterprise which does not comply with a request from the Commission;
- (f) undertake the recruitment and training of staff of government agencies or departments where desirable;
- (g) institute investigation into any matter relating to any institution or organisation which is subject to the provisions of this Act and if the institution or organisation concerned fails to cooperate with the Commission, the institution or organisation shall be required to bear the cost of such investigation; and
- (h) do anything which in the opinion of the Commission is incidental to its functions under this Act.

(2) For the purposes of subsection (1) of this section, the Commission shall have power to take such legal action including the prosecution of any person, whether corporate or unincorporate who, being obliged to comply with the provisions of this Act, fails to do so.

#### **6. Members of the Commission disqualified from holding elective office**

(1) Notwithstanding anything to the contrary in any law, a person who holds office as a member of the Commission under this Act shall not be qualified for any elective office or for election as a member of any legislative body.

(2) Nothing shall preclude a member of the Commission from resigning his appointment as a member of the Commission at any time for the purposes of contesting for an elective office.

#### **7. Proceedings, etc., of the Commission**

(1) The Commission shall meet for the conduct of its business at such times, places and on such days as the chairman may appoint.

(2) The chairman shall preside at all meetings of the Commission but if he is absent from any meeting of the Commission the members present shall elect one of their number to preside at that meeting.

(3) During the chairman's absence on leave or if the chairman is otherwise not available or is unable to perform his functions, the President may appoint any member of the Commission to act as chairman for any specified period.

(4) The quorum for a meeting of the Commission shall be not less than one third of the total number of members of the Commission at the date of the meeting.

(5) Questions put before the Commission at a meeting shall be decided by consensus and, where this is not possible, by a majority of the votes of the members present and voting.

(6) The chairman shall in the case of an equality of votes have a casting vote in addition to his deliberative vote.

(7) Subject to this section, the Commission shall have power to regulate its proceedings and may make standing orders with respect to the holding of meetings, the notice to be given, the procedure thereat, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.

(8) The validity of any proceedings of the Commission shall not be affected by any vacancy in its membership or any defect in the appointment of a member or by reason that a person not entitled to do so took part in the proceedings.

## **8. Committees of the Commission**

(1) The Commission may appoint one or more committees to carry out on behalf of the Commission any of the Commission's functions under this Act.

(2) A committee appointed by the Commission under this section shall consist of such number of persons as may be determined by the Commission.

## *PART II*

### *Staff of the Commission*

## **9. Secretary to the Commission and other staff**

(1) There shall be a secretary to the Commission who shall-

(a) have such qualifications and experience as are appropriate for a person required to perform the functions of his office under this Act; and

(b) be appointed by the President.

(2) Subject to the general direction of the chairman, the secretary shall-

(a) be responsible for keeping proper records of the proceedings of the Commission; and

(b) be the head of the Commission's secretariat and be responsible for the administration thereof and the direction and control of all other employees of the Commission with the approval of the chairman.

(3) The chairman shall have power to appoint either directly or on secondment from any public service in the Federation, such number of employees as may, in the opinion of the chairman, be required to assist the Commission in the discharge of any of its functions under this Act and shall have power to pay persons so employed such remuneration (including allowances) as the chairman may, after consultation with the Federal Ministry or Department of Establishment, determine.

(4) Nothing in subsection (3) of this section, shall preclude the chairman from appointing persons from outside the public service of the Federation or of the State whenever it deems it necessary so to do.

(5) All employees of the Commission appointed pursuant to subsections (3) and (4) of this section, excluding such as are appointed on a temporary basis for an honorarium, shall have the same rights and obligations as the members of the public service defined by section 24 of the Pensions Act. [Cap. P4.]

## PART III

### *Financial provisions*

#### **10. Fund of the Commission**

There shall be established and maintained by the Commission a fund into which shall be paid and credited-

- (a) the annual subvention received from the Federal Government;
- (b) such money as may, from time to time, be lent, deposited with or granted to the Commission by the Government;
- (c) all fees and charges for services rendered by the Commission; and
- (d) all other sums which may, from time to time, accrue to the Commission.

(2) The Commission may, from time to time, apply the funds at its disposal-

(a) to the cost of the administration of the Commission and for the purposes of any research being undertaken by the Commission;

(b) to the payment of fees, allowances and expenses of members of the Commission or of any committee set up by the Commission;

(c) to the payment of the salaries, allowances and benefits of officers and servants of the Commission;

(d) for the maintenance of any property vested in the Commission or under its administration; and

(e) for and in connection with all or any of the functions of the Commission under this Act or any other written law.

