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Nigeria's Constitution of 1999 with Amendments through 2023

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- Preamble
- Motives for writing constitution
- Source of constitutional authority

Preamble

We the people of the Federal Republic of Nigeria

Having firmly and solemnly resolved:

- God or other deities
- Reference to fraternity/solidarity
- Regional group(s)

TO LIVE in unity and harmony as one indivisible and indissoluble sovereign nation under God, dedicated to the promotion of inter-African solidarity, world peace, international co-operation and understanding

AND TO PROVIDE for a Constitution for the purpose of promoting the good government and welfare of all persons in our country, on the principles of freedom, equality and justice, and for the purpose of consolidating the unity of our people

DO HEREBY make, enact and give to ourselves the following Constitution:-

Chapter I. General Provisions

Part I. Federal Republic of Nigeria

1

1. This Constitution is Supreme and its provisions shall have binding force on the authorities and persons throughout the Federal Republic of Nigeria.

2. The Federal Republic of Nigeria shall not be governed, nor shall any persons or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution.

- Constitutionality of legislation

3. If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall, to the extent of the inconsistency, be void.

2

- Type of government envisioned

1. Nigeria is one indivisible and indissoluble sovereign state to be known by the name of the Federal Republic of Nigeria.

2. Nigeria shall be a Federation consisting of States and a Federal Capital Territory.

3

- Size of second chamber

1. There shall be 36 states in Nigeria, that is to say, Abia, Adamawa, Akwa Ibom, Anambra, Bauchi, Bayelsa, Benue, Borno, Cross River, Delta, Ebonyi, Edo, Ekiti, Enugu, Gombe, Imo, Jigawa, Kaduna, Kano, Katsina, Kebbi, Kogi, Kwara, Lagos, Nasarawa, Niger, Ogun, Ondo, Osun, Oyo, Plateau, Rivers, Sokoto, Taraba, Yobe and Zamfara.

2. Each state of Nigeria, named in the first column of Part I of the First Schedule to this Constitution, shall consist of the area shown opposite thereto in the second column of that Schedule.

3. The headquarters of the Governor of each State shall be known as the Capital City of that State as shown in the third column of the said Part I of the First Schedule opposite the State named in the first column thereof.

- National capital

4. The Federal Capital Territory, Abuja, shall be as defined in Part II of the First Scheduled to this Constitution.

5. The provisions of this Constitution in Part I of Chapter VIII hereof shall in relation to the Federal Capital Territory, Abuja, have effect in the manner set out thereunder.

6. There shall be 768 Local Government Areas in Nigeria as shown in the second column of Part I of the First Schedule to this Constitution and six area councils as shown in Part II of that Schedule.

Part II. Powers of the Federal Republic of Nigeria

4

- Structure of legislative chamber(s)

1. The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation, which shall consist of a Senate and a House of Representatives.

2. The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

3. The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States.

4. In addition and without prejudice to the powers conferred by subsection (2) of this section, the National Assembly shall have power to make laws with respect to the following matters, that is to say:-

    a. any matter in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and

    b. any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

- Subsidiary unit government
- National vs subnational laws

5. If any Law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other Law shall, to the extent of the inconsistency, be void.

- Subsidiary unit government

6. The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.

- Subsidiary unit government

7. The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters, that is to say:-

    a. any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution;

    b. any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto; and

    c. any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

8. Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or by a House of Assembly shall be subject to the jurisdiction of courts of law and of judicial tribunals established by law, and

8. accordingly, the National Assembly or a House of Assembly shall not enact any law, that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law.

- Protection from ex post facto laws

9. Notwithstanding the foregoing provisions of this section, the National Assembly or a House of Assembly shall not, in relation to any criminal offence whatsoever, have power to make any law which shall have retrospective effect.

5

1. Subject to the provisions of this Constitution, the executive powers of the Federation:

- Deputy executive
- Name/structure of executive(s)

a. shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President and Ministers of the Government of the Federation or officers in the public service of the Federation; and

b. shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has, for the time being, power to make laws.

- Subsidiary unit government

2. Subject to the provisions of this Constitution, the executive powers of a State:

a. shall be vested in the Governor of that State and may, subject as aforesaid and to the provisions of any Law made by a House of Assembly, be exercised by him either directly or through the Deputy Governor and Commissioners of the Government of that State or officers in the public service of the State; and

b. shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of the State and to all matters with respect to which the House of Assembly has for the time being power to make laws.

3. The executive powers vested in a State under subsection (2) of this section shall be so exercised as not to:-

a. impede or prejudice the exercise of the executive powers of the Federation;

b. endanger any asset or investment of the Government of the Federation in that State; or

c. endanger the continuance of a Federal Government in Nigeria.

4. Notwithstanding the foregoing provisions of this section:-

- Joint meetings of legislative chambers
- Power to declare/approve war

a. the President shall not declare a state of war between the Federation and another country except with the sanction of a resolution of both Houses of the National Assembly, sitting in a joint session; and

- Designation of commander in chief

b. except with the prior approval of the Senate, no member of the armed forces of the Federation shall be deployed on combat duty outside Nigeria.

- Designation of commander in chief
- Advisory bodies to the head of state

5. Notwithstanding the provisions of subsection (4) of this section, the President, in consultation with the National Defence Council, may deploy members of the armed forces of the Federation on a limited combat duty outside Nigeria if he is satisfied that the national security is under imminent threat or danger:

Provided that the President shall, within seven days of actual combat engagement, seek the consent of the Senate and the Senate shall thereafter give or refuse the said consent within 14 days.

6

1. The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.

2. The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

3. The courts to which this section relates, established by this Constitution for the Federation and for the States, specified in subsection (5) (a) to (1) of this section, shall be the only superior courts of record in Nigeria; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

4. Nothing in the foregoing provisions of this section shall be construed as precluding:-

    a. the National Assembly or any House of Assembly from establishing courts, other than those to which this section relates, with subordinate jurisdiction to that of a High Court;

    b. the National Assembly or any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.

- Structure of the courts

5. This section relates to:-

    a. the Supreme Court of Nigeria;

    b. the Court of Appeal;

    c. the Federal High Court;

- Establishment of labor courts

    cc. the National Industrial Court;

    d. the High Court of the Federal Capital Territory, Abuja;

    e. a High Court of a State;

- Establishment of religious courts

    f. the Sharia Court of Appeal of the Federal Capital Territory, Abuja;

- Establishment of religious courts

    g. a Sharia Court of Appeal of a State;

    h. the Customary Court of Appeal of the Federal Capital Territory, Abuja;

    i. a Customary Court of Appeal of a State;

    j. such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws; and

    k. such other court as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.

6. The judicial powers vested in accordance with the foregoing provisions of this section-

    a. shall extend, notwithstanding anything to the contrary in this constitution, to all inherent powers and sanctions of a court of law;

    b. shall extend, to all matters between persons, or between government or authority and to any persons in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person;

6. **c.** shall not except as otherwise provided by this Constitution, extend to any issue or question as to whether any act of omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II of this Constitution;

d. shall not, as from date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law.

- Municipal government

7

1. The system of local government by democratically elected local government councils is under this Constitution guaranteed; and accordingly, the Government of every State shall, subject to section 8 of this Constitution, ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

2. The person authorised by law to prescribe the area over which a local government council may exercise authority shall-

a. define such area as clearly as practicable; and

b. ensure, to the extent to which it may be reasonably justifiable that in defining such area regard is paid to-

i. the common interest of the community in the area;

ii. traditional association of the community; and

iii. administrative convenience.

3. It shall be the duty of a local government council within the State to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by a Law enacted by the House of Assembly of the State.

4. The Government of a State shall ensure that every person who is entitled to vote or be voted for at an election to House of Assembly shall have the right to vote or be voted for at an election to a local government council.

5. The functions to be conferred by Law upon local government council shall include those set out in the Fourth Schedule to this Constitution.

6. Subject to the provisions of this Constitution-

a. the National Assembly shall make provisions for statutory allocation of public revenue to local government councils in the Federation; and

b. the House of Assembly of a State shall make provisions for statutory allocation of public revenue to local government councils within the State.

8

1. An Act of the National Assembly for the purpose of creating a new State shall only be passed if-

a. a request, supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely-

i. the Senate and the House of Representatives,

ii. the House of Assembly in respect of the area, and

1. a. iii. the local government councils in respect of the area,

is received by the National Assembly;

b. a proposal for the creation of the State is thereafter approved in a referendum by at least two-thirds majority of the people of the area where the demand for creation of the State originated;

c. the result of the referendum is then approved by a simple majority of all the States of the Federation supported by a simple majority of members of the Houses of Assembly; and

d. the proposal is approved by a resolution passed by two-thirds majority of members of each House of the National Assembly.

2. An Act of the National Assembly for the purpose of boundary adjustment of any existing State shall only be passed if-

a. a request for the boundary adjustment, supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely-

i. the Senate and the House of Representatives,

ii. the House of Assembly in respect of the area, and

iii. the local government councils in respect of the area,

is received by the National Assembly; and

b. a proposal for the boundary adjustment is approved by-

i. a simple majority of members of each House of the National Assembly, and

ii. a simple majority of members of the House of Assembly in respect of the area concerned.

3. A bill for a Law of a House of Assembly for the purpose of creating a new local government area shall only be passed if-

a. a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new local government area) in each of the following, namely-

i. the House of Assembly in respect of the area, and

ii. the local government councils in respect of the area,

is received by the House of Assembly;

b. a proposal for the creation of the local government area is thereafter approved in a referendum by at least two-thirds majority of the people of the local government area where the demand for the proposed local government area originated;

c. the result of the referendum is then approved by a simple majority of the members in each local government council in a majority of all the local government councils in the State; and

d. the result of the referendum is approved by a resolution passed by two-thirds majority of members of the House of Assembly.

4. A bill for a Law of House of Assembly for the purpose of boundary adjustment of any existing local government area shall only be passed if-

4. **a.** a request for the boundary adjustment is supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely-

   i. the House of Assembly in respect of the area, and

   ii. the local government council in respect of the area,

   is received by the House of Assembly; and

   b. a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the area concerned.

5. An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of State or Local government areas as provided in section 3 of this Constitution and in Parts I and II of the First Schedule to this Constitution.

6. For the purpose of enabling the National Assembly to exercise the powers conferred upon it by subsection (5) of this section, each House of Assembly shall, after the creation of more local government areas pursuant to subsection (3) of this section, make adequate returns to each House of the National Assembly.

- Constitution amendment procedure

9

1. The National Assembly may, subject to the provision of this section, alter any of the provisions of this Constitution.

2. An Act of the National Assembly for the alteration of this Constitution, not being an Act to which section 8 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

3. An Act of the National Assembly for the purpose of altering the provisions of this section, section 8 or Chapter IV of this Constitution shall not be passed by either House of the National Assembly unless the proposal is approved by the votes of not less than four-fifths majority of all the members of each House, and also approved by resolution of the House of Assembly of not less than two-third of all States.

4. For the purposes of section 8 of this Constitution and of subsections (2) and (3) of this section, the number of members of each House of the National Assembly shall, notwithstanding any vacancy, be deemed to be the number of members specified in sections 48 and 49 of this Constitution.

10

- Separation of church and state

The Government of the Federation or of a State shall not adopt any religion as State Religion.

11

1. The National Assembly may make laws for the Federation or any part therefore with respect to the maintenance and securing of public safety and public order and providing, maintaining and securing of such supplies and service as may be designed by the National Assembly as essential supplies and services.

2. Nothing in this section shall preclude a House of Assembly from making laws with respect to the matter referred to in this section, including the provision for maintenance and securing of such supplies and services as may be designated by the National Assembly as essential supplies and services.

3. During any period when the Federation is at war the National Assembly may make such laws for the peace, order and good government of the Federation or any part therefore with respect to matters not included in the Exclusive Legislative List as may appear to it to be necessary or expedient for the defence of the Federation.

4. At any time when any House of Assembly of a State is unable to perform its functions by reason of the situation prevailing in that State, the National Assembly may make such laws for the peace, order and good government of that State with respect to matters on which a House of Assembly may make laws as may appear to the National Assembly to be necessary or expedient until such time as the House of Assembly is able to resume its functions; and any such laws enacted by the National Assembly pursuant to this section shall have effect as if they were laws enacted by the House of Assembly of the State:

   Provided that nothing in this section shall be construed as conferring on the National Assembly power to remove the Governor or the Deputy Governor of the State from office.

5. For the purposes of subsection (4) of this section, a House of Assembly shall not be deemed to be unable to perform its functions so long as the House of Assembly can hold a meeting and transact business.

- Treaty ratification
- Legal status of treaties
- International law

12

1. No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

2. The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

3. A bill for an Act of the National Assembly passed pursuant to the provisions of subsection (2) of this section shall not be presented to the President for assent, and shall not be enacted unless it is ratified by a majority of all the House of Assembly in the Federation.

Chapter II. Fundamental Objectives and Directive Principles of State Policy

- Duty to obey the constitution

13

It shall be the duty and responsibility of all organs of government, and of all authorities and persons, exercising legislative, executive or judicial powers, to conform to, observe and apply the provisions of this Chapter of this Constitution.

14

1. The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.

2. It is hereby, accordingly, declared that:

   a. sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority;

   b. the security and welfare of the people shall be the primary purpose of government; and

2. c. the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.

3. The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such a manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty, thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that Government or in any of its agencies.

4. The composition of the Government of a State, a local government council, or any of the agencies of such Government or council, and the conduct of the affairs of the Government or council or such agencies shall be carried out in such manner as to recognise the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the people of the Federation.

- Integration of ethnic communities

15

- National motto

1. The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.

- Equality regardless of gender
- Equality regardless of language
- Equality regardless of origin
- Equality regardless of religion

2. Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

3. For the purpose of promoting national integration, it shall be the duty of the State to:

    a. provide adequate facilities for and encourage free mobility of people, goods and services throughout the Federation;

    b. secure full residence rights for every citizen in all parts of the Federation;

    c. encourage inter-marriage among persons from different places of origin, or of different religious, ethnic or linguistic association or ties; and

    d. promote or encourage the formation of associations that cut across ethnic, linguistic, religious and or other sectional barriers.

4. The State shall foster a feeling of belonging and of involvement among the various people of the Federation, to the end that loyalty to the nation shall override sectional loyalties.

5. The State shall abolish all corrupt practices and abuse of power.

16

1. The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution-

    a. harness the resources of the nation and promote national prosperity and an efficient, a dynamic and self-reliant economy;

- Mentions of social class

    b. control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice and equality of status and opportunity;

    c. without prejudice to its right to operate or participate in areas of the economy, other than the major sectors of the economy, manage and operate the major sectors of the economy;

    d. without prejudice to the right of any person to participate in areas of the economy within the major sector of the economy, protect the right of

1. **d.** every citizen to engage in any economic activities outside the major sectors of the economy.

2. The State shall direct its policy towards ensuring:

a. the promotion of a planned and balanced economic development;

b. that the material resources of the nation are harnessed and distributed as best as possible to serve the common good;

- Mentions of social class

c. that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group; and

- State support for the elderly
- State support for the unemployed
- Right to reasonable standard of living
- State support for the disabled
- Right to shelter

d. that suitable and adequate shelter, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment, sick benefits and welfare of the disabled are provided for all citizens.

3. A body shall be set up by an Act of the National Assembly which shall have power-

a. to review, from time to time, the ownership and control of business enterprises operating in Nigeria and make recommendations to the President on same; and

b. to administer any law for the regulation of the ownership and control of such enterprises.

4. For the purposes of subsection (1) of this section-

a. the reference to the "major sectors of the economy" shall be construed as a reference to such economic activities as may, from time to time, be declared by a resolution of each House of the National Assembly to be managed and operated exclusively by the Government of the Federation, and until a resolution to the contrary is made by the National Assembly, economic activities being operated exclusively by the Government of the Federation on the date immediately preceding the day when this section comes into force, whether directly or through the agencies of a statutory or other corporation or company, shall be deemed to be major sectors of the economy;

b. "economic activities" includes activities directly concerned with the production, distribution and exchange of weather or of goods and services; and

c. "participate" includes the rendering of services and supplying of goods.

17

1. The State social order is founded on ideals of Freedom, Equality and Justice.

2. In furtherance of the social order-

- General guarantee of equality

a. every citizen shall have equality of rights, obligations and opportunities before the law;

- Human dignity

b. the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced;

c. governmental actions shall be humane;

d. exploitation of human or natural resources in any form whatsoever for reasons, other than the good of the community, shall be prevented; and

- Judicial independence

e. the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.

3. The State shall direct its policy towards ensuring that-

- Right to work
- Right to reasonable standard of living

a. all citizens, without discrimination on any group whatsoever, have the opportunity for securing adequate means of livelihood as well as adequate opportunity to secure suitable employment;

- Right to rest and leisure
- Right to safe work environment
- Right to culture
- Right to safe work environment

b. conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life;

c. the health, safety and welfare of all persons in employment are safeguarded and not endangered or abused;

- Right to health care

d. there are adequate medical and health facilities for all persons;

- Right to just remuneration

e. there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever;

- Rights of children

f. children, young persons and the aged are protected against any exploitation whatsoever, and against moral and material neglect;

g. provision is made for public assistance in deserving cases or other conditions of need; and

- Right to found a family

h. the evolution and promotion of family life is encouraged.

18

1. Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels.

2. Government shall promote science and technology.

- Reference to science

3. Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide-

- Free education

a. free, compulsory and universal primary education;

- Compulsory education

b. free secondary education;

c. free university education; and

d. free adult literacy programme.

19

The foreign policy objectives shall be-

a. promotion and protection of the national interest;

b. promotion of African integration and support for African unity;

- Regional group(s)

c. promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of discrimination in all its manifestations;

d. respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication; and

- International law

e. promotion of a just world economic order.

20

- Protection of environment

The State shall protect and improve the environment and safeguard the water, air and land, forest and wild life of Nigeria.

21

- Right to culture
- Human dignity
- Reference to science

The State shall-

a. protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this Chapter; and

b. encourage development of technological and scientific studies which enhance cultural values.

22

- Radio
- Telecommunications
- Television

The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and uphold the responsibility and accountability of the Government to the people.

23

The national ethics shall be Discipline, Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-reliance and Patriotism.

24

It shall be the duty of every citizen to-

- Duty to obey the constitution
- National anthem
- National flag
- Duty to serve in the military
- Human dignity
- Duty to pay taxes

a. abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate authorities;

b. help to enhance the power, prestige and good name of Nigeria, defend Nigeria and render such national service as may be required;

c. respect the dignity of other citizens and the rights and legitimate interests of others and live in unity and harmony and in the spirit of common brotherhood;

d. make positive and useful contribution to the advancement, progress and well-being of the community where he resides;

e. render assistance to appropriate and lawful agencies in the maintenance of law and order; and

f. declare his income honestly to appropriate and lawful agencies and pay his tax promptly.

Chapter III. Citizenship

25

- Requirements for birthright citizenship

1. The following persons are citizens of Nigeria by birth namely-

1. a. every person born in Nigeria before the date of independence, either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria:

   Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents was born in Nigeria;

   b. every person born in Nigeria after the date of independence either of whose parents or any of whose grandparents is a citizen of Nigeria; and

   c. every person born outside Nigeria either of whose parents is a citizen of Nigeria.

2. In this section, "the date of independence" means the 1st day of October 1960.

- Requirements for naturalization
- Head of state powers

26

1. Subject to the provisions of section 28 of this Constitution, a person to whom the provisions of this section apply may be registered as a citizen of Nigeria, if the President is satisfied that-

   a. he is a person of good character;

   b. he has shown a clear intention of his desire to be domiciled in Nigeria; and

   c. he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution.

2. The provisions of this section shall apply to-

   a. any woman who is or has been married to a citizen of Nigeria; or

   b. every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria.

- Requirements for naturalization
- Head of state powers

27

1. Subject to the provisions of section 28 of this Constitution, any person who is qualified in accordance with the provisions of this section may apply to the President for the same of a certificate of naturalisation.

