

# CHAPTER P12 - PUBLIC COMPLAINTS BUREAU LAW

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## PUBLIC COMPLAINTS BUREAU LAW

A Law establishing an office for petitions and complaints by the public.

[KWS 12 of 1975, No. 4 of 2006.]

[Date of commencement: 1st September, 1975]

### PART I

#### *Preliminary*

1. **Short title**

This Law may be cited as the Public Complaints Bureau Law.

2.

In this Law unless the context otherwise requires—

"**complaint**" includes any petition, report or request made by any person to the Commissioner in respect of any grievance;

"**court**" means any court established by law in the State;

"**financial year**" means the twelve months ending on the 31st day of March in any year;

"**the Attorney-General**" means the Attorney-General of the State;

"**the Bureau**" means the department of government established under section 3;

"**the Commissioner**" means the Commissioner for Public Complaints appointed under section 4;

"**the Government**" means the Government of the State;

"**the Governor**" means the Governor of the State;

"**the Secretary**" means the Secretary of the Bureau appointed under section 5;

and

"the State" means the Kwara State of Nigeria.

## PART II

### *Establishment and Constitution of the Bureau*

#### **3. Establishment of the Bureau**

(1) There shall be established a department of Government to be known as the Public Complaints Bureau.

[No. 4 of 2006.]

(2) The Bureau shall be under the control of the Commissioner and independent of any executive arm of government.

#### **4. Appointment of Commissioner**

(1) The Governor may from time to time appoint a fit and proper person to be the Commissioner for Public Complaints who shall be the head and administrator of the Public Complaints Bureau.

(2) The Commissioner shall hold office for a term of five years and shall not be eligible for re-appointment.

(3) The Commissioner shall vacate office only on resignation or resolution to that effect by the State Executive Council.

(4) The Commissioner may be removed from his office by the Governor on the ground of abuse of office, misconduct or disability.

(5) A person who has been appointed Commissioner shall not thereafter be eligible for appointment to any office of emoluments under the State other than in a judicial capacity, or as Chairman or member of the Public Service Commission of the State or a tribunal appointed under any law in force in the State.

(6) The acceptance by the Commissioner of any other office or place of profit or emoluments without the approval of the Governor shall be and be deemed *de facto* an

avoidance of his office as Commissioner, and his salary as Commissioner shall cease accordingly from the time of his acceptance of such other office or place.

(7) The Commissioner may resign his office by notice in writing to the Governor and on receipt of such resignation by the Governor the appointment of the Commissioner shall be terminated.

## **5. Appointment of Secretary to the Bureau**

(1) The Governor, after consultation with the Commissioner, shall appoint a fit and proper person as Secretary to the Bureau.

(2) Subject to the general authority of the Commissioner, the Secretary shall conduct the correspondence and keep the records of the Bureau and perform such other duties as the Commissioner may from time to time direct.

(3) The Secretary may resign his office by notice in writing through the Commissioner to the Governor and on receipt of such resignation by the Governor the appointment of the Secretary shall be terminated.

(4) The Governor may after consultation with the Commissioner, remove the Secretary from his office for any just cause.

## **6.**

(1) The Governor shall fix the salaries, other emoluments and conditions of service of the Commissioner and the Secretary.

(2) The salaries, emoluments and conditions of service of the Commissioner and the Secretary shall not be altered to the detriment of any existing holder of any of the said offices.

## **7. Oaths**

(1) Before entering upon the exercise of the duties and functions of his office the Commissioner shall take the Oath of Allegiance and the Oath of Office as herein provided

in the Third Schedule of this Law.

[Third Schedule.]

(2) The oaths to be taken by the Commissioner shall be taken before the Governor.

(3) The Secretary and such other officers of the Bureau, as may be designated by the Governor, shall each take the Oath of Allegiance, the Oath of Office and the Oath of Secrecy as provided in Part I of the First Schedule to the Official Oaths Law.

[Cap. 02.]

### PART III

#### *Functions of Commissioner*

#### **8. Functions of Commissioner**

(1) The principal function of the Commissioner shall be to investigate any decision or recommendation made, or any act done, or omitted, relating to a matter of administration and affecting any person or body of persons in his or its personal capacity, in or by any of the public departments or organisations, named in the First Schedule to this Law, or by any officer, employee or member thereof in the exercise of any power or function conferred on him by any enactment or administrative direction.

[Schedule 1.]

(2) In the exercise of his functions under this Law, the Commissioner shall not be subject to the directions or control of any other person or authority.