#### **11. Power to accept gifts**

(1) The Commission may accept gifts of land, money or other property upon 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 condition attached by the person or organisation making the gift are inconsistent with the functions of the Commission under this Act.

#### **12. Annual estimates, account and audit**

(1) The Commission shall cause to be prepared not later than 30 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 President.

(2) The Commission shall cause to be kept proper accounts of the Commission and proper records in relation thereto and when certified by the Commission, the accounts shall be audited by auditors appointed by the

Commission from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

### **13. Annual report**

The Commission shall not later than three months before the end of each year, submit to the President a report on the activities and the administration of the Commission during the immediately preceding year and shall include in such reports audited accounts of the Commission and the auditor's report thereon.

## **PART V**

### *Offences, etc.*

### **14. Offences**

(1) Information supplied by the Commission shall not be made public by any person except if it is duly authorised by the chairman of the Commission.

(2) Any person who contravenes the provisions of subsection (1) of this section is guilty of an offence under this Act.

(3) Any person, body corporate or unincorporate who-

(a) required to furnish any information to the Commission under this Act but fails to do so or in purported compliance with such requirement to furnish information knowingly or recklessly makes any statement which is false in any material particular or is incomplete or inaccurate; or

(b) fails, refuses or neglects to comply with any directive given by the Commission pursuant to any provision of this Act; or

(c) being subject to the provisions of this Act fails, refuses or neglects to apply the principle of federal character in any area or activity within the time frame set by the Commission; or

(d) wilfully obstructs, interferes with, assaults or resists any member of the Commission or any other officer or servant of the Commission in the performance of his duty under this Act; or

(e) aids, invites, induces or abets any other person to obstruct, interfere with, assault or resist any such member of the Commission, officer or servant of the Commission in the discharge of his lawful activity under this Act; or

(f) fails to produce a clear criteria and comprehensive guidelines on the procedure for determining eligibility for employment and the provisions of services, goods and socio-economic amenities in Nigeria,

is guilty of an offence under this Act.

(4) Any person who is found guilty of abuse of office in the observance of any matter under this Act, is guilty of an offence.

### **15. Penalties**



(1) Any person who commits an offence under section 14 of this Act is liable on conviction to a fine of ₦50,000 or to imprisonment for a term of six months or to both such fine and imprisonment.

(2) Where an offence under this section is committed by a corporate body, any of its directors, managers, officers, employees or partners, recklessly, negligently, wilfully acquiesces in the commission of the offence shall jointly and severally be guilty of the offence and liable on conviction to a fine of ₦100,000 in the case of the corporate body or to a fine of ₦50,000 in the case of individual.

(3) Any person, or body corporate or unincorporate who is in persistent breach of the provisions of this Act is guilty of an offence and liable on conviction to a fine of ₦10,000 for every day the offence is committed notwithstanding the fine of ₦100,000 specified in subsection (1) of this section and in the case of an individual or staff of such body, to imprisonment for a term of two years without an option of a fine.

#### **16. Inconsistencies with other laws**

Subject to the Constitution, where any provision of this Act is inconsistent with the provisions of any other law or enactment, the provisions of this Act shall to the extent of that inconsistency prevail.

### PART VI

#### *Miscellaneous*

#### **17. Regulations**

(1) The Commission may make regulations generally for the purpose of this Act.

(2) Without prejudice to the generality of subsection (1) of this section the provisions of the regulations may include but shall not be limited to the following-

- (a) the proceedings of the Commission;
- (b) the setting up of committees and their functions;
- (c) the appointment of consultants, professionals, etc.;
- (d) the structure of the Commission;
- (e) the keeping of records;
- (f) requiring the preparation of annual accounts, audit and estimates;
- (g) the abuse of office;
- (h) to summon persons to appear before the Commission;
- (i) the submission of complaints to the Commission;
- (j) the pro forma forms for submission of returns and other information required under this Act;

and

- (k) powers of the Commission to define an indigene of a State.

## 18. Jurisdiction

The Federal High Court shall have power to try offences under this Act.

## 19. Interpretation

In this Act, unless the context otherwise requires-

"**Commission**" means the Federal Character Commission established by section 1 of his Act;

[1990 No. 1.]

"**Constitution**" means the Constitution of the Federal Republic of Nigeria 1999;

"**chairman**" means the chairman of the Commission appointed pursuant to section 2 (1) (a) of this Act;

"**functions**" includes powers and duties;

"**member**" means a member of the Commission and includes the chairman;

"**other enterprises**" means non-governmental enterprises;

"**public company**" has the meaning assigned to it under section 24 of the Companies and Allied Matters Act;

"**President**" means the President of the Federal Republic of Nigeria;

"**secretary**" means the secretary of the Commission appointed pursuant to section 9 of the Act.