2. No person shall be qualified to apply for the grant of a certificate or naturalisation, unless he satisfies the President that-

   a. he is a person of full age and capacity;

   b. he is a person of good character;

   c. he has shown a clear intention of his desire to be domiciled in Nigeria;

   d. he is, in the opinion of the Governor of the State where he is or he proposes to be resident, acceptable to the local community in which he is to live permanently, and has been assimilated into the way of life of Nigerians in that part of the Federation;

   e. he is a person who has made or is capable of making useful contribution to the advancement; progress and well-being of Nigeria;

   f. he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution; and

   g. he has, immediately preceding the date of his application, either-

      i. resided in Nigeria for a continuous period of fifteen years; or

2. **g.** **ii.** resided in Nigeria continuously for a period of twelve months, and during the period of twenty years immediately preceding that period of twelve months has resided in Nigeria for periods amounting in the aggregate to not less than fifteen years.

28

- Conditions for revoking citizenship

1. Subject to the other provisions of this section, a person shall forfeit forthwith his Nigerian citizenship if, not being a citizen of Nigeria by birth, he acquires or retains the citizenship or nationality of a country, other than Nigeria, of which he is not a citizen by birth.

2. Any registration of a person as a citizen of Nigeria or the grant of a certificate of naturalisation to a person who is a citizen of a country other than Nigeria at the time of such registration or grant shall, if he is not a citizen by birth of that other country, be conditional upon effective renunciation of the citizenship or nationality of that other country within a period of not more than five months from the date of such registration or grant.

- Right to renounce citizenship

29

1. Any citizen of Nigeria of full age who wishes to renounce his Nigerian citizenship shall make a declaration in the prescribed manner for the renunciation.

2. The President shall cause the declaration made under subsection (1) of this section to be registered and upon such registration, the person who made the declaration shall cease to be a citizen of Nigeria.

3. The President may withhold the registration of any declaration made under subsection (1) of this section if-

a. the declaration is made during any war in which Nigeria is physically involved; or

b. in his opinion, it is otherwise contrary to public policy.

4. For the purposes of subsection (1) of this section-

a. “full age” means the age of eighteen years and above;

b. any woman who is married shall be deemed to be of full age.

- Conditions for revoking citizenship
- Head of state powers

30

1. The President may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, of his citizenship, if he is satisfied that such a person has, within a period of seven years after becoming naturalised, been sentenced to imprisonment for a term of not less than three years.

2. The President shall deprive a person, other than a person who is citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of proceedings of a court of law or other tribunal or after due inquiry in accordance with regulations made by him, that-

a. the person has shown himself by act or speech to be disloyal towards the Federal Republic of Nigeria; or

b. the person has, during any war in which Nigeria was engaged, unlawfully traded with the enemy or been engaged in or associated with any business that was in the opinion of the president carried on in such a manner as to assist the enemy of Nigeria in that war, or unlawfully communicated with such enemy to the detriment of or with intent to cause damage to the interest of Nigeria.

31

For the purposes of this Chapter, a parent or grandparent of a person shall be deemed to be a citizen of Nigeria if at the time of the birth of that person such parent or grandparent would have possessed that status by birth if he had been alive on the date of independence; and in this section, "the date of independence" has the meaning assigned to it in section 25(2) of this Constitution.

- Head of state powers

32

1. The president may make regulations, not inconsistent with this Chapter, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Chapter, and for granting special immigrant status with full residential rights to non-Nigerian spouses of citizens of Nigeria who do not wish to acquire Nigerian citizenship.
2. Any regulations made by the president pursuant to the provisions of this section shall be laid before the National Assembly.

Chapter IV. Fundamental Rights

33

- Right to life

1. Every person has a right to life, and no one shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty in Nigeria.
2. A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary-
    a. for the defence of any person from unlawful violence or for the defence of property;
    b. in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or
    c. for the purpose of suppressing a riot, insurrection or mutiny.

- Prohibition of slavery

34

- Human dignity
- Prohibition of cruel treatment
- Prohibition of torture

1. Every individual is entitled to respect for the dignity of his person, and accordingly-
    a. no person shall be subject to torture or to inhuman or degrading treatment;
    b. no person shall he held in slavery or servitude; and
    c. no person shall be required to perform forced or compulsory labour.
2. For the purposes of subsection (1) (c) of this section, "forced or compulsory labour" does not include-
    a. any labour required in consequence of the sentence or order of a court;

2. **b.** any labour required of members of the armed forces of the Federation or the Nigeria Police Force in pursuance of their duties as such;

- Right to conscientious objection

c. in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service;

d. any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or

e. any labour or service that forms part of-

i. normal communal or other civic obligations of the well-being of the community,

ii. such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or

iii. such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

35

- Protection from unjustified restraint

1. Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law-

a. in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty;

b. by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;

c. for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence, or to such extent as may be reasonably necessary to prevent his committing a criminal offence;

d. in the case of a person who has not attained the age of eighteen years for the purpose of his education or welfare;

- Drugs, alcohol, and illegal substances

e. in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or

- Restrictions on entry or exit
- Power to deport citizens
- Extradition procedure

f. for the purpose of preventing the unlawful entry of any person into Nigeria or of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto:

Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.

- Protection from self-incrimination

2. Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.

- Trial in native language of accused

3. Any person who is arrested or detained shall be informed in writing within twenty-four hours (and in a language that he understands) of the facts and grounds for his arrest or detention.

- Right to pre-trial release

4. Any person who is arrested or detained in accordance with subsection (1) (c) of this section shall be brought before a court of law within a reasonable time, and if he is not tried within a period of-

    a. two months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail; or

    b. three months from the date of his arrest or detention in the case of a person who has been released on bail,

    he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date.

5. In subsection (4) of this section, the expression "a reasonable time" means-

    a. in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of forty kilometres, a period of one day; and

    b. in any other case, a period of two days or such longer period as in the circumstances may be considered by the court to be reasonable.

- Protection from false imprisonment

6. Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, "the appropriate authority or person" means an authority or person specified by law.

7. Nothing in this section shall be construed-

    a. in relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence; and

    b. as invalidating any law by reason only that it authorises the detention for a period not exceeding three months of a member of the armed forces of the federation or a member of the Nigeria Police Force in execution of a sentence imposed by an officer of the armed forces of the Federation or of the Nigeria police force, in respect of an offence punishable by such detention of which he has been found guilty.

36

1. In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality.

2. Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or authority power to determine questions arising in the administration of a law that affects or may affect the civil rights and obligations of any person if such law-

    a. provides for an opportunity for the persons whose rights and obligations may be affected to make representations to the administering authority before that authority makes the decision affecting that person; and

    b. contains no provision making the determination of the administering authority final and conclusive.

3. The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public.

- Right to public trial
- Right to fair trial
- Right to speedy trial

4. Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing in public within a reasonable time by a court or tribunal:

Provided that-

- Privileges for juveniles in criminal process

a. a court or such a tribunal may exclude from its proceedings persons other than the parties thereto or their legal practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of eighteen years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice;

b. if in any proceedings before a court or such a tribunal, a Minister of the Government of the Federation or a commissioner of the government of a State satisfies the court or tribunal that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

- Presumption of innocence in trials

5. Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

6. Every person who is charged with a criminal offence shall be entitled to-

- Trial in native language of accused

a. be informed promptly in the language that he understands and in detail of the nature of the offence;

b. be given adequate time and facilities for the preparation of his defence;

- Right to counsel

c. defend himself in person or by legal practitioners of his own choice;

- Right to examine evidence/witnesses

d. examine, in person or by his legal practitioners, the witnesses called by the prosecution before any court or tribunal and obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court or tribunal on the same conditions as those applying to the witnesses called by the prosecution; and

- Trial in native language of accused

e. have, without payment, the assistance of an interpreter if he cannot understand the language used at the trial of the offence.

7. When any person is tried for any criminal offence, the court or tribunal shall keep a record of the proceedings and the accused person or any persons authorised by him in that behalf shall be entitled to obtain copies of the judgement in the case within seven days of the conclusion of the case.

- Principle of no punishment without law
- Protection from ex post facto laws

8. No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence, and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

- Prohibition of double jeopardy

9. No person who shows that he has been tried by any court of competent jurisdiction or tribunal for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court.

- Prohibition of double jeopardy

10. No person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

- Protection from self-incrimination

11. No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

- Principle of no punishment without law

12. Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law, and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law.

37

- Telecommunications
- Right to privacy

The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.

- Freedom of opinion/thought/conscience
- Freedom of religion

38

1. Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief, and freedom (either alone or in community with others, and in public or in private) to manifest and propagate his religion or belief in worship, teaching, practice and observance.

2. No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observance if such instruction ceremony or observance relates to a religion other than his own, or religion not approved by his parent or guardian.

3. No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.

4. Nothing in this section shall entitle any person to form, take part in the activity or be a member of a secret society.

- Freedom of expression
- Freedom of press

39

1. Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.

- Television
- Telecommunications
- Radio

2. Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions:

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President on the fulfilment of conditions laid down by an Act of the National Assembly, shall own, establish or operate a television or wireless broadcasting station for, any purpose whatsoever.

3. Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-

- Television
- Telecommunications
- Radio

a. for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films; or

b. imposing restrictions upon persons holding office under the Government of the Federation or of a State, members of the armed forces of the Federation or members of the Nigeria Police Force or other Government security services or agencies established by law.

40

- Right to form political parties
- Right to join trade unions
- Freedom of association
- Freedom of assembly

Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests:

Provided that the provisions of this section shall not derogate from the powers conferred by this Constitution on the Independent National Electoral Commission with respect to political parties to which that Commission does not accord recognition.

- Freedom of movement

41

1. Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof, and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereby or exit therefrom.

2. Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society-

a. imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria; or

- Extradition procedure

b. providing for the removal of any person from Nigeria to any other country to:-

i. be tried outside Nigeria for any criminal offence, or

ii. undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty:

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.

- General guarantee of equality

42

1. A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:-

- Equality regardless of origin
- Equality regardless of gender
- Equality regardless of political party
- Equality regardless of religion

a. be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government, to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions are not made subject; or

b. be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action, any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

2. No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

3. Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or member of the Nigeria Police Forces or to an office in the service of a body, corporate established directly by any law in force in Nigeria.

43

- Right to own property

Subject to the provisions of this Constitution, every citizen of Nigeria shall have the right to acquire and own immovable property anywhere in Nigeria.

- Protection from expropriation

44

1. No moveable property or any interest in an immovable property shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except in the manner and for the purposes prescribed by a law that, among other things-

    a. requires the prompt payment of compensation therefore; and

    b. gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to a court of law or tribunal or body having jurisdiction in that part of Nigeria.

2. Nothing in subsection (1) of this section shall be construed as affecting any general law-

    a. for the imposition or enforcement of any tax, rate or duty;

    b. for the imposition of penalties or forfeiture for breach of any law, whether under civil process or after conviction for an offence;

    c. relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts;

    d. relating to the vesting and administration of property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind or deceased persons, and of corporate or unincorporate bodies in the course of being wound-up;

    e. relating to the execution of judgements or orders of court;

- Protection of environment

    f. providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;

    g. relating to enemy property;

    h. relating to trusts and trustees;

    i. relating to limitation of actions;

    j. relating to property vested in bodies corporate directly established by any law in force in Nigeria;

    k. relating to the temporary taking of possession of property for the purpose of any examination, investigation or enquiry;

- Protection of environment

    l. providing for the carrying out of work on land for the purpose of soil-conservation; or

- Telecommunications

    m. subject to prompt payment of compensation for damage to buildings, economic trees or crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.

- Ownership of natural resources

3. Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic

3. Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

- Emergency provisions

45

1. Nothing in sections 37, 38, 39, 40 and 41 of this Constitution shall invalidate any law that is reasonably justifiable in a democratic society-

    a. in the interest of defence, public safety, public order, public morality or public health; or

    b. for the purpose of protecting the rights and freedom or other persons.

2. An act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 33 or 35 of this Constitution; but no such measures shall be taken in pursuance of any such act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:

    Provided that nothing in this section shall authorise any derogation from the provisions of section 33 of this Constitution, except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 36(8) of this Constitution.

3. In this section, a "period of emergency" means any period during which there is in force a Proclamation of a state of emergency declared by the President in exercise of the powers conferred on him under section 305 of this Constitution.

46

- Protection from false imprisonment

1. Any person who alleges that any of the provisions of this Chapter has been, is being or likely to be contravened in any State in relation to him may apply to a High Court in that State for redress.

2. Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcement or securing the enforcing within that State of any right to which the person who makes the application may be entitled under this Chapter.

3. The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section.

4. The National Assembly-

    a. may confer upon a High Court such powers in addition to those conferred by this section as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section; and

    b. shall make provisions-

        i. for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and

        ii. for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.

Chapter V. The Legislature

Part I. National Assembly

A. Composition and Staff of National Assembly

47

- Structure of legislative chamber(s)

There shall be a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

48

- Second chamber selection
- Size of second chamber

The Senate shall consist of three Senators from each State and one from the Federal Capital Territory, Abuja.

49

- Size of first chamber

Subject to the provisions of this Constitution, the House of Representatives shall consist of three hundred and sixty members representing constituencies of nearly equal population as far as possible, provided that no constituency shall fall within more than one State.

50

1. There shall be:-

- Leader of second chamber

a. a President and a Deputy President of the Senate, who shall be elected by the members of that House from among themselves; and

- Leader of first chamber

b. a Speaker and a Deputy Speaker of the House of Representatives, who shall be elected by the members of that House from among themselves.

2. The President or Deputy President of the Senate or the Speaker or Deputy Speaker of the House of Representatives shall vacate his office-

a. if he ceases to be a member of the Senate or of the House of Representatives, as the case may be, otherwise than by reason of a dissolution of the Senate or the House of Representatives; or

b. when the House of which he was a member first sits after any dissolution of that House; or

c. if he is removed from office by a resolution of the Senate or of the House of Representatives, as the case may be, by the votes of not less than two-thirds majority of the members of that House.

51

There shall be a Clerk to the National Assembly and such other staff as may be prescribed by an Act of the National Assembly, and the method of appointment of the Clerk and other staff of the National Assembly shall be as prescribed by that Act.

B. Procedure for Summoning and Dissolution of National Assembly

52

- Oaths to abide by constitution
- Earnings disclosure requirement

1. Every member of the Senate or the House of Representatives shall, before taking his seat, declare his assets and liabilities as prescribed in this Constitution

1. and subsequently take and subscribe the Oath of Allegiance and the oath of membership as prescribed in the Seventh Schedule to this Constitution before the President of the Senate or, as the case may be, the Speaker of the House of Representatives, but a member may before taking the oaths take part in the election of a President and a Deputy President of the Senate, as the case may be, or a Speaker and a Deputy Speaker of the House of Representatives.

2. The President and Deputy President of the Senate and the Speaker and the Deputy Speaker of the House of Representatives shall declare their assets and liabilities as prescribed in this Constitution and subsequently take and subscribe the Oath of Allegiance and the oath of membership prescribed as aforesaid before the Clerk of the National Assembly.

53

1. At any sitting of the National Assembly-

- Leader of second chamber

   a. in the case of the Senate, the President of the Senate shall preside, and in his absence the Deputy President shall preside; and

- Leader of first chamber

   b. in the case of the House of Representatives, the Speaker of that House shall preside, and in his absence the Deputy Speaker shall preside.

2. At any joint sitting of the Senate and House of Representatives-

   a. the President of Senate shall preside, and in his absence the Speaker of the House of Representatives shall preside; and

   b. in the absence of the persons mentioned in paragraph (a) of this subsection, the Deputy President of the Senate shall preside, and in his absence the Deputy Speaker of the House of Representatives shall preside.

3. In the absence of the persons mentioned in the foregoing provisions of this section, such member of the Senate or the House of Representatives or of the joint sitting, as the case may be, as the Senate or the House of Representatives or the joint sitting may elect for that purpose shall preside.

- Quorum for legislative sessions

54

1. The quorum of the Senate or of the House of Representatives shall be one-third of all the members on of the Legislative House concerned.

2. The quorum of a joint sitting of both the Senate or of the House of Representatives shall be one-third of all the members of both Houses.

3. If objection is taken by any member of the Senate or the House of Representatives present that there are present in the House of which he is a member (besides the person presiding) fewer than one-third of all the members of that House and that it is not competent for the House to transact business, and after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-third of all the members of the House he shall adjourn the House.

4. The foregoing provisions of this section shall apply in relation to a joint sitting of both Houses of the National Assembly as they apply in relation to a House of the National Assembly as if references to the Senate or the House of Representatives and a member of either Houses are references to both Houses and to any member of the National Assembly, respectively.

55

- Official or national languages

The business of the National Assembly shall be conducted in English, and in Hausa, Ibo and Yoruba when adequate arrangements have been made therefor.

56

1. Except as otherwise provided by this Constitution any question proposed for decision in the Senate or the House of Representatives shall be determined by the required majority or the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

2. Except as otherwise provided by this Constitution, the required majority for the purpose of determining any question shall be a simple majority.

3. The Senate or the House of Representatives shall by its rules provide-

    a. that a member of the House shall declare any direct pecuniary interest he may have in any matter coming before the House for deliberation;

    b. that the House may by resolution decide whether or not such member may vote, or participate in its deliberations, on such matter;

    c. the penalty, if any, which the House may impose for failure to declare any direct pecuniary interest such member may have; and

    d. for such other matters pertaining to the foregoing as the House may think necessary,

    but nothing in the foregoing provisions shall enable any rules to be made to require any member, who signifies his intention not to vote on or participate in such matter, and who does not so vote or participate, to declare any such interest.

57

Any person who sits or votes in the Senate or the House of Representatives knowing or having reasonable grounds for knowing that he is not entitled to do so commits an offence and is liable on conviction to such punishment as shall be prescribed by an Act of the National Assembly.

- Approval or veto of general legislation
- Division of labor between chambers

58

1. The power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives and, except as otherwise provided by subsection (5) of this section, assented to by the President.

2. A bill may originate in either the Senate or the House of Representatives and shall not become law unless it has been passed and, except as otherwise provided by this section and section 59 of this Constitution, assented to in accordance with the provisions of this section.

3. Where a bill has been passed by the House in which it originated, it shall be sent to the other House, and it shall be presented to the President for assent when it has been passed by that other House and agreement has been reached between the two Houses on any amendment made on it.

4. Where a bill is presented to the President for assent, he shall within thirty days thereof signify that he assents or that he withholds assent.

- Veto override procedure

5. Where the President withholds his assent and the bill is again passed by each House by two-thirds majority, the bill shall become law and the assent of the President shall not be required.

- Tax bills
- Spending bills
- Joint meetings of legislative chambers

59

1. The provisions of this section shall apply to:

1. **a.** an appropriation bill or a supplementary appropriation bill, including any other bill for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any money charged thereon or any alteration in the amount of such a payment, issue or withdrawal; and

   b. a bill for the imposition of or increase in any tax, duty or fee or any reduction, withdrawal or cancellation thereof.

- Legislative committees

2. Where a bill to which this section applies is passed by one of the Houses of the National Assembly but is not passed by the other House within a period of two months from the commencement of a financial year, the President of the Senate shall within fourteen days thereafter arrange for and convene a meeting of the joint finance committee to examine the bill with a view to resolving the differences between the two Houses.

- Legislative committees

3. Where the joint finance committee fails to resolve such differences, then the bill shall be presented to the National Assembly sitting at a joint meeting, and if the bill is passed at such joint meeting, it shall be presented to the President for assent.

4. Where the President, within thirty days after the presentation of the bill to him, fails to signify his assent or where he withholds assent, then the bill shall again be presented to the National Assembly sitting at a joint meeting, and if passed by two-thirds majority of members of both houses at such joint meeting, the bill shall become law and the assent of the President shall not be required.

- Legislative committees

5. In this section, "joint finance committee" refers to the joint committee of the National Assembly on finance established pursuant to section 62(3) of this Constitution.

60

Subject to the provisions of this Constitution, the Senate or the House of Representatives shall have power to regulate its own procedure, including the procedure for summoning and recess of the House.

61

The Senate or the House of Representatives may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

- Legislative committees

62

1. The Senate or the House of Representatives may appoint a committee of its members for such special or general purpose as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee.