#### **9. Right to complain**

(1) Any person who considers that he has been treated unjustly may make a complaint to the Commissioner requesting the Commissioner to investigate the complaint.

(2) Where the person by whom a complaint might have been made under the foregoing provisions has died or is for any reason unable to act for himself, the complaint

may be made by his personal representative or by a member of his family or other individual suitable to represent him; but except as aforesaid a complaint shall not be entertained under this Law unless made by the aggrieved himself.

(3) Every person making a complaint shall pay a fee of five hundred naira.

Provided that the Commissioner shall have power to waive the fee in appropriate cases.

[No. 4 of 2006.]

(4) All complaints to the Commissioner shall be in writing and signed by the complainant but the Commissioner may, in his discretion, accept a verbal complaint in which case he shall cause such complaint to be reduced to writing by any member of his staff.

(5) The Governor or any member of the Executive Council of the State may refer any matter to the Commissioner for investigation.

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[No. 4 of 2006.]

## **11. Power to amend**

The Governor may by order vary or amend the provisions of the Schedules to this Law.

[Schedules.]

## **PART IV**

### *Investigation by the Commissioner*

## **12. Refusal to investigate where remedy exists**

(1) The Commissioner shall not investigate any decision in respect of which there is, under the provisions of any enactment, a right of appeal or objection or a right to apply for a review, on the merits of the case, to any court or to any tribunal constituted by

or under any enactment, whether or not the right of appeal or objection or application has been exercised in the particular case and whether or not any time prescribed for the exercise of that right has expired.

(2) *Complaints barred.*— The Commissioner shall not investigate any complaint unless it has been submitted to him within one year from the day on which the person aggrieved first had notice of the matters alleged in the complaint.

### 13. Refusal to investigate in other cases

(1) Without limiting the generality of the powers conferred upon him by this Law, the Commissioner may, in his discretion, decide not to investigate or further investigate any complaint if in his opinion—

- (a) the subject matter of the complaint is trivial; or
- (b) the complaint is frivolous or vexatious or is not made in good faith; or
- (c) the complainant has not a sufficient personal interest in the matter of the complaint; or
- (d) the public interest outweighs the private interest of the complaint.

(2) In any case where the Commissioner decides not to investigate or further investigate a complaint he shall so inform the complainant and any other interested person, and may, if he thinks fit, state his reasons therefor.

### 14. Investigation

(1) Before investigating any matter under this Law the Commissioner shall inform the head of the department or the organisation or person affected the gist of the complaint and of his intention to investigate the said complaint.

(2) No head of department or other person shall have the right to refuse to co-operate with the Commissioner on the ground that no notice has been given to him under subsection (1).



(3) Every investigation by the Commissioner under this Law shall be conducted in private.

(4) The Commissioner may, if he thinks fit, pay to the person by whom the complaint is made and to any other person who attends or furnishes information for the purpose of an investigation under this Law—

(a) sums in respect of expenses properly incurred by them;

(b) allowances by way of compensation for loss of their time in accordance with such scales as are applicable in the High Court of the State.

#### **15. Action after *prima facie* case**

(1) If the Commissioner is satisfied that a *prima facie* case has been made out in the complaint he shall so inform the department or organisation or person affected and shall give the said department, organisation or person an opportunity to be heard.

(2) If during or after an investigation the Commissioner is satisfied that there is sufficient evidence of a breach of duty or misconduct by any department, organisation or person he shall refer the evidence to the said department, organisation or person and shall give the said department, organisation or person an opportunity to be heard or heard again as the case may be.

#### **16. Power and procedure of investigation**

(1) Subject to the provisions of this Law and of any regulations made under section 28 the Commissioner shall have power and authority to investigate any complaint within his jurisdiction in such manner and by such means as will, in his opinion, achieve the purpose of this Law.

(2) Without prejudice to the generality of the preceding subsection the Commissioner shall have the powers of commissioners of inquiry under the Commissions of

Inquiry Law and the provisions of the said Law, in respect of procedure, evidence and contempt shall be read mutatis mutandis as forming part of this Law.

**17. Prohibition of disclosure of secrets**

(1) No obligation to maintain secrecy or other restriction under the disclosure of information obtained by or furnished to persons in the public service, whether imposed by any enactment or by any rule of law, shall apply to the disclosure of information for the purposes of an investigation under this Law; and the State shall not be entitled in relation to any such investigation to any such privilege in respect of the production of documents or the giving of evidence as is allowed by law in legal proceedings.