## 20. Short title

This Act may be cited as the Federal Character Commission (Establishment, etc.) Act.

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## FEDERAL CHARACTER COMMISSION (ESTABLISHMENT, ETC.) ACT

### SUBSIDIARY LEGISLATION

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#### *List of Subsidiary Legislation*

1. *Guiding principles and formulae for the distribution of all cadres of posts.*
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#### GUIDING PRINCIPLES AND FORMULAE FOR THE DISTRIBUTION OF ALL CADRES OF POSTS

[S.I. 23 of 1997.]

under section 4 (1) (a)

[2nd October, 1997]

[Commencement. ]

PART I

*General principles and formulae*

*Guiding principles and formulae for the distribution of posts*

1. Each State of the Federation and the Federal Capital Territory shall be equitably represented in all national institutions and in public enterprises and organisations.
2. The best and most competent persons shall be recruited from each State of the Federation to fill positions reserved for the indigenes of that State or the Federal Capital Territory.
3. Once a candidate has attained the necessary minimum requirement for appointment to a position, he shall qualify to fill a relevant vacancy reserved for indigenes of his State or the Federal-Capital Territory.
4. Where the number of positions available cannot go round the States of the Federation or the Federal Capital Territory, the distribution shall be on zonal basis but in the case where two positions are available, the positions shall be shared between the northern and the southern zones.
5. Where the indigenes of a State or the Federal Capital Territory are not able to take up all the vacancies meant for them, the indigenes of any other State(s) or the Federal Capital Territory within the same zone shall be given preference in filling such vacancies. Provided that where the zone to which the preference is given fails to take up such vacancy the indigenes from any other zone shall be considered for the appointment.
6. Each State shall produce 2.75 per cent of the total work force in any Federal establishment while the Federal Capital Territory shall produce 1 per cent for the indigenes of the Federal Capital Territory provided that the Commission may adopt a range so that the indigenes of any State of the Federation shall not constitute less than the lower limit or more than the upper limit of the range as set out in paragraph 12 (a).
7. In the case of distribution on zonal basis the Commission shall adopt another range such that the indigenes of a particular zone shall not constitute less than the lower limit or more than the upper limit of the range as set out in paragraph 12 (b).
8. The six zones shall each consist of the following, that is-
  - (a) North Central Benue, Federal Capital Territory, Kogi, Kwara, Nassarawa, Niger, Plateau;
  - (b) North East Adamawa, Bauchi, Borno, Gombe, Taraba, Yobe;
  - (c) North West Jigawa, Kaduna, Kano, Katsina, Kebbi, Sokoto, Zamfara;
  - (d) South East Abia, Anambra, Ebonyi, Enugu, Imo;
  - (e) South South Akwa Ibom, Bayelsa, Cross River, Delta, Edo, Rivers;

(f) South West Ekiti, Lagos, Ogun, Ondo, Osun, Oyo.

9. Depending on the number of States within each zone, the Commission shall adopt three ranges such that the indigenes of any State within a zone shall not constitute less than the lower limit or more than the upper limit of the range applicable to the zone as set out in paragraph 12 (c).

## PART II

### *Definitions, etc.*

#### **1. Definitions, etc.**

(1) An indigene of a local government means a person-

(a) either of whose parents or any of whose grandparents was or is an indigene of the local government concerned; or

(b) who is accepted as an indigene by the local government:

Provided that no person shall lay claim to more than one local government.

(2) An indigene of a State means a person who is an indigene of one of the local governments in that State:

Provided that no person shall lay claim to more than one State or to a State and the Federal Capital Territory.

(3) An indigene of the Federal Capital Territory-

(a) is a Nigerian citizen, other than by naturalisation, who cannot lay claim to any State of the Federation; or

(b) is a person born in the Federal Capital Territory and whose descendants lived in the area presently constituting the Federal Capital Territory before 26 February, 1976 and has continued to reside in the Federal Capital Territory after that date.

#### **2. Position of a married woman**

A married woman shall continue to lay claim to her State of origin for the purpose of implementation of the federal character formulae at the national level.