2. The number of members of a committee appointed under this section, their terms of office and quorum shall be fixed by the House appointing it.

3. The Senate and the House of Representatives shall appoint a joint committee on finance consisting of an equal number of persons appointed by each House and may appoint any other joint committee under the provisions of this section.

4. Nothing in this section shall be construed as authorising such House to delegate to a committee the power to decide whether a bill shall be passed into law or to determine any matter which it is empowered to determine by resolution under the provisions of this Constitution, but the committee may be authorised to make recommendations to the House on any such matter.

63

- Length of legislative sessions

The Senate and the House of Representatives shall each sit for a period of not less than one hundred and eighty-one days in a year.

64

- Term length of second chamber
- Term length for first chamber

1. The Senate and the House of Representatives shall each stand dissolved at the expiration of a period of four years commencing from the date of the first sitting of the House.

- Emergency provisions

2. If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of four years mentioned in subsection (1) of this section from time to time but not beyond a period of six months at any one time.

- Dismissal of the legislature

3. Subject to the provisions of this Constitution, the person elected as the President shall have power to issue a proclamation for the holding of the first session of the National Assembly immediately after his being sworn in, or for its dissolution as provided in this section.

C. Qualifications for Membership of National Assembly and Right of Attendance

65

- Eligibility for cabinet
- Eligibility for first chamber
- Eligibility for second chamber

1. Subject to the provisions of section 66 of this Constitution, a person shall be qualified for election as a member of:

- Age restrictions on second chamber

   a. the Senate, if he is a citizen of Nigeria and has attained the age of 35 years; and

- Age restrictions on first chamber

   b. the House of Representatives, if he is a citizen of Nigeria and has attained the age of twenty-five years;

2. A person shall be qualified for election under subsection (1) of this section if:

   a. he has been educated up to at least School Certificate level or its equivalent; and

   b. he is a member of a political party and is sponsored by that party.

66

- Eligibility for cabinet
- Eligibility for second chamber
- Eligibility for first chamber

1. No person shall be qualified for election to the Senate or the House of Representatives if:

   a. subject to the provisions of section 28 of this Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;

   b. under any law in force in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

   c. he is under a sentence of death imposed on him by any competent court of law or tribunal in Nigeria or a sentence of imprisonment or fine for an offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by such a court or tribunal or substituted by a competent authority for any other sentence imposed on him by such a court;

1. **d.** within a period of less than 10 years before the date of an election to a legislative house, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of a contravention of the Code of Conduct;

e. he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;

f. he is a person employed in the public service of the Federation or of any State and has not resigned, withdrawn or retired from such employment 30 days before the date of election;

g. he is a member of a secret society;

h. [deleted by the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010]

i. he has presented a forged certificate to the Independence National Electoral Commission.

2. Where in respect of any person who has been-

a. adjudged to be a lunatic;

b. declared to be of unsound mind;

c. sentenced to death or imprisonment; or

d. adjudged or declared bankrupt,

any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of the section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier.

3. For the purposes of subsection (2) of this section "appeal" includes any application for an injunction or an order certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

67

1. The President may attend any joint meeting of the National Assembly or any meeting of either House of the National Assembly, either to deliver an address on national affairs including fiscal measures, or to make such statement on the policy of government as he considers to be of national importance.

- Legislative oversight of the executive

2. A Minister of the Government of the Federation attends either House of the National Assembly if invited to express to the House the conduct of his Ministry, and in particular when the affairs of that Ministry are under discussion.

- Legislative committees

3. Nothing in this section shall enable any person who is not a member of the Senate or of the House of Representatives to vote in that House or in any of its committees.

- Removal of individual legislators

68

1. A member of the Senate or of the House of Representatives shall vacate his seat in the House of which he is a member if-

- Outside professions of legislators

a. he becomes a member of another legislative house;

b. any other circumstances arise that, if he were not a member of the Senate or the House of Representatives, would cause him to be disqualified for election as a member;

1. **c.** he ceases to be a citizen of Nigeria;

- Outside professions of legislators

d. he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State or a Special Adviser;

- Outside professions of legislators

e. save as otherwise prescribed by this Constitution, he becomes a member of a commission or other body established by this Constitution or by any other law;

- Attendance by legislators

f. without just cause he is absent from meetings of the House of which he is a member for a period amounting in the aggregate to more than one-third of the total number of days during which the House meets in any one year;

g. being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected:

Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored; or

h. the President of the Senate or, as the case may be, the Speaker of the House of Representatives receives a certificate under the hand of the Chairman of the Independent National Electoral Commission stating that the provisions of section 69 of this Constitution have been complied with in respect of the recall of that member.

2. The President of the Senate or the Speaker of the House of Representatives, as the case may be, shall give effect to the provisions of subsection (1) of this section, so however that the President of the Senate or the Speaker of the House of Representatives or a member shall first present evidence satisfactory to the House concerned that any of the provisions of that subsection has become applicable in respect of that member.

3. A member of the Senate or of the House of Representatives shall be deemed to be absent without just cause from a meeting of the House of which he is a member, unless the person presiding certifies in writing that he is satisfied that the absence of the member from the meeting was for a just cause.

69

- Removal of individual legislators
- Electoral commission

A member of the Senate or of the House Representatives may be recalled as such a member if-

a. there is presented to the Chairman of the Independent National Electoral Commission a petition in that behalf signed by more than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member and which signatures are duly verified by the Independent National Electoral Commission; and

b. the petition is thereafter, in a referendum conducted by the Independent National Electoral Commission within ninety days of the date of receipt of the petition, approved by a simple majority of the votes of the persons registered to vote in that member's constituency.

70

- Compensation of legislators

A member of the Senate or of the House of Representatives shall receive such salary and other allowances as Revenue Mobilisation Allocation and Fiscal Commission may determine.

D. Elections to National Assembly

71

- Electoral commission
- Electoral districts

Subject to the provisions of section 72 of this Constitution, the Independent National Electoral Commission shall-

- Second chamber selection

a. divide each State of the Federation into three Senatorial districts for purposes of elections to the Senate; and

- First chamber selection

b. subject to the provisions of section 49 of this Constitution, divide the Federation into three hundred and sixty Federal constituencies for purposes of elections to the House of Representatives.

72

No Senatorial district or Federal constituency shall fall within more than one State, and the boundaries of each district or constituency shall be as contiguous as possible and be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

73

- Electoral districts
- Electoral commission

1. The Independent National Electoral Commission shall review the division of States and of the Federation into Senatorial districts and Federal constituencies at intervals of not less than ten years, and may alter the districts or constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review.

2. Notwithstanding subsection (1) of this section, the Independent National Electoral Commission may at any time carry out such a review and alter the districts or constituencies in accordance with the provisions of this section to such extent as it considers necessary, in consequence of any amendment to section 8 of this Constitution or any provision replacing that section, or by reason of the holding of a census of the population, or pursuant to an Act of the National Assembly.

74

Where the boundaries of any Senatorial district or Federal constituency established under section 71 of this Constitution are altered in accordance with the provisions section 73 hereof, the alteration shall come into effect after it has been approved by each House of the National Assembly and after the current life of the Senate (in the case of an alteration to the boundaries of a Senatorial district) or the House of Representatives (in the case of an alteration to the boundaries of a Federal constituency).

75

For the purposes of section 72 of this Constitution, the number of inhabitants of Nigeria or any part thereof shall be ascertained by reference to or the latest census held in pursuance of an Act of the National Assembly.

76

- Scheduling of elections

1. Elections to each House of the National Assembly shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Electoral Act.

2. The date mentioned in subsection (1) of this section shall not be earlier than one hundred and fifty days and not later than one hundred and twenty days before, or where the election to fill a vacancy occurring more than ninety days before such date, not later than thirty days after the vacancy occurred.

- First chamber selection
- Second chamber selection

77

1. Subject to the provisions of this Constitution, every Senatorial district or Federal constituency established in accordance with the provisions of this Part of this Chapter shall return a member who shall be directly elected to the Senate or the House of Representatives in such manner as may be prescribed by an act of the National Assembly.

- Restrictions on voting

2. Every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of election to a legislative house, shall be entitled to be registered as a voter for that election.

78

- Electoral commission

The registration of voters and the conduct of elections shall be subject to the direction and supervision of Independent National Electoral Commission.

79

The National Assembly shall make provisions as respects-

a. persons who may apply to an election tribunal for determination of any question as to whether-

i. any person has been validly elected as a member of the Senate or of the House of Representatives,

ii. the term of office of any person has ceased, or

iii. the seat in the Senate or in the House of Representatives of a member of that House has become vacant;

b. circumstances and manner in which, and the conditions upon which, such application may be made; and

c. powers, practice and procedure of the election tribunal in relation to any such application.

E. Powers and Control over Public Funds

80

1. All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the Federation.

2. No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the fund by this Constitution or where the issue of those moneys has been authorised by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 81 of this Constitution.

3. No moneys shall be withdrawn from any public fund of the Federation, other than the Consolidated Revenue Fund of the Federation, unless the issue of those moneys has been authorised by an Act of the National Assembly.

4. No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly.

- Budget bills

81

1. The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

2. The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund of the Federation by this Constitution) shall be included in a bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

3. The amount standing to the credit of the-

    a. Independent National Electoral Commission,

    b. National Assembly, and

    c. Judiciary,

    in the Consolidated Revenue Fund of the Federation shall be paid directly to the said bodies respectively; in the case of the Judiciary, such amount shall be paid to the National Judicial Council for disbursement to the heads of the courts established for the Federation and the States under section 6 of this Constitution.

4. If in respect of any financial year it is found that-

    a. the amount appropriated by the Appropriation Act for any purpose is insufficient; or

    b. a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act,

    a supplementary estimate showing the sums required shall be laid before each House of the National Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

82

If the Appropriation Bill in respect of any financial year has not been passed into law by the beginning of the financial year, the President may authorise the withdrawal of moneys in the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government of the Federation for a period not exceeding months or until the coming into operation of the Appropriate Act, whichever is the earlier:

Provided that the withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the Federation under the provisions of the Appropriation Act passed by the National Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorised for the immediately preceding financial year.

83

1. The National Assembly may by law make provisions for the establishment of a Contingencies Fund for the Federation and for authorising the President, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet the need.

2. Where any advance is made in accordance with the provisions of this section, a Supplementary Estimate shall be presented and a Supplementary Appropriation

2. Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

84

1. There shall be paid to the holders of the offices mentioned in this section such remuneration, salaries and allowances as may be prescribed by the National Assembly, but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

2. The remuneration, salaries and allowances payable to the holders of the offices so mentioned shall be a charge upon the Consolidated Revenue Fund of the Federation.

- Protection of judges' salaries

3. The remuneration and salaries payable to the holders of the said offices and their conditions of service, other than allowances, shall not be altered to their disadvantage after their appointment.

- Protection of judges' salaries

4. The offices aforesaid are the offices of President, Vice-President, Chief Justice of Nigeria, Justice of the Supreme Court, President of the Court of Appeal, Justice of the Court of Appeal, Chief Judge of the Federal High Court, Judge of the Federal High Court, President of the National Industrial Court, Judge of the National Industrial Court, Chief Judge and Judge of the High Court of the Federal Capital Territory, Abuja, Chief Judge of a State, Judge of the High Court of a State, Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, President and Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja, Grand Kadi and Kadi of the Sharia Court of Appeal of a State, President and Judge of the Customary Court of Appeal of a State, the Auditor-General for the Federation and the Chairmen and members of the following executive bodies, namely, the Code of Conduct Bureau, the Federal Civil Service Commission, the Independent National Electoral Commission, the National Judicial Council, the Federal Judicial Service Commission, the Judicial Service Committee of the Federal Capital Territory, Abuja, the Federal Character Commission, the Code of Conduct Tribunal, the National Population Commission, the Revenue Mobilisation Allocation and Fiscal Commission, the Nigeria Police Council and the Police Service Commission.

5. Any person who has held office as President or Vice-President shall be entitled to pension for life at a rate equivalent to the annual salary of the incumbent President or Vice-President:

   Provided that such a person was not removed from office by the process of impeachment or for breach of any provisions of this Constitution.

6. Any pension granted by virtue of subsection (5) of this section shall be a charge upon the Consolidated Revenue Fund of the Federation.

7. The recurrent expenditure of judicial offices in the Federation (in addition to salaries and allowances of the judicial officers mentioned in subsection (4) of this section) shall be charge upon the Consolidated Revenue Fund of the Federation.

8. The recurrent expenditure of the Independent National Electoral Commission, in addition to salaries and allowances of the Chairman and members, shall be a charge upon the Consolidated Revenue Fund of the Federation.

85

1. There shall be an Auditor-General for the Federation who shall be appointed in accordance with the provisions of section 86 of this Constitution.

2. The public accounts of the Federation and of all offices and courts of the Federation shall be audited and reported on to the Auditor-General who shall submit his reports to the National Assembly; and for that purpose, the Auditor-General or any person authorised by him in that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

3. Nothing in subsection (2) of this section shall be construed as authorising the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly, but the Auditor-General shall-

    a. provide such bodies with-

        i. a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors, and

        ii. guidelines on the level of fees to be paid to external auditors; and

    b. comment on their annual accounts and auditor's reports thereon.

4. The Auditor-General shall have power to conduct checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly.

- Legislative committees

5. The Auditor-General shall, within ninety days of receipt of the Accountant-General's financial statement, submit his reports under this section to each House of the National Assembly and each House shall cause the reports to be considered by a committee of the House of the National Assembly responsible for public accounts.

6. In the exercise of his functions under this Constitution, the Auditor-General shall not be subject to the direction or control of any other authority or person.

86

1. The Auditor-General for the Federation shall be appointed by the President on the recommendation of the Federal Civil Service Commission subject to confirmation by the Senate.

2. The power to appoint persons to act in the office of the Auditor-General shall vest in the President.

3. Except with the sanction of a resolution of the Senate, no person shall act in the office of the Auditor-General for a period exceeding six months.

87

1. A person holding the office of the Auditor-General for the Federation shall 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 his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

2. The Auditor-General shall not be removed from office before such retiring age as may be prescribed by law, save in accordance with the provisions of this section.

- Legislative oversight of the executive

88

1. Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the Official Gazette of the Government of the Federation to direct or cause to be directed investigation into-

    a. any matter or thing with respect to which it has power to make laws; and

    b. the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for-

1. b. i. executing or administering laws enacted by National Assembly, and

ii. disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

2. The powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it to-

a. make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and

b. expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

- Legislative committees
- Legislative oversight of the executive

89

1. For the purposes of any investigation under section 88 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with section 62 of this Constitution shall have power to-

a. procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter;

b. require such evidence to be given on oath;

c. summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions; and

d. 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 House or the committee in question, and order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons, and also to impose such fine as may be prescribed for any such failure, refused or neglect; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law.

2. A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the President of the Senate or the Speaker of the House of Representatives, as the case may require.

- Subsidiary unit government

Part II. House of Assembly of a State

A. Composition and Staff of House of Assembly

90

There shall be a House of Assembly for each of the States of the Federation.

91

Subject to the provisions of this Constitution, a House of Assembly of a State shall consist of three or four times the number of seats which that State has in the House of Representatives divided in a way to reflect, as far as possible nearly equal population:

Provided that a House of Assembly of a State shall consist of not less than twenty-four and not more than forty members.

92

1. There shall be a Speaker and a Deputy Speaker of a House of Assembly who shall be elected by the members of the House from among themselves.

2. The Speaker or Deputy Speaker of the House of Assembly shall vacate his office-

    a. if he ceases to be a member of the House of Assembly otherwise than by reason of the dissolution of the House;

    b. when the House first sits after any dissolution of House; or

    c. if he is removed from office by a resolution of House of Assembly by the votes of not less than two-third majority of the members of the House.

93

There shall be a Clerk to a House of Assembly and such other staff as may be prescribed by a Law enacted by the House of Assembly, and the method of appointment of the Clerk and other staff of the House shall be as prescribed by that Law.

B. Procedure for Summoning and Dissolution of House of Assembly

- Oaths to abide by constitution

94

1. Every person elected to a House of Assembly shall before taking his seat in that House, declare his assets and liabilities in the manner prescribed in this Constitution and subsequently take and subscribe before the Speaker of the House, the Oath of Allegiance and oath of membership prescribed in the Seventh Schedule to this Constitution, but a member may, before taking the oaths, take part in the election of the Speaker and Deputy Speaker of the House of Assembly.

2. The Speaker and Deputy Speaker of a House of Assembly shall declare their assets and liabilities in the manner prescribed by this Constitution and subsequently take and subscribe to the Oath of Allegiance and the oath of membership prescribed as aforesaid before the Clerk of the House of Assembly.

95

1. At any sitting of a House of Assembly, the Speaker of that House shall preside, and in his absence the Deputy Speaker shall preside.

2. In the absence of the Speaker and Deputy Speaker of the House, such member of the House as the House may elect for a purpose shall preside.

96

1. The quorum of a House of Assembly shall be one-third of all the members of the House.

2. If objection is taken by any member of a House of Assembly present that there are present in that House (besides the person presiding) fewer than one-third of all the members of that House and that it is not competent for the House to transact business, and after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-third of all the members of the House, he shall adjourn the House.

97

The business of a House of Assembly shall be conducted in English, but the House may in addition to English conduct the business of the House in one or more other languages spoken in the State as the House may by resolution approve.

98

1. Except as otherwise provided by this Constitution, any question proposed for decision in a House of Assembly shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

2. Except as otherwise provided by this Constitution, the required majority for the purpose of determining any question shall be a simple majority.

3. A House of Assembly shall by its rules provide-

    a. that a member of the House shall declare any direct pecuniary interest he may have in any matter coming before the House for deliberation;

    b. that the House may by resolution decide whether or not such member may vote or participate in its deliberations, on such matter;

    c. the penalty, if any, which the House may impose for failure to declare any direct pecuniary interest such member may have; and

    d. for such other matters pertaining to the foregoing as the House may think necessary,

    but nothing in this subsection shall enable any rules to be made to require any member, who signifies his intention not to vote on or participate in such matter, and who does not so vote or participate, to declare any such interest.

99

Any person who sits or votes in a House of Assembly of a State knowing or having reasonable grounds for knowing that he is not entitled to do so commits an offence and is liable on conviction to such punishment as shall be prescribed by a Law of the House of Assembly.

100

1. The power of a House of Assembly to make laws shall be exercised by bills passed by the House of Assembly and, except as otherwise provided by this section, assented to by the Governor.

2. A bill shall not become Law unless it has been duly passed and, subject to subsection (1) of this section, assented to in accordance with the provisions of this section.

3. Where a bill has been passed by the House of Assembly it shall be presented to the Governor for assent.

4. Where a bill is presented to the Governor for assent he shall within thirty days thereof signify that he assents or that he withholds assent.

5. Where the Governor withholds assent and the bill is again passed by the House of Assembly by two-thirds majority, the bill shall become law and the assent of the Governor shall not be required.

101

Subject to the provisions of this Constitution, a House of Assembly shall have power to regulate its own procedure, including the procedure for summoning and recess of the House.

102

A House of Assembly may act notwithstanding any vacancy in its membership, and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate such proceedings.

103

1. A House of Assembly may appoint a committee of its members for any special or general purpose as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise as it thinks fit delegate any functions exercisable by it to any such committee.

2. The number of members of a committee appointed under this section, their term of office and quorum shall be fixed by the House of Assembly.

3. Nothing in this section shall be construed as authorising a House of Assembly to delegate to a committee the power to decide whether a bill shall be passed into Law or to determine any matter which it is empowered to determine by resolution under the provisions of this Constitution, but such a committee of the House may be authorised to make recommendations to the House on any such matter.

104

A House of Assembly shall sit for a period of not less than one hundred and eighty-one days in a year.

105

1. A House of Assembly shall stand dissolved at the expiration of a period of four years commencing from the date of the first sitting of the House.

2. If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of four years mentioned in subsection (1) of this section from time to time but not beyond a period of six months at any one time.

3. Subject to the provisions of this Constitution, the person elected as the Governor of a State shall have power to issue a proclamation for the holding of the first session of the House of Assembly of the State concerned immediately after his being sworn in, or for its dissolution as provided in this section.