(2) No person shall be required or authorised by virtue of this Law to furnish any information or answer any question relating to proceedings of the Executive Council or of any Committee of the Council or to produce so much of any document as relates to such proceedings; and for the purposes of this subsection a certificate issued by the Secretary of the Executive Council with the approval of the Governor and certifying that any information, question document or part of a document so relates shall be conclusive.

(3) A member of the Executive Council may give notice in writing to the Commissioner, with respect to any document or information specified in the notice, or any class of documents or information so specified, that in the opinion of the member the disclosure of that document or information, or of documents or information of that class, would be prejudicial to the safety of the State or otherwise contrary to the public interest; and where such a notice is given nothing in this Law shall be construed as authorising or requiring the Commissioner or any officer of the Commissioner to communicate to any person or for any purpose any document or information specified in the notice, or any document or information of a class so specified.

(4) Subject to subsection (1) of this Law, no person shall be compelled for the

purposes of an investigation under this Law to give any evidence or produce any document which he could not be compelled to give or produce in proceedings before the Court.

**18. Action after investigation**

(1) Where, after investigation, the Commissioner is of the opinion that the decision, recommendation, act or omission which was the subject matter of the complaint—

- (a) was contrary to law; or
- (b) was unreasonable, unjust, oppressive, or improperly discriminatory;

or

- (c) was based wholly or partly on a mistake of law or fact; or
- (d) was based on the use of discretionary powers for an improper purpose, or on irrelevant grounds, or by taking irrelevant considerations into account,

then the Commissioner shall in each of such cases proceed as in the next subsection.

(2) If the Commissioner in each of the cases, referred to in subsection (1) of this section, is of the opinion that—

- (a) the complaint should be referred to the department, organisation or person for further consideration; or
- (b) an omission should be rectified; or
- (c) a decision should be cancelled or rectified; or
- (d) a practice by reason of which the complaint arose or may arise should be altered; or
- (e) a law by reason of which the complaint arose or may arise should be reconsidered; or
- (f) reasons should be given for the use of discretionary power; or
- (g) other steps may be taken as he may advise,

the Commissioner shall report his opinion with his reasons therefor to the department, organisation or person with such recommendations as he may think fit and he may further request the department, organisation or person to notify him, within a specified period of time, what steps the department, organisation or person proposes to take in respect of the recommendations.

#### **19. Failure to remedy**

(1) Where a department, organisation or person, after a reasonable period of time has elapsed, does not act upon the recommendations of the Commissioner or refuses to act thereon, or acts in a manner unsatisfactory to the Commissioner, then in any such instances the Commissioner may send a copy of his report and recommendations with any comments he may wish to add thereto, to the Governor.

(2) The Commissioner shall include with any report sent or made under subsection (1) a copy of any comments made by the department, organisation or person upon the report, conclusion or recommendation.

(3) In any report made by him under this Law, the Commissioner shall not make any finding or comment that is adverse to any person unless he has previously given that person an opportunity to be heard.

(4) The reasonableness of any period of time under subsection (1) shall be at the discretion of the Commissioner.

#### **20. Information to complainants**

(1) The Commissioner shall inform the complainant, in such manner and at such time as he thinks proper, of the result of the investigation of the complaint.

(2) Where a department, organisation or person does not act to his satisfaction upon his recommendations for the remedy of the complaint, the Commissioner shall inform the complainant of his recommendations and may add such comments as he may think fit.

## PART V

### *Reports by the Commissioner*

#### **21. Annual report**

(1) The Commissioner, at the end of each financial year, shall make a comprehensive report of his work covering the preceding twelve months to the Governor.

(2) The provisions of subsection (1) shall not in any way limit the right of the Commissioner to make a special report at any time to the Governor on any matter he has investigated.

(3) The annual report shall be published as a government publication and distributed in the usual manner to the public.

(4) Any special report may on the instructions of the Commissioner be published as a government publication and may be distributed to the public or to a limited class or number of persons as the Commissioner may think fit.

## PART VI

### *Miscellaneous*

#### **22. Validity of proceedings**

(1) No proceedings or other act of the Commissioner shall be held void for want of form or other procedural error, and except on the ground of lack of jurisdiction, no proceedings, decisions, recommendation or other act of the Commissioner shall be liable to be challenged, reviewed, quashed, or called in question in any court.