## PART III

### *Application of general principles*

#### *National Level*

#### **3. Application of partial principles Career Posts-**

(a) the indigenes of a State of the Federation shall constitute not less than 25 per cent or more than 3 per cent of all officers including junior staff at the head offices of any national institution, public enterprise or organisation. In the case of branches or local offices, not less than 75 per cent of these categories of staff shall be indigenes of the catchment area;

(b) where the number of vacancies are not sufficient to go round the 36 States of the Federation and the Federal Capital Territory the vacancies shall be shared among the zones such that the indigenes of a particular zone shall not constitute less than 15 per cent or more than 18 per cent;

(c) within a zone, the indigenes of a particular State shall not constitute less than 12 per cent or more than 15 per cent in the case of North Central and North West; not less than 15 per cent or more than 18 per cent in the case of North East, South South and South West; and not less than 18 per cent or more than 22 per cent in the case of South East;

(d) appointments into the leadership of all Ministries, departments, full-time commissions, public corporations and tertiary institutions, the armed forces, police and other security agencies shall be done such that each State or zone shall be represented equitably in accordance with the appropriate formula.

#### **4. Equitable and proportional representation of leadership in Federal Ministries**

The leadership of Federal Ministries shall comprise the Permanent Secretary, Directors, Deputy Directors and Assistant Directors, and equivalent positions in other relevant agencies and shall be such that they do not come from the same zone. At the level of Director down to Assistant Director, there shall be an equitable and proportional representation of both the zones and the States of the Federation within each zone. In the case of the Ministry of Foreign Affairs, the federal character principles shall also apply to the postings of heads of diplomatic missions.

#### **5. Public political Offices at National level**

As far as practicable, the appointment to the various categories of political offices shall be done on the basis of equitable representation of the States of the Federation and the Federal Capital Territory or zones as appropriate using the relevant formula while the distribution of offices to the States and the Federal Capital Territory within a zone shall comply with the formula applicable to the zone. The political offices concerned include-

- (a) Ministers of Cabinet rank;
- (b) Ministers of State;
- (c) Special Adviser to the President;
- (d) Non-career heads of Nigerian diplomatic missions;
- (e) Chairmen and members of Statutory Federal agencies.

#### *State Level*

#### **6. State level**

(1) Career posts-

(a) the federal character principles which apply to the Federal service in relation to the States shall apply to the States services in relation to the local government;

(b) the local governments shall be equitably represented. Thus, the formula for sharing and distribution of posts among the local government areas shall be as specified below or on the basis of Senatorial districts as appropriate with a percentage range of between 30 and 35.

<i>State</i>	<i>No.ofLGA</i>	<i>Average per LGA</i>	<i>% range for</i>
Abia	17	5.88	4/7
Adamawa	21	4.76	4/7
Akwa Ibom	31	3.23	2/4
Anambra	21	4.76	4/7
Bauchi	20	5.00	4/6
Baye1sa	8	12.50	10/14
Benue	23	4.34	3/5
Borno	27	3.70	2/4
Cross River	18	5.55	4/7
Delta	25	4.00	3/5
Ebonyi	13	7.69	6/9
Edo	18	5.55	4/7
Ekiti	16	6.25	5/7
Enugu	17	5.88	4/7
Gombe	11	9.10	8/10
Imo	27	3.70	2/4
.Jigawa	27	3.70	2/4
Kaduna	23	4.34	3/5
Kano	44	2.27	1/3
Katsina	34	2.29	2/5
Kebbi	21	4.76	4/7
Kogi	21	4.76	4/7

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Kwara	16	6.25	5/7
Lagos	20	5.00	4/6
Nassarawa	13	7.69	6/9
Niger	25	4.00	3/5
Ogun	20	5.00	4/6
Ondo	18	5.55	4/7
Osun	30	3.33	2/4
Oyo	33	3.03	2/4
Plateau	17	5.88	4/7
Rivers	23	4.34	3/5
Sokoto	23	4.16	3/5

Taraba	16	6.25	5/7
Yobe	17	5.88	4/7
Zamfara	14	7.69	6/9
Federal Capital Territory	6	16.67	15/18

(2) Political public offices at the State level-

- (a) the appointment to the various political public offices shall be done on the basis of the representation of the local government areas or Senatorial districts of the States as appropriate using the relevant formula;
- (b) the distribution within a Senatorial district shall be based on the formula relevant to each district as provided by the Commission's office in that State.

(3) Local government level.

Career Post-

- (a) at the local government level the basic unit for the application of the federal character principle shall be the ward that is the constituency of a Councillor in a local government election;
- (b) the formula to apply for the distribution of posts among the wards of a local government shall be in accordance with percentage ranges specified below depending on the number of wards within the particular local government area.

<i>No. of Wards</i>	<i>Average % per Ward</i>	<i>% Range</i>
8	12.5	10/14
9	11.1	9/13
10	10.0	8/12
11	9.1	7/11
12	8.3	6/10
13	7.7	6/9
14	7.1	5/9
15	6.7	5/