C. Qualification for Membership of House of Assembly and Right of Attendance

106

Subject to the provisions of section 107 of this Constitution, a person shall be qualified for election as a member of a House of Assembly if-

a. he is a citizen of Nigeria;

b. he has attained the age of twenty-five years;

c. he has been educated up to at least the School Certificate level or its equivalent; and

d. he is a member of a political party and is sponsored by that party.

107

1. No person shall be qualified for election to a House of Assembly if-

a. subject to the provisions of Section 28 of this Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;

b. under any law in force in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind;

c. he is under a sentence of death imposed on him by any competent court of law or tribunal in Nigeria or a sentence of imprisonment or fine for an offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by such a court or tribunal substituted by a competent authority for any other sentence imposed on him by such a court or tribunal;

d. within a period of less than ten years before the date of an election to the House of Assembly, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of a contravention of the Code of Conduct;

e. he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;

f. he is a person employed in the public service of the Federation or of any State and he has not resigned, withdrawn or retired from such employment thirty days before the date of election;

g. he is a member of any secret society;

h. [deleted by the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010]

i. he has presented a forged certificate to the Independent National Electoral Commission.

2. Where in respect of any person who has been-

a. adjudged to be a lunatic;

b. declared to be of unsound mind;

c. sentenced to death or imprisonment; or

d. adjudged or declared bankrupt,

any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier.

3. For the purposes of subsection (2) of this section, an “appeal” includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

108

1. The Governor of a State may attend a meeting of a House of Assembly of the State either to deliver an address on State affairs or to make such statement on the policy of government as he may consider to be of importance to the State.

2. A Commissioner of the Government of a State shall attend the House of Assembly of the State if invited to explain to the House of Assembly the conduct of his Ministry, and in particular when the affairs of that Ministry are under discussion.

3. Nothing in this section shall enable any person who is not a member of a House of Assembly to vote in that House or in any of its committees.

109

1. A member of a House of Assembly shall vacate his seat in the House if-

    a. he becomes a member of another legislative house;

    b. any other circumstances arise that, if he were not a member of that House, would cause him to be disqualified for election as such a member;

    c. he ceases to be a citizen of Nigeria;

    d. he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State or a Special Adviser;

    e. save as otherwise prescribed by this Constitution, he becomes a member of a commission or other body established by this Constitution or by any other law;

    f. without just cause he is absent from meetings of the House of Assembly for a period amounting in the aggregate to more than one-third of the total number of days during which the House meets in any one year;

    g. being a person whose election to the House of Assembly was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected:

        Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he was previously sponsored; or

    h. the Speaker of the House of Assembly receives a certificate under the hand of the Chairman of the Independent National Electoral Commission stating that the provisions of section 110 of this Constitution have been complied with in respect of the recall of the member.

2. The Speaker of the House of Assembly shall give effect to subsection (1) of this section, so however that the Speaker or a member shall first present evidence satisfactory to the House that any of the provisions of that subsection has become applicable in respect of the member.

3. A member of a House of Assembly shall be deemed to be absent without just cause from a meeting of the House of Assembly unless the person presiding certifies in writing that he is satisfied that the absence of the member from the meeting was for a just cause.

110

A member of the House of Assembly may be recalled as such a member if-

a. there is presented to the Chairman of the Independent National Electoral Commission a petition in that behalf signed by more than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member and which signatures are duly verified by the Independent National Electoral Commission; and

b. the petition is thereafter, in a referendum conducted by the Independent National Electoral Commission within ninety days of the date of the receipt of the petition, approved by a simple majority of the votes of the persons registered to vote in that member's constituency.

111

A member of the House of Assembly shall receive such salary and other allowances as the Revenue Mobilisation Allocation and Fiscal Commission may determine.

D. Elections to a House of Assembly

112

- Electoral commission

Subject to the provisions of sections 91 and 113 of this Constitution, the Independent National Electoral Commission shall divide every state in the federation into such number of state constituencies as is equal to three or four times the number of Federal constituencies within that state.

113

The boundaries of each State constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

- Electoral commission

114

1. The Independent National Electoral Commission shall review the division of every State into constituencies at intervals of not less than ten years, and may alter such constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review.

2. The Independent National Electoral Commission may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any alteration of the boundaries of the State or by reason of the holding of a census of the population of Nigeria in pursuance of an Act of the National Assembly.

115

Where the boundaries of any State constituency established under section 112 of this Constitution are altered in accordance with the provisions of section 114 of this Constitution, that alteration shall come into effect after it has been approved by the National Assembly and after the current life of the House of Assembly.

116

1. Elections to a House of Assembly shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Electoral Act.

2. The date mentioned in subsection (1) of this section shall not be earlier than one hundred and fifty days and not later than one hundred and twenty days before, or where the election is to fill a vacancy occurring more than ninety days before such date, not later than thirty days after the vacancy occurred.

117

1. Subject to the provisions of this Constitution, every State constituency established in accordance with the provisions of this part of this Chapter shall return one member who shall be directly elected to a House of Assembly in such manner as may be prescribed by an Act of the National Assembly.

2. Every citizen of Nigeria, who has attained the age of eighteen years residing in Nigeria at the time of the registration of voters for purposes of election to any legislative house, shall be entitled to be registered as a voter for that election.

118

- Electoral commission

The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Independent National Electoral Commission.

119

The National Assembly shall make provisions as respects-

a. persons who may apply to an election tribunal for the determination of any question as to whether-

   i. any person has been validly elected as a member of a House of Assembly,

   ii. the term of office of any person has ceased, or

   iii. the seat in a House of Assembly of a member of that House has become vacant;

b. circumstances and manner in which, and the conditions upon which, such application may be made; and

c. powers, practice and procedure of the election tribunal in relation to any such application.

E. Powers and Control over Public Funds

120

1. All revenues or other moneys raised or received by a State (not being revenues or other moneys payable under this Constitution or any Law of a House of Assembly into any other public fund of the State established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the State.

2. No moneys shall be withdrawn from the Consolidated Revenue Fund of the State except to meet expenditure that is charged upon the Fund by this Constitution or where the issue of those moneys has been authorised by an Appropriation Law, Supplementary Appropriation Law or Law passed in pursuance of section 121 of this Constitution.

3. No moneys shall be withdrawn from any public fund of the State, other than the Consolidated Revenue Fund of the State, unless the issue of those moneys has been authorised by a Law of the House of Assembly of the State.

4. No moneys shall be withdrawn from the Consolidated Revenue Fund of the State or any other public fund of the State except in the manner prescribed by the House of Assembly.

121

1. The Governor shall cause to be prepared and laid before the House of Assembly at any time before the commencement of each financial year estimates of the revenues and expenditure of the State for the next following financial year.

2. The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Revenue Fund of the State by this Constitution, shall be included in a bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the State of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.

3. Any amount standing to the credit of the-

    a. House of Assembly of the State; and

    b. Judiciary;

    in the Consolidated Revenue Fund of the State shall be paid directly to the said bodies respectively; in the case of judiciary, such amount shall be paid directly the heads of the courts concerned.'

4. If in respect of any financial year, it is found that-

    a. the amount appropriated by the Appropriation Law for any purpose is insufficient; or

    b. a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Law,

    a supplementary estimate showing the sums required shall be laid before the House of Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

122

If the Appropriation Bill in respect of any financial year has not been passed into Law by the beginning of the financial year, the Governor may authorise the withdrawal of moneys from the Consolidated Revenue Fund of the State for the purpose of meeting expenditure necessary to carry on the services of the government for a period not exceeding six months or until the coming into operation of the Law, whichever is the earlier:

Provided that the withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the State under the provisions of the Appropriation Law passed by the House of Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorised for the immediately preceding financial year.

123

1. A House of Assembly may by Law make provisions for the establishment of a Contingencies Fund for the State and for authorising the Governor, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

2. Where any advance is made in accordance with the provisions of this section, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.

124

1. There shall be paid to the holders of the offices mentioned in this section such remuneration and salaries as may be prescribed by a House of Assembly, but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

2. The remuneration, salaries and allowances payable to the holders of the offices so mentioned shall be charged upon the Consolidated Revenue Fund of the State.

3. The remuneration and salaries payable to the holders of the said offices and their conditions of service, other than allowances, shall not be altered to their disadvantage after their appointment.

4. The offices aforesaid are the offices of Governor, Deputy Governor, Auditor-General for a State and the Chairman and members of the following bodies, that is to say, the State Civil Service Commission, the State Independent Electoral Commission and the State Judicial Service Commission.

5. Provisions may be made by a Law of a House of Assembly for the grant of a pension or gratuity to or in respect of a person who had held office as Governor or Deputy Governor and was not removed from office as a result of impeachment; and any pension granted by virtue of any provisions made in pursuance of this subsection shall be a charge upon the Consolidated Revenue Fund of the State.

125

1. There shall be an Auditor-General for each State who shall be appointed in accordance with the provisions of section 126 of this Constitution.

2. The public accounts of a State and of all offices and courts of the State shall be audited by the Auditor-General for the State who shall submit his reports to the House of Assembly of the State concerned, and for that purpose the Auditor-General or any person authorised by him in that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

3. Nothing in subsection (2) of this section shall be construed as authorising the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by Law by the Auditor-General shall-

    a. provide such bodies with-

        i. a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors, and

        ii. a guideline on the level of fees to be paid to external auditors; and

    b. comment on their annual accounts and auditor's report thereon.

4. The Auditor-General for the State shall have power to conduct periodic checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by a law of the House of Assembly of the State.

5. The Auditor-General for a State shall, within ninety days of receipt of the Accountant-General's financial statement and annual accounts of the State, submit his report to the House of Assembly of the State and the House shall cause the report to be considered by a committee of the House responsible for public accounts.

6. In the exercise of his functions under this Constitution, the Auditor-General for a State shall not be subject to the direction or control of any other authority or person.

126

1. The Auditor-General for a State shall be appointed by the Governor of the State on the recommendation of the State Civil Service Commission subject to confirmation by the House of Assembly of the State.

2. The power to appoint persons to act in the office of the Auditor-General for a State shall vest in the Governor.

3. Except with the sanction of a resolution of the House of Assembly of a State, no person shall act in the office of the Auditor-General for a State for a period exceeding six months.

127

1. A person holding the office of Auditor-General under section 126(1) of this Constitution shall be removed from office by the Governor of the State acting on an address supported by two-thirds majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

2. An Auditor-General shall not been removed from office before such retiring age as may be prescribed by Law, save in accordance with the provisions of this section.

128

1. Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the Office Gazette of the Government of the State to direct or cause to be directed an inquiry or investigation into-

    a. any matter or thing with respect to which it has power to make laws; and

    b. the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for-

        i. executing or administering laws enacted by that House of Assembly, and

        ii. disbursing or administering moneys appropriated or to be appropriated by such House.

2. The powers conferred on a House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House to-

    a. make laws with respect to any matter within its legislative competence and correct any defects in existing laws; and

    b. expose corruption, inefficiency of waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

129

1. For the purposes of any investigation under section 128 of this Constitution, and subject to the provisions thereof, a House of Assembly or a committee appointed in accordance with section 103 of this Constitution shall have power to-

    a. procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and examine all persons as witnesses whose evidence may be material or relevant to the subject matter;

    b. require such evidence to be given on oath;

    c. summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and examine him as a witness and require him to produce any document or

1. c. other thing in his possession or under his control, subject to all just exceptions; and

   d. 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 House of Assembly or the committee, and order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons and also to impose such fine as may be prescribed for any such failure, refusal or neglect; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law.

2. A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the Speaker of the House of Assembly of the State.

Chapter VI. The Executive

Part I. Federal Executive

A. The President of the Federation

- Name/structure of executive(s)

130

1. There shall be for the Federation a President.

- Designation of commander in chief

2. The President shall be the Head of State, the Chief Executive of the Federation and Commander-in-Chief of the Armed Forces of the Federation.

131

- Eligibility for head of state

A person shall be qualified for election to the office of the President if-

a. he is a citizen of Nigeria by birth;

- Age restrictions on head of state

b. he has attained the age of thirty-five years;

c. he is a member of a political party and is sponsored by that political party; and

d. he has been educated up to at least School Certificate level or its equivalent.

132

- Scheduling of elections

1. An election to the office of President shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Electoral Act.

- Scheduling of elections

2. An election to the said office shall be held on a date not earlier than one hundred and fifty days and not later than thirty days before the expiration of the term of office of the last holder of that office.

3. Where in an election to the office of President one of the two or more candidates nominated for the election is the only candidate after the close of nomination, by reason of the disqualification, withdrawal, incapacitation, disappearance or death of the other candidates, the Independent National Electoral Commission shall extend the time for nomination.

4. For the purpose of an election to the office of President, the whole of the Federation shall be regarded as one constituency.

- Head of state selection

5. Every person who is registered to vote at an election of a member of a legislative house shall be entitled to vote at an election to the office of President.

133

- Head of state selection

A candidate for an election to the office of President shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election-

a. he has a majority of YES votes over NO votes cast at the election; and

b. he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja

but where the only candidate fails to be elected in accordance with this section, then there shall be fresh nominations.

- Head of state selection

134

1. A candidate for an election to the office of President shall be deemed to have been duly elected, where, there being only two candidates for the election-

    a. he has the majority of votes cast at the election; and

    b. he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.

2. A candidate for an election to the office of President shall be deemed to have been duly elected where, there being more than two candidates for the election-

    a. he has the highest number of votes cast at the election; and

    b. he has not less than one-quarter of the votes cast at the election each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.

3. In a default of a candidate duly elected in accordance with subsection (2) of this section their shall be a second election in accordance with subsection (4) of this section at which the only candidates shall be-

    a. the candidate who scored the highest number of votes at any election held in accordance with the said subsection (2) of this section; and

    b. one among the remaining candidates who has a majority of votes in the highest number of States, so however that where there are more than one candidate with majority of votes in the highest number of States, the candidate among them with the highest total of votes cast at the election shall be the second candidate for the election.

4. In default of a candidate duly elected under the foregoing subsections, the Independent National Electoral Commission shall within twenty-one days of the result of the election held under the said subsections, arrange for an election between the two candidates and a candidate at such election shall be deemed elected to the office of President if-

    a. he has a majority of votes cast at the election; and

    b. he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the States in the Federation and the Federal Capital Territory, Abuja.

5. In default of a candidate duly elected under subsection (4) of this section, the Independent National Electoral Commission shall, within twenty-one days of the result of the election held under the aforesaid subsection (4), arrange for another election between the two candidates to which the subsection relates and a

5. candidate at such election shall be deemed to have been duly elected to the office of President, if he has a majority of the votes cast at the election.

135

1. Subject to the provisions of this Constitution, a person shall hold the office of President until-

a. when his successor in office takes the oath of that office;

b. he dies whilst holding such office; or

c. the date when his resignation from office takes effect; or

d. he otherwise ceases to hold office in accordance with the provisions of this Constitution.

- Head of state term length

2. Subject to the provisions of subsection (1) of this section, the President shall vacate his office at the expiration of a period of four years commencing from the date, when-

a. in the case of a person first elected as President under this Constitution, he took the Oath of Allegiance and the oath of office; and

b. in any other case, the person last elected to that office under this Constitution took the Oath of Allegiance and oath of office or would, but for his death, have taken such Oaths.

2A. In the determination of the four year term, where a re-run election has taken place and the person earlier sworn in wins the re-run election, the time spent in the office before the date the election was annulled, shall be taken into account.

- Emergency provisions

3. If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of four years mentioned in subsection (2) of this section from time to time; but no such extension shall exceed a period of six months at any one time.

- Deputy executive
- Head of state replacement

136

- Joint meetings of legislative chambers

1. If a person duly elected as President dies before taking and subscribing the Oath of Allegiance and oath of office, or is for any reason whatsoever unable to be sworn in, the person elected with him as Vice-President shall be sworn in as President and he shall nominate a new Vice-President who shall be appointed by the President with the approval by a simple majority of the National Assembly at a joint sitting.

2. Where the persons duly elected as President and Vice-President die or are unable for any reason whatsoever to assume office before the inauguration of the National Assembly, the Independent National Electoral Commission shall immediately conduct an election for a President and the Vice-President.

- Eligibility for head of state

137

1. A person shall not be qualified for election to the office of President if-

a. subject to the provisions of section 28 of this Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, he has made a declaration of allegiance to such other country; or

- Head of state term limits

b. he has been elected to such office at any two previous elections; or

c. under the law in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind; or

1.

d. he is under a sentence of death imposed by any competent court of law or tribunal in Nigeria or a sentence of imprisonment or fine for any offence involving dishonesty or fraud (by whatever name called) or for any other offence, imposed on him by any court or tribunal or substituted by a competent authority for any other sentence imposed on him by such a court or tribunal; or

e. within a period of less than ten years before the date of the election to the office of President he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of the contravention of the Code of Conduct; or

f. he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Nigeria or any other country; or

g. being a person employed in the civil or public service of the Federation or of any State, he has not resigned, withdrawn or retired from the employment at least thirty days before the date of the election; or

h. he is a member of any secret society; or

i. [deleted by the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010]

j. he has presented a forged certificate to the Independent National Electoral Commission.

2. Where in respect of any person who has been-

a. adjudged to be a lunatic;

b. declared to be of unsound mind;

c. sentenced to death or imprisonment; or

d. adjudged or declared bankrupt

any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier.

- Head of state term limits

3. A person who was sworn-in as President to complete the term for which another person was elected as President shall not be elected to such office for more than a single term.

138

The President shall not, during his tenure of office, hold any other executive office or paid employment in any capacity whatsoever.

139

The National Assembly shall by an Act make provisions as respects-

a. persons who may apply to the Court of Appeal for the determination of any question as to whether-

i. any person has been validly elected to the office of President or Vice-President,

ii. the term of office of the President or Vice-President has ceased, or

iii. the office of the President or Vice-President has become vacant;

b. circumstances and manner in which, and the conditions upon which such application may be made; and

c. powers, practice and procedure of the Court of Appeal in relation to any such application.

140

- Oaths to abide by constitution

1. A person elected to the office of President shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this Constitution and he has taken and subscribed the Oath of Allegiance and the oath of office prescribed in the Seventh Schedule to this Constitution.

2. The oaths aforesaid shall be administered by the Chief Justice of Nigeria or the person for the time being appointed to exercise the functions of that office.

141

- Deputy executive

There shall be for the Federation a Vice-President.

142

- Deputy executive

1. In any election to which the foregoing provisions of this Part of this Chapter relate, a candidate for an election to the office of President shall not be deemed to be validly nominated unless he nominates another candidate as his associate from the same political party for his running for the office of President, who is to occupy the office of Vice-President and that candidate shall be deemed to have been duly elected to the office of Vice-President if the candidate for an election to the office of President who nominated him as such associate is duly elected as President in accordance with the provisions aforesaid.

- Oaths to abide by constitution

2. The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualification, declaration of assets and liabilities and oaths of President shall apply in relation to the office of Vice-President as if references to President were references to Vice-President.

143

- Head of state removal

1. The President or Vice-President may be removed from office in accordance with the provisions of this section.

2. Whenever a notice of any allegation in writing signed by not less than one-third of the members of the National Assembly:-

a. is presented to the President of the Senate;

b. stating that the holder of the office of President or Vice-President is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified,

the President of the Senate shall within seven days of the receipt of the notice cause a copy thereof to be served on the holder of the office and on each member of the National Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the National Assembly.

3. Within fourteen days of the presentation of the notice to the President of the Senate (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) each House of the National Assembly shall resolve by motion without any debate whether or not the allegation shall be investigated.

4. A motion of the National Assembly that the allegation be investigated shall not be declared as having been passed, unless it is supported by the votes of not less

4. than two-thirds majority of all the members of each House of the National Assembly.

5. Within seven days of the passing of a motion under the foregoing provisions, the Chief Justice of Nigeria shall at the request of the President of the Senate appoint a Panel of seven persons who in his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provide in this section.

6. The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person and be represented before the Panel by legal practitioners of his own choice.