(2) The provisions of the preceding subsection shall apply to any proceedings or other act of any person upon whom the Commissioner has delegated any of his powers under section 26.

#### **23. Protection of Commissioner and his staff**

(1) The Commissioner shall not be liable for any act done by him or ordered by him to be done in the discharge of his functions under this Law, whether or not within the limit of his jurisdiction provided that he at the time, in good faith, believed himself to have jurisdiction to do or order to be done the act in question.

(2) No officer of the Bureau or other person acting on the instructions of the Commissioner shall be liable in any action for damages in respect of his executing the instructions of the Commissioner unless it be proved that he acted unlawfully or not in good faith.

#### **24. Defamation**

For the purposes of the Law of defamation, any such publication as hereinafter mentioned shall be absolutely privileged, that is to say—

- (a)* the publication of any matter by the Commissioner in making his report to the Governor;
- (b)* the publication by anybody in communicating his complaint to the Commissioner or his officers;
- (c)* the publication by the Commissioner or his officers in investigating any complaint or in conveying his report, conclusion or directive to any person or Department;
- (d)* the publication to the Commissioner or his officers of any information by Head of a Department or any other person so required by the Commissioner or his officers to furnish the information.

#### **25. Power to enter departments, etc.**

(1) The Commissioner may at any time enter upon any premises occupied by any of the departments, or organisations named in the First Schedule and inspect the premises and, subject to the provisions of section 18 of this Law, carry out therein any investigation

that is within his jurisdiction.

[First Schedule.]

(2) Before entering upon any such premises the Commissioner shall notify the head of the department or organisation by which the premises are occupied.

## **26. Delegation of powers**

Any function of the Commissioner under this Law may be performed by any officer of the Commissioner authorised for that purpose by the Commissioner.

## **27. Offences**

Any person who—

- (a)* without lawful justification or excuse wilfully obstructs, hinders or resists the Commissioner or any person in the exercise of those powers under this Law; or
- (b)* without lawful justification or excuse, refuses or wilfully fails to comply with any lawful requirements of the Commissioner or other person under this Law; or
- (c)* wilfully makes any false statement to or misleads or attempts to mislead the Commissioner or any other person in the exercise of his powers under this Law,

is guilty of an offence and shall be liable on conviction to imprisonment for one year or to a fine of five thousand naira or to both such imprisonment and fine.

[No. 4 of 2006.]

## **28. Regulations**

The Governor may make regulations generally for the carrying into effect the provisions of this Law.

FIRST SCHEDULE

[Section 9(1).]

[No. 4 of 2006.]

*Government Departments*

The Governor's Office.

The Ministry of Agriculture and Natural Resources.

The Ministry of Finance and Economic Development.

The Ministry of Education. The Ministry of Health.

The Ministry of Home Affairs and Information.

The Ministry of Lands and Housing.

The Ministry of Local Government and Chieftaincy Affairs.

The Ministry of Social Welfare and Culture.

The Ministry of Industry.

The Ministry of Works.

The Public Service Commission.

The Ministry of Commerce and Co-operatives.

The Audit Department.

*Government Organisations*

All Local Government Authorities.

All Local Councils.

All Statutory Corporations, Boards and other similar bodies not specified in the second schedule.

All Companies in which the State has at least 51% share capital.

SECOND SCHEDULE

[Section 10.]



The Judiciary.

The decisions of the Public Service Commission.

The decisions of the Executive Council.

Tribunals of Inquiry or other tribunals appointed under any enactment.

The powers and functions of the Attorney-General under the constitution of the State or any other enactment or the commencement or conduct of any criminal or civil proceedings before any court.

The Council of Chiefs.

The powers and functions of the Auditor-General under the Constitution.

### THIRD SCHEDULE

[Section 7 (1).]

#### *Oath of Allegiance*

I.....swear

that I

will be faithful and bear true allegiance to the Federal Republic of Nigeria and I will preserve, protect and defend the Constitution. So help me God.

#### *Oath of Office*

I.....having

been

chosen and appointed the Commissioner for Public Complaints do swear that I will well and truly discharge the functions entrusted to me and will do right to all manner of people in accordance with the Constitution as by law established and in accordance with laws and usages having effect in the Kwara State of Nigeria without fear or favour affection or ill-

will and that I will not divulge any information received by me by virtue of my office. So help me God.

## CHAPTER P12

### PUBLIC COMPLAINTS BUREAU LAW

#### SUBSIDIARY LEGISLATION

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*No Subsidiary Legislation*

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