7. A Panel appointed under this section shall-

    a. have such powers and exercise its functions in accordance with such procedure as may be prescribed by the National Assembly; and

    b. within three months of its appointment report its findings to each House of the National Assembly.

8. Where the Panel reports to each House of the National Assembly that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.

9. Where the report of the Panel is that the allegation against the holder of the office has been proved, then within fourteen days of the receipt of the report at the House the National Assembly shall consider the report, and if by a resolution of each House of the National Assembly supported by not less than two-thirds majority of all its members, the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.

10. No proceedings or determination of the Panel or of the National Assembly or any matter relating thereto shall be entertained or questioned in any court.

11. In this section- "gross misconduct" means a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct.

- Head of state removal

144

1. The President or Vice-President shall cease to hold office, if-

    a. by a resolution passed by two-thirds majority of all the members of the executive council of the Federation it is declared that the President or Vice-President is incapable of discharging the functions of his office; and

    b. the declaration is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the President of the Senate and the Speaker of the House of Representatives.

2. Where the medical panel certifies in the report that in its opinion the President or Vice-President is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the President of the Senate and the Speaker of the House of Representatives shall be published in the Official Gazette of the Government of the Federation.

3. The President or Vice-President shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

4. The medical panel to which this section relates shall be appointed by the President of the Senate, and shall comprise five medical practitioners in Nigeria:-

4. a. one of whom shall be the personal physician of the holder of the office concerned; and

   b. four other medical practitioners who have, in the opinion of the President of the Senate, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions.

5. In this section, the reference to "executive council of the Federation" is a reference to the body of Ministers of the Government of the Federation, howsoever called, established by the President and charged with such responsibilities for the functions of government as the President may direct.

- Deputy executive

145

1. Whenever the President is proceeding on vacation or is otherwise unable to discharge the functions of his Office, he shall transmit a written declaration to the President of the Senate and the Speaker of the House of Representatives to that effect, and until he transmits to them a written declaration to the contrary, the Vice-President shall perform the functions of the President as Acting President.
2. In the event that the President is unable or fails to transmit the written declaration mentioned in subsection (1) of this section within 21 days, the National Assembly shall, by a resolution made by a simple majority of the vote of each House of the National Assembly, mandate the Vice-President to perform the functions of the office of the President as Acting President until the President transmits a letter to the President of the Senate and Speaker of the House of Representatives that he is now available to resume his functions as President.

- Deputy executive

146

- Head of state replacement

1. The Vice-President shall hold the office of President if the office of President becomes vacant by reason of death or resignation, impeachment, permanent incapacity or the removal of the President from office for any other reason in accordance with section 143 of this Constitution.

- Head of state replacement

2. Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-President is also vacant, the President of the Senate shall hold the office of President for a period of not more than three months, during which there shall be an election of a new President, who shall hold office for the unexpired term of office of the last holder of the office.

3. Where the office of Vice-President becomes vacant:-

   a. by reason of death or resignation, impeachment, permanent incapacity or removal in accordance with section 143 or 144 of this Constitution;

   b. by his assumption of the office of President in accordance with subsection (1) of this section; or

   c. for any other reason,

   the President shall nominate and, with the approval of each House of the National Assembly, appoint a new Vice-President.

- Establishment of cabinet/ministers

147

1. There shall be such offices of Ministers of the Government of the Federation as may be established by the President.

- Cabinet selection

2. Any appointment to the office of Minister of the Government of the Federation shall, if the nomination of any person to such office is confirmed by the Senate, be made by the President.

- Eligibility for cabinet

3. Any appointment under subsection (2) of this section by the President shall be in conformity with the provisions of section 14(3) of this Constitution:

   Provided that in giving effect to the provisions aforesaid the President shall appoint at least one Minister from each State, who shall be an indigene of such State.

- Outside professions of legislators
- Eligibility for cabinet

4. Where a member of the National Assembly or of a House of Assembly is appointed as Minister of the Government of the Federation, he shall be deemed to have resigned his membership of the National Assembly or of the House of Assembly on his taking the oath of office as Minister.

- Eligibility for cabinet

5. No person shall be appointed as a Minister of the Government of the Federation unless he is qualified for election as a member of the House of Representatives.

6. An appointment to any of the offices aforesaid shall be deemed to have been made where no return has been received from the Senate within twenty-one working days of the receipt of nomination by the Senate.

- Powers of cabinet

148

- Deputy executive

1. The President may, in his discretion, assign to the Vice-President or any Minister of the Government of the Federation responsibility for any business of the Government of the Federation, including the administration of any department of government.

2. The President shall hold regular meetings with the Vice-President and all the Ministers of the Government of the Federation for the purposes of-

   a. determining the general direction of domestic and foreign policies of the Government of the Federation;

   b. co-ordinating the activities of the President, the Vice-President and the Ministers of the Government of the Federation in the discharge of their executive responsibilities; and

   c. advising the President generally in discharge of his executive functions other than those functions with respect to which he is required by this Constitution to seek the advice or act on the recommendation of any other person or body.

149

- Oaths to abide by constitution

A Minister of the Government of the Federation shall not enter upon the duties of his office, unless he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the oath of office for the due execution of the duties of his office prescribed in the Seventh Schedule to this Constitution.

- Attorney general

150

1. There shall be an Attorney-General of the Federation who shall be the Chief Law Officer of the Federation and a Minister of the Government of the Federation.

2. A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of the Federation unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than ten years.

- Advisory bodies to the head of state

151

1. The President may appoint any person as a Special Adviser to assist him in the performance of his functions.

2. The number of such Advisers and their remuneration and allowances shall be as prescribed by law or by resolution of the National Assembly.

3. Any appointment made pursuant to the provisions of this section shall be at the pleasure of the President and shall cease when the President ceases to hold office.

152

- Oaths to abide by constitution

A person appointed as Special Adviser under section 151 of this Constitution shall not begin to perform the functions of his office until he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and oath of office prescribed in the Seventh Schedule to this Constitution.

B. Establishment of Certain Federal Executive Bodies

- Head of state powers

153

1. There shall be established for the Federation the following bodies, namely:

a. Code of Conduct Bureau;

- Advisory bodies to the head of state

b. Council of State;

c. Federal Character Commission;

d. Federal Civil Service Commission;

- Establishment of judicial council

e. Federal Judicial Service Commission;

- Electoral commission

f. Independent National Electoral Commission;

- Advisory bodies to the head of state

g. National Defence Council;

h. National Economic Council;

- Establishment of judicial council

i. National Judicial Council;

j. National Population Commission;

- Advisory bodies to the head of state

k. National Security Council;

l. Nigeria Police Council;

m. Police Service Commission; and

n. Revenue Mobilisation Allocation and Fiscal Commission.

2. The composition and powers of each body established by subsection (1) of this section are as contained in Part 1 of the Third Schedule to this Constitution.

- Head of state powers
- Establishment of judicial council
- Advisory bodies to the head of state
- Electoral commission

154

1. Except in the case of ex officio members or where other provisions are made in this Constitution, the Chairman and members of any of the bodies so established shall, subject to the provisions of this Constitution, be appointed by the President and the appointment shall be subject to confirmation by the Senate.

2. In exercising his powers to appoint a person as Chairman or member of the Council of State or the National Defence Council or the National Security Council, the President shall not be required to obtain the confirmation of the Senate.

3. In exercising his powers to appoint a person as Chairman or member of the Independent National Electoral Commission, National Judicial Council, the Federal Judicial Service Commission or the National Population Commission, the President shall consult the Council of State.

155

1. A person who is a member of any of the bodies established as aforesaid shall, subject to the provisions of this Part, remain a member thereof-

    a. in the case of an ex officio member, whilst he holds the office by virtue of which he is a member of the body;

    b. in the case of a person who is a member by virtue of his having previously held an office, for the duration of his life; and

    c. in the case of a person who is a member otherwise than as ex officio member or otherwise than by virtue of his having previously held an office, for a period of five years from the date of his appointment.

2. A member of any of the bodies shall cease to be member if any circumstances arise that, if he were not a member of the body, would cause him to be disqualified for appointment as such a member.

156

1. No person shall be qualified for appointment as a member of any of the bodies aforesaid if-

    a. he is not qualified or if he is disqualified for election as a member of the House of Representatives provided that a member of any of these bodies shall not be required to belong to a political party, and in the case of the Independent National Electoral Commission, he shall not be a member of a political party;

    b. within the preceding ten years, he has been removed as a member of any of the bodies or as the holder of any other office on the ground of misconduct.

2. Any person employed in the public service of the Federation shall not be disqualified for appointment as Chairman or member of any of such bodies:

    Provided that where such person has been duly appointed he shall, on his appointment, be deemed to have resign his former office as from the date of the appointment.

3. No person shall be qualified for appointment to any of the bodies aforesaid if, having previously been appointed as a member otherwise than as an ex officio member of that body, he has been re-appointed for a further term as a member of the same body.

- Head of state powers

157

1. Subject to the provisions of subsection (3) of this section, a person holding any of the offices to which this section applies may only be removed from that 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 (whether arising from infirmity of mind or body or any other cause) or for misconduct.

2. This section applies to the offices of the Chairman and members of the Code of Conduct Bureau, the Federal Civil Service Commission, the Independent National Electoral Commission, the National Judicial Council, the Federal Judicial Service Commission, the Federal Character Commission, the Nigeria Police Council, the National Population Commission, the Revenue Mobilisation Allocation and Fiscal Commission and the Police Service Commission.

- Census

3. All members of the National Population Commission shall cease to be members if the President declares a National Census Report as unreliable and the report is rejected in accordance with section 213 of this Constitution.

158

1. In exercising its power to make appointments or to exercise disciplinary control over persons, the Code of Conduct Bureau, the National Judicial Council, the Federal Civil Service Commission, the Federal Judicial Service Commission, the Revenue Mobilisation and Fiscal Commission, the Federal Character Commission, and the Independent National Electoral Commission shall not be subject to the direction or control of any other authority or person.

- Census

2. The National Population Commission shall not be subject to the direction or control of any other authority or person:-

    a. in appointing, training or arranging for the training of enumerators or other staff of the Commission to assist it in the conduct of any population census;

    b. in deciding whether or not to accept or revise the return of any officer of the said Commission concerning the population census in any area or part of the Federation;

    c. in carrying out the operation of conducting the census; and

    d. in compiling its report of a national census for publication.

159

1. The quorum for a meeting of any of the bodies established by section 153 of this Constitution shall be not less than one-third of the total number of members of that body at the date of the meeting.

2. A member of such a body shall be entitled to one vote, and a decision of the meeting may be taken and any act or thing may be done in the name of that body by a majority of the members present at the meeting.

3. Whenever such body is assembled for a meeting, the Chairman or other person presiding shall, in all matters in which a decision is taken by vote (by whatever name such vote may be called) have a casting as well as a deliberative vote.

4. Subject to its rules of procedure, any such body may act or take part in any decision notwithstanding any vacancy in its membership or the absence of any member.

160

1. Subject to subsection (2) of this section, any of the bodies may, with the approval of the President, by rules or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority for the purpose of discharging its functions provided that in the case of the Independent National Electoral Commission, its powers to make its own rules or otherwise regulate its own procedure shall not be subject to the approval or control of the President.

2. In the exercise of any powers under subsection (1) of this section, any such body shall not confer powers or impose duties on any officer or authorities of a State except with the approval of the Governor of the State.

161

In this Part of this Chapter, unless the context otherwise requires-

a. any reference to “ex officio member” shall be construed as a reference to a person who is a member by virtue of his holding or performing, the functions of an office in the public service of the Federation;

b. “office” means an office in the public service of the Federation;

c. any reference to "member" of a body established by section 153 of this Constitution shall be construed as including a reference to the Chairman of that body; and

d. "misconduct" means a breach of the Oath of Allegiance or oath of office of a member or a breach of the provisions of this Constitution or bribery or corruption or false declaration of assets and liabilities or conviction for treason or treasonable felony.

C. Public Revenue

- Subsidiary unit government
- Municipal government

162

1. The Federation shall maintain a special account to be called "the Federation Account" into which shall be paid all revenues collected by the Government of the Federation, except the proceeds from the personal income tax of the personnel of the armed forces of the Federation, the Nigeria Police Force, the Ministry or department of government charged with responsibility for Foreign Affairs and the residents of the Federal Capital Territory, Abuja.

2. The President, upon the receipt of advice from the Revenue Mobilisation Allocation and Fiscal Commission, shall table before the National Assembly proposals for revenue allocation from the Federation Account, and in determining the formula, the National Assembly shall take into account, the allocation principles especially those of population, equality of States, internal revenue generation, land mass, terrain as well as population density:

Provided that the principle of derivation shall be constantly reflected in any approved formula as being not less than thirteen per cent of the revenue accruing to the Federation Account directly from any natural resources.

3. Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State Governments and the local government councils in each State on such terms and in such manner as may be prescribed by the National Assembly.

4. Any amount standing to the credit of the States in the Federation Account shall be distributed among the States on such terms and in such manner as may be prescribed by the National Assembly.

5. The amount standing to the credit of local government councils in the Federation Account shall also be allocated to the State for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.

6. Each State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the local government councils of the State from the Federation Account and from the Government of the State.

7. Each State shall pay to local government councils in its area of jurisdiction such proportion of its total revenue on such terms and in such manner as may be prescribed by the National Assembly.

8. The amount standing to the credit of local government councils of a State shall be distributed among the local government councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State.

9. Any amount standing to the credit of the judiciary in the Federation Account shall be paid directly to the National Judicial Council for disbursement to the heads of courts established for the Federation and the States under section 6 of this Constitution.

10. For the purpose of subsection (1) of this section, "revenue" means any income or return accruing to or derived by the Government of the Federation from any

10. source and includes-

a. any receipt, however described, arising from the operation of any law;

b. any return, however described, arising from or in respect of any property held by the Government of the Federation;

c. any return by way of interest on loans and dividends in respect of shares or interest held by the Government of the Federation in any company or statutory body.

163

Where under an Act of the National Assembly, tax or duty is imposed in respect of any of the matters specified in item D of Part II of the Second Schedule to this Constitution, the net proceeds of such tax or duty shall be distributed among the States on the basis of derivation and accordingly-

a. where such tax or duty is collected by the Government of a State or other authority of the State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State;

b. where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.

164

1. The Federation may make grants to a State to supplement the revenue of that State in such sum and subject to such terms and conditions as may be prescribed by the National Assembly.

- International organizations

2. The Federation may make external grants to a foreign State or any international body in furtherance of the foreign policy objectives of Nigeria in such sum and subject to such terms and conditions as may be prescribed by the National Assembly.

165

Each State shall, in respect of each financial year, pay to the Federation an amount equal to such part of the expenditure incurred by the Federation during that financial year for the purpose of collection of taxes or duties which are wholly or partly payable to the State pursuant to the provisions of this Part of this Chapter or of any Act of the National Assembly as is proportionate to the share of the proceeds of those taxes or duties received by the State in respect of that financial year.

166

1. Any payment that is required by this Part of this Chapter to be made by the Federation to a State may be set-off by the Federation in or towards payment of any sum that is due from that State to the Federation in respect of any loan made by the Federation to that State.

2. The right of set-off conferred by subsection (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan.

167

Any payment that is required by this Part of this Chapter to be made by the Federation to a State shall be a charge upon the Consolidated Revenue Fund of the Federation and any payment that is so required to be made by a State to the Federation shall be a charge upon the Consolidated Revenue Fund of that State.

168

1. Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Auditor-General for the Federation:

   Provided that a provisional payment may be made before the Auditor-General has given his certificate.

2. The National Assembly may prescribe the time at and manner in which any payment falling to be made under this Part of this Chapter shall be effected and provide for the making of adjustments and provisional payment.

D. The Public Service of the Federation

169

There shall be a civil service of the Federation.

170

Subject to the provisions of this Constitution, the Federal Civil Service Commission may, with the approval of the President and subject to such conditions as it may deem fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to any officer in the civil service of the Federation.

- Head of state powers

171

1. Power to appoint persons to hold or act in the offices to which this section applies and to remove persons so appointed from any such office shall vest in the President.

2. The offices to which this section applies are, namely-

   a. Secretary to the Government of the Federation;

   b. Head of the Civil Service of the Federation;

   c. Ambassador, High Commissioner or other Principal Representative of Nigeria abroad;

   d. Permanent Secretary in any Ministry or Head of any Extra-Ministerial Department of the Government of the Federation howsoever designated; and

   e. any office on the personal staff of the President.

3. An appointment to the office of the Head of the Civil Service of the Federation shall not be made except from among Permanent Secretaries or equivalent rank in the civil service of the Federation or of a State.

4. An appointment to the office of Ambassador, High Commissioner or other Principal Representative of Nigeria abroad shall not have effect unless the appointment is confirmed by the Senate.

5. In exercising his powers of appointment under this section, the President shall have regard to the federal character of Nigeria and the need to promote national unity.

6. Any appointment made pursuant to paragraphs (a) and (e) of subsection (2) of this section shall be at the pleasure of the President and shall cease when the President ceases to hold office:

   Provided that where a person has been appointed from a public service of the Federation or a State, he shall be entitled to return to the public service of the Federation or of the State when the President ceases to hold office.

172

A person in the public service of the Federation shall observe and conform to the Code of Conduct.

173

1. Subject to the provisions of this Constitution, the right of a person in the public service of the Federation to receive pension or gratuity shall be regulated by law.
2. Any benefit to which a person is entitled in accordance with or under such law as is referred to in subsection (1) of this section shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law, including the Code of Conduct.
3. Pensions shall be reviewed every five years or together with any Federal civil service salary reviews, whichever is earlier.
4. Pensions in respect of service in the public service of the Federation shall not be taxed.

- Attorney general

174

1. The Attorney-General of the Federation shall have power-
   a. to institute and undertake criminal proceedings against any person before any court of law in Nigeria, other than a court-martial, in respect of any offence created by or under any Act of the National Assembly;
   b. to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and
   c. to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.
2. The powers conferred upon the Attorney-General of the Federation under subsection (1) of this section may be exercised by him in person or through officers of his department.
3. In exercising his powers under this section, the Attorney-General of the Federation shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

- Establishment of military courts

- Advisory bodies to the head of state

175

1. The President may-
   a. grant any person concerned with or convicted of any offence created by an Act of the National Assembly a pardon, either free or subject to lawful conditions;
   b. grant to any person a respite, either for an indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;
   c. substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or
   d. remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.
2. The powers of the President under subsection (1) of this section shall be exercised by him after consultation with the Council of State.

- Power to pardon

- Establishment of military courts

3. The President, acting in accordance with the advice of the Council of State, may exercise his powers under subsection (1) of this section in relation to persons concerned with offences against the army, naval or air-force law or convicted or sentenced by a court-martial.

- Subsidiary unit government

Part II. State Executive

A. Governor of a State

176

1. There shall be for each State of the Federation a Governor.

2. The Governor of a State shall be the Chief Executive of that state.

177

A person shall be qualified for election to the office of Governor of a State if-

a. he is a citizen of Nigeria by birth;

b. he has attained the age of thirty-five years;

c. he is a member of a political party and is sponsored by that political party; and

d. he has been educated up to at least School Certificate level or its equivalent.

178

1. An election to the office of Governor of a State shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Electoral Act.

2. An election to the office of Governor of a State shall be held on a date not earlier than one hundred and fifty days and not later than thirty days before the expiration of the term of office of the last holder of that office.

3. Where in an election to the office of Governor of a State one of the two or more candidates nominated for the election is the only candidate after the close of nomination, by reason of the disqualification, withdrawal, incapacitation, disappearance or death of the other candidates, the Independent National Electoral Commission shall extend the time for nomination.

4. For the purpose of an election under this section a State shall be regarded as one constituency.

5. Every person who is registered to vote at an election of a member of a legislative house shall be entitled to vote at an election to the office of Governor of a State.

179

1. A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election-

    a. he has a majority of YES votes over NO votes cast at the election; and

    b. he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the local government areas in the State,

    but where the only candidate fails to be elected in accordance with this subsection, then there shall be fresh nominations.

2. A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected where, there being two or more candidates-

    a. he has the highest number of votes cast at the election; and

    b. he has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the State.

3. In default of a candidate duly elected in accordance with subsection (2) of this section there shall be a second election in accordance with subsection (4) of this section at which the only candidates shall be-

    a. the candidate who secured the highest number of votes cast at the election; and

    b. one among the remaining candidates who secured a majority of votes in the highest number of local government areas in the State, so however that where there are more than one candidate with a majority of votes in the highest number of local government areas, the candidate among them with the next highest total of votes cast at the election shall be the second candidate.

4. In default of a candidate duly elected under subsection (2) of this section, the Independent National Electoral Commission shall within twenty-one days of the result of the election held under that subsection, arrange for an election between the two candidates and a candidate at such election shall be deemed to have been duly elected to the office of Governor of a State if-

    a. he has a majority of the votes cast at the election; and

    b. he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the local government areas in the State.

5. In default of a candidate duly elected under subsection (4) of this section, the Independent National Electoral Commission shall within twenty-one days of the result of the election held under that subsection, arrange for another election between the two candidates to which that sub-paragraph relates and a candidate at such election shall be deemed to have been duly elected to the office of Governor of a State if he has a majority of the votes cast at the election.

180

1. Subject to the provisions of this Constitution, a person shall hold the office of Governor of a State until-

    a. when his successor in office takes the oath of that office; or

    b. he dies whilst holding such office; or

    c. the date when his resignation from office takes effect; or

    d. he otherwise ceases to hold office in accordance with the provisions of this constitution.

2. Subject to the provisions of subsection (1) of this section, the Governor shall vacate his office at the expiration of period of four years commencing from the date when-

    a. in the case of a person first elected as Governor under this Constitution, he took the Oath of Allegiance and oath of office; and

    b. the person last elected to that office took the Oath of Allegiance and oath of office or would, but for his death, have taken such oaths.

2A. In the determination of the four year term, where a re-run election has taken place and the person earlier sworn in wins the re-run election, the time spent in

2A. office before the date the election was annulled shall be taken into account.

3. If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of four years mentioned in subsection (2) of this section from time to time, but no such extension shall exceed a period of six months at any one time.

181

1. If a person duly elected as Governor dies before taking and subscribing the Oath of Allegiance and oath of office, or is unable for any reason whatsoever to be sworn in, the person elected with him as Deputy Governor shall be sworn in as Governor and he shall nominate a new Deputy-Governor who shall be appointed by the Governor with the approval of a simple majority of the House of Assembly of the State.

2. Where the persons duly elected as Governor and Deputy Governor of a State die or are for any reason unable to assume office before the inauguration of the House of Assembly, the Independent National Electoral Commission shall immediately conduct an election for a Governor and Deputy Governor of the State.

182

1. No person shall be qualified for election to the office of Governor of a State if-

a. subject to the provisions of section 28 of this Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, he has made a declaration of allegiance to such other country; or

b. he has been elected to such office at any two previous elections; or

c. under the law in any part of Nigeria, he is adjudged to be a lunatic or otherwise declared to be of unsound mind; or

d. he is under a sentence of death imposed by any competent court of law or tribunal in Nigeria or a sentence of imprisonment for any offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by any court or tribunal or substituted by a competent authority for any other sentence imposed on him by such a court or tribunal; or

e. within a period of less than ten years before the date of election to the office of Governor of a State he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of the contravention of the code of Conduct; or

f. he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Nigeria; or

g. being a person employed in the public service of the Federation or of any State, he has not resigned, withdrawn or retired from the employment at least thirty days to the date of the election; or

h. he is a member of any secret society; or

i. [deleted by the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010]

j. he has presented a forged certificate to the independent National Electoral Commission.

2. Where in respect of any person who has been-

a. adjudged to be a lunatic;

2. **b.** declared to be of unsound mind;

c. sentenced to death or imprisonment; or

d. adjudged or declared bankrupt,

an appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier.

3. A person who was sworn-in as Governor to complete the term for which another person was elected as Governor shallnot be elected to such office for more than a single term.

183

The Governor shall not, during the period when he holds office, hold any other executive office or paid employment in any capacity whatsoever.

184

The National Assembly shall make provisions in respect of-

a. persons who may apply to an election tribunal for the determination of any question as to whether-

i. any person has been validly elected to the office of Governor or Deputy Governor,

ii. the term of office of a Governor or Deputy Governor has ceased, or

iii. the office of Deputy Governor has become vacant;

b. circumstances and manner in which, and the conditions upon which such application may be made; and

c. powers, practice and procedure of the election tribunal in relation to any such application.

- Oaths to abide by constitution

185

1. A person elected to the office of the Governor of a State shall not begin to perform the functions of that until he has declared his assets and liabilities as prescribed in the Constitution and has subsequently taken and subscribed the Oath of Allegiance and oath of office prescribed in the Seventh Schedule to this Constitution.

2. The Oath of Allegiance and the oath of office shall be administered by the Chief Judge of the State or Grand Kadi of the Sharia Court of Appeal of the State, if any or President of the Customary Court of Appeal of the State, if any, or the person for the time being respectively appointed to exercise the functions of any of those offices in any State.

186

There shall be for each State of the Federation a Deputy Governor.

187

1. In any election to which the foregoing provisions of this part of this Chapter relate a candidate for the office of Governor of a State shall not be deemed to have been validly nominated for such office unless he nominates another

1. candidate as his associate for his running for the office of Governor, who is to occupy the office of Deputy Governor; and that candidate shall be deemed to have been duly elected to the office of Deputy Governor if the candidate who nominated him is duly elected as Governor in accordance with the said provisions.

2. The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualifications, declaration of assets and liabilities and Oath of Governor shall apply in relation to the office of Deputy Governor as if references to Governor were references to Deputy Governor.

188

1. The Governor or Deputy Governor of a state may be removed from office in accordance with the provisions of this section.

2. Whenever a notice of any allegation in writing signed by not less than one-third of the members of the House of Assembly-

    a. is presented to the Speaker of the House of Assembly of the State;

    b. stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified,

    the Speaker of the House of Assembly shall, within seven days of the receipt of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the House of Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office, to be served on each member of the House of Assembly.

3. Within fourteen days of the presentation of the notice to the Speaker of the House of Assembly (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice), the House of Assembly shall resolve by motion, without any debate whether or not the allegation shall be investigated.

4. A motion of the House of Assembly that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all the members of the House of Assembly.

5. Within seven days of the passing of a motion under the foregoing provisions of this section, the Chief judge of the State shall at the request of the Speaker of the House of Assembly, appoint a Panel of seven persons who in his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provided in this section.

6. The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the panel by a legal practitioner of his own choice.

7. A Panel appointed under this section shall-

    a. have such powers and exercise its functions in accordance with such procedure as may be prescribed by the House of Assembly; and

    b. within three months of its appointment, report its findings to the House of Assembly.

8. Where the Panel reports to the House of Assembly that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.

9. Where the report of the Panel is that the allegation against the holder of the office has been proved, then within fourteen days of the receipt of the report, the House of Assembly shall consider the report, and if by a resolution of the House of Assembly supported by not less than two-thirds majority of all its members,

9. the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.

10. No proceedings or determination of the Panel or of the House of Assembly or any matter relating to such proceedings or determination shall be entertained or questioned in any court.

11. In this section- "gross misconduct" means a grave violation or breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion in the House of Assembly to gross misconduct.

189

1. The Governor or Deputy Governor of a State shall cease to hold office if-

    a. by a resolution passed by two-thirds majority of all members of the executive council of the State, it is declared that the Governor or Deputy Governor is incapable of discharging the functions of his office; and

    b. the declaration in paragraph (a) of this subsection is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the Speaker of the House of Assembly.

2. Where the medical panel certifies in its report that in its opinion the Governor or Deputy Governor is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the Speaker of the House of Assembly shall be published in the Official Gazette of the Government of the State.

3. The Governor or Deputy Governor shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

4. The medical panel to which this section relates shall be appointed by the Speaker of the House of Assembly of the State, and shall comprise five medical practitioners in Nigeria-

    a. one of whom shall be the personal physician of the holder of the office concerned; and

    b. four other medical practitioners who have, in the opinion of the Speaker of the House of Assembly, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions of this section.

5. In this section, the reference to "executive council of the State" is a reference to the body of Commissioners of the Government of the State, howsoever called, established by the Governor and charged with such responsibilities for the functions of Government as the Governor may direct.

190

1. Whenever the Governor is proceeding on vacation or is otherwise unable to discharge the functions of his office, he shall transmit a written declaration to the Speaker of the House of Assembly to that effect, and until he transmits to the Speaker of the House of Assembly a written declaration to the contrary, the Deputy Governor shall perform the functions of the Governor as Acting Governor.
2. In the event that the Governor is unable or fails to transmit the written declaration mentioned in subsection (1) of this section within 21 days, the House of Assembly shall, by a resolution made by a simple majority of the vote of the House, mandate the Deputy Governor to perform the functions of the office of the Governor as Acting Governor, until the Governor transmits a letter to the Speaker that he is now available to resume his functions as Governor.

191

1. The Deputy Governor of a State shall hold the office of Governor of the State if the office of Governor becomes vacant by reason of death, resignation, impeachment, permanent incapacity or removal of the Governor from office for any other reason in accordance with section 188 or 189 of this constitution.

2. Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Deputy Governor of the State is also vacant, the Speaker of the House of Assembly of the State shall hold the office of Governor of the State for a period of not more than three months, during which there shall be an election of a new Governor of the State who shall hold office for the unexpired term of office of the last holder of the office.

3. Where the office of the Deputy Governor becomes vacant-

    a. by reason of death, resignation, impeachment, permanent incapacity or removal in accordance with section 188 or 189 of this Constitution;

    b. by his assumption of the office of Governor of a State in accordance with subsection (1) of this section; or

    c. for any other reason,

    the Governor shall nominate and with the approval of the House of Assembly of the State, appoint a new Deputy Governor.

192

1. There shall be such offices of Commissioners of the Government of a State as may be established by the Governor of the State.

2. Any appointment to the office of Commissioner of the Government of a State shall, if the nomination of any person to such office is confirmed by the House of Assembly of the State, be made by the Governor of that State and in making any such appointment the Governor shall conform with the provisions of section 14(4) of this Constitution.

3. Where a member of a House of Assembly or of the National Assembly is appointed as Commissioner of the Government of a State, he shall be deemed to have resigned his membership of the House of Assembly or of the National Assembly on his taking the Oath of office as Commissioner.

4. No person shall be appointed as a Commissioner of the Government of a State unless he is qualified for election as a member of the House of Assembly of the State.

5. An appointment to the office of Commissioner under this section shall be deemed to have been made where no return has been received from the House of Assembly within twenty-one working days of the receipt of nomination, by the House of Assembly.

193

1. The Governor of a State may, in his discretion, assign to the Deputy Governor or any Commissioner of the Government of the State responsibility for any business of the Government of that State, including the administration of any department of Government.

2. The Governor of a State shall hold regular meetings with the Deputy Governor and all Commissioners of the Government of the State for the purposes of-

    a. determining the general direction of the policies of the Government of the State;

2. **b.** co-ordinating the activities of the Governor, the Deputy Governor and the Commissioners of the Government of the State in the discharge of their executive responsibilities; and

c. advising the Governor generally in the discharge of his executive functions, other than those functions with respect to which he is required by this Constitution to seek the advice or act on the recommendation of any other person or body.

194

- Oaths to abide by constitution

A Commissioner of the Government of a State shall not enter upon the duties of his office unless he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the oath of Allegiance and the oath for the due execution of the duties of his office prescribed in the Seventh Schedule to this Constitution.

195

1. There shall be an Attorney-General for each State who shall be the Chief Law Officer of the State and Commissioner for Justice of the Government of that State.

2. A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of a State unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than ten years.

196

1. The Governor of a State may appoint any person as a Special Adviser to assist him in the performance of his functions.

2. The number of such Advisers and their remuneration and allowances shall be as prescribed by law or by resolution of the House of Assembly of the State.

3. Any appointment made pursuant to the provisions of this section shall be at the pleasure of the Governor, and shall cease when the Governor ceases to hold office.

- Oaths to abide by constitution

4. A person appointed as a Special Adviser under subsection (1) of this section shall not begin to perform the functions of the office unless he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the oath of office prescribed in the Seventh Schedule to this Constitution.

B. Establishment of Certain State Executive Bodies

197

1. There shall be established for each State of the Federation the following bodies, namely-

a. State Civil Service Commission;

b. State Independent Electoral Commission; and

c. State Judicial Service Commission.

2. The composition and powers of each body established by subsection (1) of this section are as set out in Part II of the Third Schedule to this Constitution.

3. In appointing Chairmen and members of boards and governing bodies of statutory corporations and companies in which the Government of the State has controlling shares or interests and councils of Universities, Colleges and other

3. institutions of higher learning, the Governor shall conform with the provisions of section 14(4) of this Constitution.

198

Except in the case of ex-officio members or where other provisions are made in this Constitution, the Chairman and members of any of the bodies so established shall, subject to the provisions of this Constitution, be appointed by the Governor of the State and the appointment shall be subject to confirmation by a resolution of the House of Assembly of the State.

199

1. A person who is a member of any of the bodies established as aforesaid shall, subject to the provisions of this Part, remain a member thereof-

    a. in the case of an ex-officio member, whilst he holds the office by virtue of which he is a member of the body;

    b. in the case of a person who is a member by virtue of his having previously held an office, for the duration of his life; and

    c. in the case of a person who is a member otherwise than as an ex-officio member or otherwise than by virtue of his having previously held an office, for a period of five years from the date of his appointment.

2. A member of any of the bodies shall cease to be a member if any circumstances arise that, if he were not a member of the body, would cause him to be disqualified for appointment as such a member.

200

1. No person shall be qualified for appointment as a member of any of the bodies aforesaid if-

    a. he is not qualified or if he is disqualified for election as a member of a House of Assembly provided that a member of any of the said bodies shall not be required to belong to a political party and, in the case of the State Independent Electoral Commission, he shall not be a member of a political party;

    b. he has within the preceding ten years, been removed as a member of any of the bodies or as the holder of any other office on the ground of misconduct.

2. Any person employed in the public service of a State shall not be disqualified for appointment as Chairman or member of any of such bodies provided that where such a person has been duly appointed, he shall on his appointment be deemed to have resigned his former office as from the date of the appointment.

3. No person shall be qualified for appointment to any of the bodies aforesaid, if, having previously been appointed as a member otherwise than as an ex officio member of that body, he has been re-appointed for a further term as a member of the same body.

201

1. Any person holding any of the offices to which this section applies shall only be removed from that office by the Governor of that State acting on an address supported by two-thirds majority of the House of Assembly of the State praying that he be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

2. This section applies to the Offices of the Chairman and members of the State Civil Service Commission, the State Independent Electoral Commission and the State Judicial Service Commission.

202

In exercising its power to make appointments or to exercise disciplinary control over persons the State Civil Service Commission, the State Independent Electoral Commission and the State Judicial Service Commission shall not be subject to the direction and control of any other authority or person.

203

1. The quorum for a meeting of any of the bodies established by section 197 of this Constitution shall not be less than one-third of the total number of members of that body at the date of the meeting.

2. A member of such a body shall be entitled to one vote and a decision of the meeting may be taken and any act or thing may be done in the name of that body by a majority of the members present at a meeting.

3. Whenever such bodies are assembled for a meeting, the Chairman or other person presiding shall, in all matters in which a decision is taken by vote (by whatever name such vote may be called) have a casting as well as a deliberative vote.

4. Subject to its rules of procedure, any such body may act or take any decision notwithstanding any vacancy in its membership or the absence of any member.

204

1. Subject to subsection (2) of this section, any of the bodies may, with the approval of the Governor, by rules or otherwise regulate its own procedure or confer powers or impose duties on any officer or authority for the purpose of discharging its functions.

2. In the exercise of any powers under subsection (1) of this section any such body shall not confer powers or impose duties on any officer or authority of the Federation except with the approval of the President.

205

In this Part of this Chapter, unless the context otherwise requires:-

a. any reference to ex-officio member shall be construed as a reference to a person who is a member by virtue of his holding or performing the functions of an office in the public service of a State;

b. office means an office in the public service of a State;

c. any reference to member of any of the bodies established by section 197 of this Constitution shall be construed as including a reference, to the Chairman of that body; and

d. misconduct means breach of the Oath of Allegiance or oath of office of a member or a breach of the provisions of this Constitution or bribery or corruption or false declaration of assets and liabilities or conviction for treason or treasonable felony.

C. The Public Service of a State

206

There shall be for each State of the Federation a Civil Service.

207

Subject to the provisions of this Constitution, a State Civil Service Commission may, with the approval of the Governor and subject to such conditions as it may deem fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to any officer in the civil service of the State.

208

1. Power to appoint persons to hold or act in the offices to which this section applies and to remove persons so appointed from any such office shall vest in the Governor of the State.

2. The offices to which this section applies are, namely-

    a. Secretary to the Government of the State;

    b. Head of the Civil Service of the State;

    c. Permanent Secretary or other chief executive in any Ministry or Department of the Government of the State howsoever designated; and

    d. any office on the personal staff of the Governor.

3. An appointment to the office of the Head of the Civil Service of a State shall not be made except from among Permanent Secretaries or equivalent rank in the civil service of any State or of the Federation.

4. In exercising his powers of appointment under this section, the Governor shall have regard to the diversity of the people within the state and the need to promote national unity.

5. Any appointment made pursuant to paragraphs (a) and (d) of subsection (2) of this section shall be at the pleasure of the Governor and shall cease when the Governor ceases to hold office:

    Provided that where a person has been appointed from a public service of the Federation or a State, he shall be entitled to return to the public service of the Federation or of the State when the Governor ceases to hold office.

209

A person in the public service of a State shall observe and conform to the Code of Conduct.

210

1. Subject to the provisions of subsection (2) of this section, the right of a person in the public service of a State to receive pension or gratuity shall be regulated by law.

2. Any benefit to which a person is entitled in accordance with or under such law as is referred to in subsection (1) of this section shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law, including the Code of Conduct.

3. Pensions shall be reviewed every five years or together with any state civil service salary reviews, whichever is earlier.

4. Pensions in respect of service in the service of a State shall not be taxed.

211

1. The Attorney-General of a state shall have power-

- Establishment of military courts

1. **a.** to institute and undertake criminal proceedings against any person before any court of law in Nigeria other than a court-martial in respect of any offence created by or under any law of the House of Assembly;

   b. to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and

   c. to discontinue at any stage before judgement is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.

2. The powers conferred upon the Attorney-General of a state under subsection 1 of this section may be exercised by him in person or through officers of his department.

3. In exercising his powers under this section, the Attorney-General of a state shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

212

1. The Governor may-

   a. grant any person concerned with or convicted of any offence created by any law of a state a pardon, either free or subject to lawful conditions;

   b. grant to any person a respite, of the execution of any punishment imposed on that person for such an offence;

   c. substitute a less severe form of punishment for any person for such an offence; or

   d. remit the whole or any part of punishment for any punishment imposed on that person for such any offence or of any penalty forfeiture otherwise due to the state on account of such an offence.

2. The powers of the Governor under subsection (1) of this section shall be exercised by him after consultation with such advisory council of the state on prerogative of mercy as may be established by law of the State.

Part III. Supplemental

- Census

A. National Population Census

- Advisory bodies to the head of state

213

1. Any report of the National Population Commission containing the population census after every census shall be delivered to the President by the Chairman of the Commission.

2. The President shall within a period of thirty days after receipts of the report lay copies of the report before the Council of State, which shall consider the report and advise the President whether to accept it or reject it.

3. Where the Council of State advises the President to accept the report, the President shall accept the same and shall then lay the report on the table of each House of the National Assembly.

4. Where the President accept such report and has laid it on the table of each House of the National Assembly he shall publish it in the official Gazette of the Government of the Federation for public information.

5. Where the Council of State advises the president to reject upon the ground-

5. **a.** that the population census contained in the report is inaccurate; or

   b. that the report is perverse,

   the President shall reject the report accordingly and no reliance shall be placed upon any such report by any authority or person or for any purpose what so ever.

B. Nigeria Police Force

214

1. There shall be a police force for Nigeria, which shall be known as the Nigeria Police Force, and subject to the provisions of this section no other police force shall be established for the Federation or any part thereof.

2. Subject to the provisions of this Constitution-

   a. the Nigeria Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an act of the National Assembly;

   b. the members of the Nigeria Police shall have such powers and duties as maybe conferred upon them by law;

   c. the National Assembly may make provisions for branches of the Nigeria Police Force forming part of the armed forces of the Federation or for the protection of harbours, waterways, railways and air fields.

215

1. There shall be-

   a. an Inspector-General of Police who, subject to section 216(2) of this Constitution shall be appointed by the President on the advice of the Nigeria Police Council from among serving members of the Nigeria Police Force;

   b. a Commissioner of Police for each state of the Federation who shall be appointed by the Police Service Commission.

2. The Nigeria Police Force shall be under the command of the Inspector-General of Police and contingents of the Nigeria Police Force stationed in a state shall, subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that state.

3. The President or such other Minister of the Government of the Federation as he may authorise in that behalf may give to the Inspector-General of Police such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those direction or cause them to be compiled with.

4. Subject to the provisions of this section, the Governor of a state or such Commissioner of the Government state as he may authorise in that behalf, may give to the Commissioner of Police of that state such lawful directions with respect to the maintenance and securing of public safety and public order within the state as he may consider necessary, and the Commissioner of Police shall comply with those directions or cause them to be complied with:

   Provided that before carrying out any such directions under the foregoing provisions of this subsection the Commissioner of Police may request that the matter be referred to the President or such minister of the Government of the Federation as may be authorised in that behalf by the President for his directions.

5. The question whether any, and if so what, directions have been given under this section shall not be inquired into in any court.

216

1. Subject to the provisions of this constitution, the Nigeria Police Council may, with the approval of the President and subject to such conditions as it may think fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to the Inspector-General of Police or any other member of the Nigeria Police Force.

2. Before making any appointment to the office of the Inspector-General of Police or removing him from office the President shall consult the Nigeria Police Council.

C. Armed Forces of the Federation

217

1. There shall be an armed forces for the Federation which shall consist of an army, a navy, an Air Force and such other branches of the armed forces of the Federation as may be established by an Act of the National Assembly.

2. The Federation shall, subject to an Act of the National Assembly made in that behalf, equip and maintain the armed forces as may be considered adequate and effective for the purpose of-

    a. defending Nigeria from external aggression;

    b. maintaining its territorial integrity and securing its borders from violation on land, sea, or air;

    c. suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly; and

    d. performance such other functions as may be prescribed by an Act of the National Assembly.

3. The composition of the officer corps and other ranks of the armed forces of the Federation shall reflect the federal character of Nigeria.

- Designation of commander in chief

218

1. The powers of the President as the Commissioner-in-Chief of the Armed Forces of the Federation shall include power to determine the operational use of the armed forces of the Federation.

- Selection of active-duty commanders

2. The powers conferred on the President by subsection (1) of this section shall include power to appoint the Chief of Defence staff, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff and heads of any other branches of the armed forces of the Federation as may be established by an Act of the National Assembly.

3. The President may, by directions in writing and subject to such conditions as he think fit, delegate to any member of the armed forces of the Federation his powers relating to the operational use of the Armed Forces of the Federation.

4. The National Assembly shall have power to make laws for the regulation of-

    a. the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the Federation; and

    b. the appointment, promotion and disciplinary control of members of the armed forces of the Federation.

219

The National Assembly shall-

a. in giving effect to the functions specified in section 217 of this Constitution; and

b. with respect to the powers exercisable by the President under section 218 of this Constitution,

by an Act, established a body which shall comprise such members as the National Assembly may determine, and which shall have power to ensure that the composition of the armed forces of the Federation shall reflect the federal character of Nigeria in the manner prescribed in the section 217 of this Constitution.

- Duty to serve in the military

220

1. The Federation shall establish and maintain adequate facilities for carrying into effect any Act of the National Assembly providing for compulsory military training or military service for citizens of Nigeria.

2. Until an Act of the National Assembly is made in that behalf the President may maintain adequate facilities in any secondary or post-secondary educational institution in Nigeria for giving military training in any such institution which desires to have the training.

D. Political Parties

221

- Campaign financing

No association, other than a political party, shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election.

222

- Restrictions on political parties

No association by whatever name called shall function as a party, unless-

a. the names and addresses of its national officers are registered with the Independent National Electoral Commission;

b. the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, circumstance of birth, sex, religion or ethnic grouping;

c. a copy of its constitution is registered in the principal office of the Independent National Electoral Commission in such form as may be prescribed by the Independent National Electoral Commission;

d. any alteration in its registered constitution is also registered in the principal office of the Independent National Electoral Commission within thirty days of the making of such alteration;

e. the name of the association, its symbol or logo does not contain any ethnic or religious connotation or give the appearance that the activities of the association are confined to a part only of the geographical area of Nigeria; and

f. the headquarters of the association is situated in the Federal Capital Territory, Abuja.

- Restrictions on political parties

223

1. The constitution and rules of a political party shall-

a. provide for the periodical election on a democratic basis of the principal officers and members of the executive committee or other governing

1. a. body of the political party; and

   b. ensure that the members of the executive committee or other governing body of the political party reflect the federal character of Nigeria.

2. For the purposes of this section-

   a. the election of the officers or members of the executive committee of a political party shall be deemed to be periodical only if it is made at regular intervals not exceeding four years; and

   b. the members of the executive committee or other governing body of the political party shall be deemed to reflect the federal character of Nigeria only if the members thereof belong to different States not being less in member than two-thirds of all the States comprising the Federation.

- Restrictions on political parties

224

The programme as well as the aims and objects of a political party shall conform with the provisions of Chapter II of this Constitution.

- Restrictions on political parties

225

1. Every political party shall, at such times and in such manner as the Independent National Electoral Commission may require, submit to the Independent National Electoral Commission and publish a statement of its assets and liabilities.

2. Every political party shall submit to the Independent National Electoral Commission a detailed annual statement and analysis of its sources of funds and other assets together with a similar statement of its expenditure in such form as the Commission may require.

- Campaign financing

3. No political party shall-

   a. hold or possess any funds or other assets outside Nigeria; or

   b. be entitled to retain any funds or assets remitted or sent to it from outside Nigeria.

4. Any funds or other assets remitted or sent to a political party from outside Nigeria shall be paid over or transferred to the Commission within twenty-one days of its receipt with such information as the Commission may require.

- Electoral commission

5. The Commission shall have power to give directions to political parties regarding the books or records of financial transactions which they shall keep and, to examine all such books and records.

6. The powers conferred on the Commission under subsection (4) of this section may be exercised by it through any member of its staff or any person who is an auditor by profession, and who is not a member of a political party.

225A

- Electoral commission
- Regulation of political parties

The Independent National Electoral Commission shall have power to de-register a political party for-

a. breach of any of the requirements for registration;

b. failure to win at least twenty-five percent of votes cast in-

   i. one State of the Federation in a Presidential election; or

   ii. one Local Government of the State in a Governorship election.

c. failure to win at least-

   i. one ward in the Chairmanship election;

c. **ii.** one seat in the National or State House of Assembly election; or

iii. one seat in the Councillorship election.

- Electoral commission

226

1. The Independent National Electoral commission, shall in every year prepare and submit to the National Assembly a report on the accounts and balance sheet of every political party.

2. It shall be the duty of the commission, in preparing its report under this section, to carry out such investigations as will enable it to form an opinion as to whether proper books of accounts and proper records have been kept by any political party, and if the Commission is of the opinion that proper books of accounts have not been kept by a political party, the Commission shall so report.

3. Every member of the Commission or its duly authorised agent shall-

a. have a right of access at all times to the books and accounts and vouchers of all political parties; and

b. be entitled to require from the officers of the political party such information and explanation as he thinks necessary for the performance of his duties under this Constitution,

and if the member of the Commission or such agent fails or is unable to obtain all the information and explanation which to the best of his knowledge and belief are necessary for the purposes of the investigation, the Commission shall state that fact in its report.

227

- Restrictions on political parties

No association shall retain, organise, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interest or in such manner as to arouse reasonable apprehension that they are organised and trained or equipped for that purpose.

228. Powers of the National Assembly with respect to political parties

The National Assembly may by law provide-

a. guidelines and rules to ensure internal democracy within political parties, including making laws for the conduct of party primaries, party congresses and party conventions; and

b. the conferment on the Independent National Electoral Commission of powers as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the Commission more effectively to ensure that political parties observe the practices of internal democracy, including the fair and transparent conduct of party primaries, party congresses and party conventions;

- Campaign financing

c. for an annual grant to the Independent National Electoral Commission for disbursement to political parties on a fair and equitable basis to assist them in the discharge of their functions; and

d. for the conferment on the Commission of other powers as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the Commission more effectively to ensure that political parties observe the provisions of this part of this chapter.

229

In this Part of this chapter, unless the context otherwise requires, “political party” includes any association whose activities include canvassing for votes in support of a

candidate for election to the office of President, Vice-President, Governor, Deputy Governor or membership of a legislative house or of a local government council.

Chapter VII. The Judicature

Part I. Federal Courts

A. The Supreme Court of Nigeria

- Structure of the courts

230

1. There shall be a Supreme Court of Nigeria.

2. The Supreme Court of Nigeria shall consist of-

- Number of supreme court judges

a. the Chief Justice of Nigeria; and

- Number of supreme court judges

b. such number of Justices of the Supreme Court, not exceeding twenty-one, as may be prescribed by an Act of the National Assembly.

231

- Establishment of judicial council
- Supreme court selection

1. The appointment of a person to the office of Chief Justice of Nigeria shall be made by the President on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate.

- Establishment of judicial council
- Supreme court selection

2. The appointment of a person to the office of a Justice of the Supreme Court shall be made by the President on the National Judicial Council subject to confirmation of such appointment by the Senate.

- Eligibility for supreme court judges

3. A person shall not be qualified to hold the office of Chief Justice of Nigeria or a Justice of the Supreme Court, unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than fifteen years.

4. If the office of Chief Justice of Nigeria is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding has resumed those functions, the President shall appoint the most senior Justice of the Supreme Court to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment, and the President shall not re-appointment a person whose appointment has lapsed.

- Supreme court powers

232

- Federal review of subnational legislation

1. The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a state or between states if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.

2. In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court shall have such original jurisdiction as may be conferred upon it by any Act of the National Assembly:

Provided that no original jurisdiction shall be conferred upon the Supreme Court with respect to any criminal matter.

- Supreme court powers
- Right to appeal judicial decisions

233

1. The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Court of Appeal.

2. An appeal shall lie from the decisions of the Court of Appeal to the Supreme Court as of right in the following cases—

    a. where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings before the Court of Appeal;

- Constitutional interpretation

    b. decisions in any civil or criminal proceedings on questions as to the interpretation or application of this Constitution;

    c. decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be, contravened in relation to any person;

    d. decisions in any criminal proceedings in which any person has been sentenced to death by the Court of Appeal or in which the Court of Appeal has affirmed a sentence of death imposed by any other court;

    e. decisions on any question—

        i. whether any person has been validly elected to the office of President or Vice-President under this Constitution,

        ii. whether the term of office of President or Vice-President has ceased,

        iii. whether the office of President or Vice-President has become vacant;

        iv. whether any person has been validly elected to the office of Governor or Deputy Governor under this Constitution,

        v. whether the term of office of a Governor or Deputy Governor has ceased,

        vi. whether the office of Governor or Deputy Governor has become vacant; and

    f. such other cases as may be prescribed by an Act of the National Assembly.

234

For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any Law, the Supreme Court shall be duly constituted if it consists of not less than five Justices of the Supreme Court:

Provided that where the Supreme Court is sitting to consider an appeal brought under 233(2) (b) or (c) of this Constitution, or to exercise its original jurisdiction in accordance with section 232 of this Constitution, the Court shall be constituted by seven Justices.

235

Without prejudice to the powers of the President or of the Governor of a state with respect to prerogative of mercy, no appeal shall lie to any other body or person from any determination of the Supreme Court.

236

Subject to the provisions of any Act of the National Assembly, the Chief Justice of Nigeria may make rules for regulating the practice and procedure of the Supreme Court.

- Right to appeal judicial decisions
- Structure of the courts

B. The Court of Appeal

237

1. There shall be a Court of Appeal.

2. The Court of Appeal shall consist of-

a. a President of the Court of Appeal; and

b. such number of Justices of the Court of Appeal, not less than forty-nine of which not less than three shall be learned in Islamic personal law, and not less than three shall be learned in Customary law, as may be prescribed by an Act of the National Assembly.

- Eligibility for ordinary court judges
- Age restrictions on ordinary court judges

238

- Ordinary court selection
- Establishment of judicial council

1. The appointment of a person to the office of President of the Court of appeal shall be made by the President on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate.

- Ordinary court selection
- Establishment of judicial council

2. The appointment of a person to the office of a Justice of the Court of Appeal shall be made by the President on the recommendation of the National Judicial Council.

- Eligibility for ordinary court judges

3. A person shall not be qualified to hold the office of a Justice of the Court of Appeal unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than twelve years.

4. If the office of the President of the Court of appeal is vacant, or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has resumed those functions, the President shall appoint the most senior Justice of the Court of Appeal to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment, and the President shall not re-appoint a person whose appointment has lapsed.

239

1. Subject to the provisions of this Constitution, the Court of Appeal shall, to the exclusion of any other court of Law in Nigeria, have original jurisdiction to hear and determine any question as to whether—

a. any person has been validly elected to the office of President or Vice-President under this Constitution; or

b. the term of office of the President or Vice-President has ceased; or

c. the office of President or Vice-President has become vacant.

2. In the hearing and determination of an election petition under paragraph (a) of subsection (1) of this section, the Court of Appeal shall be duly constituted if it consists of at least three Justices of the Court of Appeal.

240

- Establishment of military courts

Subject to the provisions of this Constitution, the Court of Appeal shall have jurisdiction to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Federal High Court, the National Industrial Court, the High Court of the Federation Capital Territory, Abuja, High Court of a state, Sharia Court of Appeal of the Federal

Capital Territory, Abuja, Sharia Court of Appeal of a state, Customary Court of Appeal of a state and from decisions of a court-martial or other tribunals as may be prescribed by an Act of the National Assembly.

241

1. An appeal shall lie from decisions of the Federal High Court or a High Court to the Court of Appeal as of right in the following cases-

- Constitutional interpretation

a. final decisions in any civil or criminal proceedings before the Federal High Court or a High Court or a High Court sitting at first instance;

b. where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings;

c. decisions in any civil or criminal proceedings on questions as to the interpretation or application of this Constitution;

d. decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be, contravened in relation to any person;

e. decisions in any criminal proceedings in which the Federal High Court or a High Court has imposed a sentence of death;

f. decisions made or given by the Federal High Court or a High Court-

i. where the liberty of a person or the custody of an infant is concerned,

ii. where an injunction or the appointment of a receiver is granted or refused,

iii. in the case of a decision determining the case of a creditor or the liability of a contributory or other officer under any enactment relating to companies in respect of misfeasance or otherwise,

iv. in the case of a decree nisi in a matrimonial cause or a decision in an admiralty action determining liability, and

v. in such other cases as may be prescribed by any law in force in Nigeria.

2. Nothing in this section shall confer any of appeal-

a. from a decision of the Federal High Court or any High Court granting unconditional leave to defend an action;

b. from an order absolute for the dissolution or nullity of marriage in favour of any party who, having had time and opportunity to appeal from the decree nisi on which the order was founded, has not appealed from that decree nisi; and

c. without the leave of the Federal High Court or a High Court or of the Court of Appeal from a decision of the Federal High Court or High Court made with the consent of the parties or as to costs only.

242

1. Subject to the provisions of section 241 of this Constitution, an appeal shall lie from decisions of the Federal High Court or a High Court to the Court of Appeal with the leave of the Federal High Court or High Court or the Court of Appeal.

2. The Court of Appeal may dispose of any application for leave to appeal from any decision of the Federal High Court or a High Court in respect of any civil or criminal proceedings in which an appeal has been brought to the Federal High Court or a High Court from any other court after consideration of the record of

2. the proceedings, if the Court of Appeal is of the opinion that the interests of justice do not require an oral hearing of the application.

243

1. Any right of appeal to the Court of Appeal from the decisions of the Federal High Court or a High Court conferred by this Constitution shall be-

    a. exercisable in the case of civil proceedings at the instance of a party thereto, or with the leave of the Federal High Court or High Court or the Court of Appeal at the instance of any other person having an interest in the matter, and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of this Constitution and any powers conferred upon the Attorney-General of the Federation or the Attorney-General of a state to take over and continue or to discontinue such proceedings, at the instance of such other authorities or persons as may be prescribed;

    b. exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

2. An appeal shall lie from the decision of the National Industrial Court as of right to the Court of Appeal on questions of fundamental rights as contained in Chapter IV of this Constitution as it relates to matters upon which the National Industrial Court has jurisdiction.

3. An Appeal shall only lie from the decision of the National Industrial Court to the Court of Appeal as may be prescribed by an Act of the National Assembly:

    Provided that where an Act or Law prescribes that an appeal shall lie from the decisions of the National Industrial Court to the Court of Appeal, such appeal shall be with the leave of the Court of Appeal.

4. Without prejudice to the provisions of section 254C (5) of this Act, the decision of the Court of Appeal in respect of any appeal arising from any civil jurisdiction of the National Industrial Court shall be final.

- Status of religious law

244

1. An appeal shall lie from decisions of a Sharia Court of Appeal to the Court of Appeal as of right in any civil proceedings before the Sharia Court of Appeal with respect to any question of Islamic personal law which the Sharia Court of Appeal is competent to decide.

2. Any right of appeal to the Court of Appeal from the decisions of a Sharia Court of Appeal conferred by this section shall be-

    a. exercisable at the instance of a party thereto or, with the leave of the Sharia Court of Appeal or of the Court of Appeal, at the instance of any other person having an interest in the matter; and

    b. exercised in accordance with an Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

245

1. An appeal shall lie from decisions of a customary Court of Appeal to the Court of Appeal as of right in any civil proceedings before the customary Court of Appeal with respect to any question of Customary law and such other matters as may be prescribed by an Act of the National Assembly.

2. Any right of appeal to the Court of Appeal from the decisions of a Customary Court of Appeal conferred by this section shall be-

2. a. exercisable at the instance of a party thereto or, with the leave of the Customary Court of Appeal or of the Court of Appeal, at the instance of any other person having an interest in the matter;

b. exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

246

1. An appeal to the Court of Appeal shall lie as of right from—

a. decisions of the Code of Conduct Tribunal established in the Fifth Schedule to this Constitution;

b. decisions of the National and State Houses of Assembly Election Tribunals; and

c. decisions of the Governorship Election Tribunals, on any question as to whether—

i. any person has been validly elected as a member of the National Assembly or of a House of Assembly of a State under this Constitution,

ii. any person has been validly elected to the office of a Governor or Deputy Governor, or

iii. the term of office of any person has ceased or the seat of any such person has become vacant.

2. The National Assembly may confer jurisdiction upon the Court of Appeal to hear and determine appeals from any decision of any other court of law or tribunal established by the National Assembly.

3. The decisions of the Court of Appeal in respect of appeals arising from the National and State Houses of Assembly election petitions shall be final.

247

1. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any other law, the Court of Appeal shall be duly constituted if it consists of not less than three Justices of the Court of Appeal and in the case of appeals from-

a. a Sharia Court of Appeal if it consists of not less than three Justices of the Court of Appeal learned in Islamic personal law; and

b. a Customary Court of Appeal, if it consists of not less than three Justices of Court of Appeal learned in Customary law.

248

Subject to the provisions of any Act of the National Assembly, the President of the Court of Appeal may make rules for regulating the practice and procedure of the Court of Appeal.

C. The Federal High Court

- Structure of the courts

249

1. There shall be a Federal High Court.

2. The Federal High Court shall consist of-

2. **a.** a Chief Judge of the Federal High Court; and

b. such number of Judges of the Federal High Court as may be prescribed by an Act of the National Assembly.

250

- Ordinary court selection
- Establishment of judicial council

1. The appointment of a person to the office of Chief Judge of the Federal High Court shall be made by the President on the recommendation of the National Judicial Council, subject to confirmation of such appointment by the Senate.

- Ordinary court selection
- Establishment of judicial council

2. The appointment of a person to the office of a Judge of the Federal High Court shall be made by the President on the recommendation of the National Judicial Council.

- Eligibility for ordinary court judges

3. A person shall not be qualified to hold the office of Chief Judge of the Federal High Court unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years.

4. If the office of Chief Judge of the Federal High Court is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed those functions of that office until the person holding the office has resumed those functions the President shall appoint the most senior Judge of the Federal High Court to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (3) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

251

1. Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters-

a. relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party;

b. connected with or pertaining to the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation;

c. connected with or pertaining to customs and excise duties and export duties, including any claim by or against the Nigeria Customs Service or any member or officer thereof, arising from the performance of any duty imposed under any regulation relating to customs and excise duties and export duties;

- Central bank

d. connected with or pertaining to banking, banks, other financial institutions, including any action between one bank and another, any action by or against the Central Bank of Nigeria arising from banking, foreign exchange, coinage, legal tender, bills of exchange, letters of credit, promissory notes and other fiscal measures:

Provided that this paragraph shall not apply to any dispute between an individual customer and his bank in respect of transactions between the individual customer and the bank;

e. arising from the operation of the Companies and Allied Matters Act or any other enactment replacing the Act or regulating the operation of companies incorporated under the Companies and Allied Matters Act;

• Provisions for intellectual property

1. **f.** any Federal enactment relating to copyright, patent, designs, trademarks and passing-off, industrial designs and merchandise marks, business names, commercial and industrial monopolies, combines and trusts, standards of goods and commodities and industrial standards;

g. any admiralty jurisdiction, including shipping and navigation on the River Niger or River Benue and their affluents and on such other inland waterway as may be designated by any enactment to be an international waterway, all Federal ports, (including the constitution and powers of the ports authorities for Federal ports) and carriage by sea;

h. diplomatic, consular and trade representation;

• Power to deport citizens

i. citizenship, naturalisation and aliens, deportation of persons who are not citizens of Nigeria, extradition, immigration into and emigration from Nigeria, passports and visas;

j. bankruptcy and insolvency;

k. aviation and safety of aircraft;

l. arms, ammunition and explosives;

m. drugs and poisons;

n. mines and minerals (including oil fields, oil mining, geological surveys and natural gas);

o. weights and measures;

p. the administration or the management and control of the Federal Government or any of its agencies;

• Constitutional interpretation

q. subject to the provisions of this Constitution, the operation and interpretation of this Constitution in so far as it affects the Federal Government or any of its agencies;

r. any action or proceeding for a declaration or injunction affecting the validity of any executive or administrative action or decision by the Federal Government or any of its agencies; and

s. such other jurisdiction civil or criminal and whether to the exclusion of any other court or not as may be conferred upon it by an Act of the National Assembly:

• Ultra-vires administrative actions

Provided that nothing in the provisions of paragraphs (p), (q) and (r) of this subsection shall prevent a person from seeking redress against the Federal Government or any of its agencies in an action for damages, injunction or specific performance where the action is based on any enactment, law or equity.

2. The Federal High Court shall have and exercise jurisdiction and powers in respect of treason, treasonable felony and allied offences.

3. The Federal High Court shall also have and exercise jurisdiction and powers in respect of criminal causes and matters in respect of which jurisdiction is conferred by subsection (1) of this section.

4. The Federal High Court shall have and exercise jurisdiction to determine any question as to whether the term of office or a seat of a member of the Senate or the House of Representatives has ceased or his seat has become vacant.

252

1. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or as may be conferred by an Act of the National Assembly, the Federal High Court shall have all the powers of the High Court of a state.

2. Notwithstanding subsection (1) of this section, the National Assembly may by law make provisions conferring upon the Federal high Court powers additional to those conferred by this section as may appear necessary or desirable for enabling the Court more effectively to exercise its jurisdiction.

253

The Federal High Court shall be duly constituted if it consists of at least one Judge of that Court.

254

Subject to the provisions of any Act of the National Assembly, the Chief Judge of the Federal High Court may make rules for regulating the practice and procedure of the Federal High Court.

- Establishment of labor courts

CC. The National Industrial Court of Nigeria

254A

1. There shall be a National Industrial Court of Nigeria.

2. The National Industrial Court shall consist of:

    a. President of the National Industrial Court; and

    b. such number of Judges of the National Industrial Court as may be prescribed by an Act of the National Assembly.

254B

- Establishment of judicial council

1. The appointment of a person to the office of President of the National Industrial Court shall be made by the President on the recommendation of the National Judicial Council subject to confirmation of such appointment by the Senate.

- Establishment of judicial council

2. The appointment of a person to the office of a Judge of the National Industrial Court shall be made by the President on the recommendation of the National Judicial Council.

3. A person shall not be eligible to hold the office of a President of the National Industrial Court unless the person is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

4. A person shall not be eligible to hold the office of a Judge of the National Industrial Court unless the person is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has considerable knowledge and experience in the law and practice of industrial relations and employment conditions in Nigeria.

5. If the office of the President of the National Industrial Court is vacant, or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior Judge of the Court having the qualification to be appointed as President of the National Industrial Court as provided under subsection (3) of this section to perform those functions.

6. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (5) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

254C

1. Notwithstanding the provisions of sections 251, 257, 272 and anything contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the National Industrial Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters—

    a. relating to or connected with any labour, employment, trade unions, industrial relations and matters arising from workplace, the conditions of service, including health, safety, welfare of labour, employee, worker and matters incidental thereto or connected therewith;

    b. relating to, connected with or arising from Factories Act, Trade Disputes Act, Trade Unions Act, Labour Act, Employees' Compensation Act or any other Act or Law relating to labour, employment, industrial relations, workplace or any other enactment replacing the Acts or Laws;

    c. relating to or connected with the grant of any order restraining any person or body from taking part in any strike, lock-out or any industrial action, or any conduct in contemplation or in furtherance of a strike, lock-out or any industrial action and matters Connected therewith or related thereto;

    • Constitutional interpretation

    d. relating to or connected with any dispute over the interpretation and application of the provisions of Chapter IV of this Constitution as it relates to any employment, labour, industrial relations, trade unionism, employer's association or any other matter which the Court has jurisdiction to hear and determine;

    e. relating to or connected with any dispute arising from national minimum wage for the Federation or any part thereof and matters connected therewith or arising therefrom;

    f. relating to or connected with unfair labour practice or international best practices in labour, employment and industrial relation matters;

    g. relating to or connected with any dispute arising from discrimination or sexual harassment at workplace;

    h. relating to, connected with or pertaining to the application or interpretation of international labour standards;

    i. connected with or related to child labour, child abuse, human trafficking or any matter connected therewith or related thereto;

    j. relating to the determination of any question as to the interpretation and application of any—

        i. collective agreement;

        ii. award or order made by an arbitral tribunal in respect of a trade dispute or a trade union dispute;

        iii. award or judgment of the Court;

        iv. term of settlement of any trade dispute;

        v. trade union dispute or employment dispute as may be recorded in a memorandum of settlement;

        vi. trade union constitution, the constitution of an association of employers or any association relating to employment, labour, industrial relations or work place;

1. j. vii. dispute relating to or connected with any personnel matter arising from any free trade zone in the Federation or any part thereof;

k. relating to or connected with disputes arising from payment or nonpayment of salaries, wages, pensions, gratuities, allowances, benefits and any other entitlement of any employee, worker, political or public office holder, judicial officer or any civil or public servant in any part of the Federation and matters incidental thereto;

l. relating to—

i. appeals from the decisions of the Registrar of Trade Unions, or matters relating thereto or connected therewith;

ii. appeals from the decisions or recommendations of any administrative body or commission of enquiry, arising from or connected with employment, labour, trade unions or industrial relations; and

iii. such other jurisdiction, civil or criminal and whether to the exclusion of any other court or not, as may be conferred upon it by an Act of the National Assembly;

m. relating to or connected with the registration of collective agreements.

- International law

2. Notwithstanding anything to the contrary in this Constitution, the National Industrial Court shall have the jurisdiction and power to deal with any matter connected with or pertaining to the application of any international convention, treaty or protocol of which Nigeria has ratified relating to labour, employment, workplace, industrial relations or matters connected therewith.

3. The National Industrial Court may establish an Alternative Dispute Resolutions Centre within the Court premises on matters which jurisdiction is conferred on the court by this Constitution or any Act or Law:

Provided that nothing in this subsection shall preclude the National Industrial Court from entertaining and exercising appellate and supervisory jurisdiction over an arbitral tribunal or commission, administrative body, or board of inquiry in respect of any matter that the National Industrial Court has jurisdiction to entertain or any other matter as may be prescribed by an Act of the National Assembly or any Law in force in any part of the Federation.

4. The National Industrial Court shall have and exercise jurisdiction and powers to entertain any application for the enforcement of the award, decision, ruling or order made by any arbitral tribunal or commission, administrative body, or board of inquiry relating to, connected with, arising from or pertaining to any matter of which the National Industrial Court has the jurisdiction to entertain.

5. The National Industrial Court shall have and exercise jurisdiction and powers in criminal causes and matters arising from any cause or matter of which jurisdiction is conferred on the National Industrial Court by this section or any other Act of the National Assembly or by any other law.

6. Notwithstanding anything to the contrary in this Constitution, appeal shall lie from the decision of the National Industrial Court from matters in sub-section 5 of this section to the Court of Appeal as of right.

254D

1. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or as may be conferred by an Act of the National Assembly, the National Industrial Court shall have all the powers of a High Court.

2. Notwithstanding subsection (1) of this section, the National Assembly may by law, make provisions conferring upon the National Industrial Court powers

2. additional to those conferred by this section as may appear necessary or desirable for enabling the Court to be more effective in exercising its jurisdiction.

254E

1. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any other law, the National Industrial Court shall be duly constituted if it consists of a single Judge or not more than three Judges as the President of the National Industrial Court may direct.

2. For the purpose of exercising its criminal jurisdiction, the President of the Court may hear and determine or assign a single Judge of the Court to hear and determine such matter.

3. For the purpose of exercising any jurisdiction conferred upon it by the Constitution or any other law, the Court may, if it thinks it expedient to do so or in a manner prescribed under any enactment, law or rules of court, call in the aid of one or more assessors specially qualified to try and hear the cause or matter wholly or partly with the assistance of such assessors.

4. For the purpose of subsection(3) of this section, an assessor shall be a person who is qualified and experienced in his field of specialization and who has been so qualified for a period of not less than ten years.

254F

Subject to the provisions of any Act of the National Assembly, the President of the National Industrial Court may make rules for regulating the practice and procedure of the National Industrial Court.

- Structure of the courts

D. The High Court of the Federal Capital Territory, Abuja

255

1. There shall be a High Court of the Federal Capital Territory, Abuja.

2. The High Court of the Federal Capital Territory, Abuja shall consist of-

    a. a Chief Judge of the High Court of the Federal Capital Territory, Abuja; and

    b. such number of Judges of the High Court as may be prescribed by an Act of the National Assembly.

256

- Establishment of judicial council
- Ordinary court selection

1. The appointment of a person to the office of Chief Judge of the High Court of the Federal Capital Territory, Abuja shall be made by the President on the recommendation of the National Judicial council, subject to confirmation of such appointment by the Senate.

- Ordinary court selection
- Establishment of judicial council

2. The appointment of a person to the office of a Judge of the High Court of the Federal Capital Territory, Abuja shall be made by the president on the recommendation of the National Judicial Council.

- Eligibility for ordinary court judges

3. A person shall not be qualified to hold the office of a Chief Judge or a Judge of the High Court of the Federation Capital Territory, Abuja unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years.

4. If the office of the Chief Judge of the High Court of the Federal Capital Territory, Abuja is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office until the person holding the office has resumed those functions, the President shall appoint the most senior Judge of

4. the High Court of the Federal Capital Territory, Abuja, to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

257

1. Subject to the provisions of section 251 and any other provisions of this Constitution and in addition to such other jurisdiction as may be conferred upon it by law, the High Court of the Federal Capital Territory, Abuja shall have jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability privilege, interest, obligation or claim is in issue or to hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person.

2. The reference to civil or criminal proceedings in this section includes a reference to the proceedings which originate in the High Court of the Federal Capital Territory, Abuja and those which are brought before the High Court of the Federal Capital Territory, Abuja to be dealt with by the Court in the exercise of its appellate or supervisory jurisdiction.

258

The High Court of the Federal Capital Territory, Abuja shall be duly constituted if it consists of at least one Judge of that court.

259

Subject to the provisions of any Act of the National Assembly, the Chief Judge of the High Court of the Federal Capital Territory, Abuja may make rules for regulating the practice and procedure of the High Court of the Federal Capital Territory, Abuja.

- Establishment of religious courts

E. The Sharia Court of Appeal of the Federal Capital Territory, Abuja

260

1. There shall be a Sharia Court of Appeal of the Federal Capital Territory, Abuja.

2. The Sharia Court of Appeal of the Federal Capital Territory, Abuja shall consist of-

    a. a Grand Kadi of the Sharia Court of Appeal; and

    b. such number of Kadis of the Sharia Court of Appeal as may be prescribed by an Act of the National Assembly.

- Establishment of judicial council

261

1. The appointment of a person to the office of the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja shall be made by the President on the recommendation of the National Judicial Council, subject to confirmation of such appointment by the Senate.

2. The appointment of a person to the office of a Kadi of the Sharia Court of Appeal shall be made by the President on the recommendation of the National Judicial Council.

3. A person shall not be qualified to hold office as Grand Kadi or Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja unless-

3. a. he is a legal practitioner in Nigeria and has so qualified for a period of not less than ten years and has obtained a recognised qualification in Islamic law from an institution acceptable to the National Judicial Council; or

   b. he has attended and has obtained a recognised qualification in Islamic law from an institution approved by the National Judicial Council and has held the qualification for a period of not less than twelve years; and

      i. he either has considerable experience in the practice of Islamic law, or

      ii. he is a distinguished scholar of Islamic law.

4. If the office of the Grand Kadi of the Sharia Court of Appeal is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, the President shall appoint the most senior Kadi of the Sharia Court of Appeal to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

- Status of religious law

262

1. The Sharia Court of Appeal shall, in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal law.

2. For the purpose of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide-

   a. any question of Islamic personal law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

   b. where all the parties to the proceeding are Muslims, any question of Islamic personal law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a foundling or the guardianship of an infant;

   c. any question of Islamic personal law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a Muslim;

   d. any question of Islamic personal law regarding an infant, prodigal or person of unsound mind who is a Muslim or the maintenance or the guardianship of a Muslim who is physically or mentally infirm; or

   e. where all the parties to the proceedings, being Muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

263

For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any Act of the National Assembly, the Sharia Court of Appeal shall be duly constituted if it consists of at least three Kadis of that Court.

264

Subject to the provisions of any Act of the National Assembly, the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja may make rules for regulating the practice and procedure of the Sharia Court of Appeal of the Federal Capital Territory, Abuja.

F. The Customary Court of Appeal of the Federal Capital Territory, Abuja

265

1. There shall be a Customary Court of Appeal of the Federal Capital Territory, Abuja.
2. The Customary Court of Appeal of the Federal Capital Territory, Abuja shall consist of-
    a. a President of the Customary Court of Appeal; and
    b. such number of Judges of the Customary Court of Appeal as may be prescribed by an Act of the National Assembly.

- Establishment of judicial council

266

1. The appointment of a person to the office of the President of the Customary Court of Appeal of the Federal Capital Territory, Abuja shall be made by the President on the recommendation of the National Judicial Council, subject to the confirmation of such appointment by the Senate.
2. The appointment of a person to the office of a Judge of the Customary Court of Appeal shall be made by the President on the recommendation of the National Judicial Council.
3. Apart from such other qualification as may be prescribed by an Act of the National Assembly, a person shall not be qualified to hold the office of President or a Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja, unless-
    a. he is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and, in the opinion of the National Judicial Council he has considerable knowledge and experience in the practice of Customary law; or
    b. in the opinion of the National Judicial Council he has considerable knowledge of and experience in the practice of Customary law.
4. If the office of the President of the Customary Court of Appeal is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and assumed the functions of that office, or until the person holding the office has resumed those functions, the President shall appoint the next most senior Judge of the Customary Court of Appeal to perform those functions.
5. Except on the recommendation of the National Judicial Council, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

267

The Customary Court of Appeal of the Federal Capital Territory, Abuja shall, in addition to such other jurisdiction as may be conferred upon by an Act of The National Assembly

Exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Customary law.

268

For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any Act of the National Assembly, the Customary Court of Appeal shall be duly constituted if it consists of at least three Judges of that Court.

269

Subject to the provisions of any Act of the National Assembly, the President of the Customary Court of Appeal of the Federal Capital Territory, Abuja, may make rules for regulating the practice and procedure of the Customary Court of Appeal of the Federal Capital Territory, Abuja.

Part II. State Courts

- Structure of the courts

A. High Court of a State

270

1. There shall be a High Court for each State of the Federation.
2. The High Court of a State shall consist of-
    a. a Chief Judge of the State; and
    b. such number of Judges of the High Court as may be prescribed by a Law of the House of Assembly of the State.

271

- Ordinary court selection
- Establishment of judicial council

1. The appointment of a person to the office of Chief Judge of a State shall be made by the Governor of the State on the recommendation of the National Judicial Council subject to confirmation of the appointment by the House of Assembly of the State.

- Establishment of judicial council
- Ordinary court selection

2. The appointment of a person to the office of a Judge of a High Court of a State shall be made by the Governor of the State acting on the recommendation of the National Judicial Council.

- Eligibility for ordinary court judges

3. A person shall not be qualified to hold office of a Judge of a High Court of a State unless he is qualified to practice as a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years.
4. If the office of Chief Judge of a State is vacant or if the person holding the office is for any person unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has resumed those functions, the Governor of the State shall appoint the most senior Judge of the High Court to perform those functions.
5. Except on the recommendation of the National Judicial Council an appointment pursuant to subsection (4) of this section shall cease to have effect after expiration of three months from the date of such appointment and the Governor shall not re-appoint a person whose appointment has lapsed.

272

1. Subject to the provisions of section 251 and other provisions of this Constitution, the High Court of a State shall have jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation or claim is in issue or to hear and determine any

1. criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person.

2. The reference to civil or criminal proceedings in this section includes a reference to the proceedings which originate in the High Court of a State and those which are brought before the High Court to be dealt with by the court in the exercise of its appellate or supervisory jurisdiction.

3. Subject to the provisions of section 251 and other provisions of this Constitution, the Federal High Court shall have jurisdiction to hear and determine the question as to whether the term of office of a member of the House of Assembly of a State, a Governor or Deputy Governor has ceased or become vacant.

273

For the purpose of exercising any jurisdiction conferred upon it under this Constitution or any law, a High court of a State shall be duly constituted if it consists of at least one Judge of that Court.

274

Subject to the provisions of any law made by the House of Assembly of a State, the Chief Judge of a State may make rules for regulating the practice and procedure of the High Court of the State.

- Establishment of religious courts

B. Sharia Court of Appeal of a State

275

1. There shall be for any State that requires it a Sharia Court of Appeal for that State.

2. The Sharia Court of Appeal of the State shall consist of-

    a. a Grand Kadi of the Sharia Court of Appeal; and

    b. such member of Kadi of the Sharia Court of Appeal as may be prescribed by the House of Assembly of the State.

- Establishment of judicial council

276

1. The appointment of a person to the office of the Grand Kadi of the Sharia Court of Appeal of a State shall be made by the Governor of the State on the recommendation of the National Judicial Council, subject to confirmation of such appointment by the House of Assembly of the State.

2. The appointment of a person to the office of a Kadi of the Sharia Court of Appeal of a State shall be made by the Governor of the State on the recommendation of the National Judicial Council.

3. A person shall not be qualified to hold office as a Kadi of the Sharia Court of Appeal of a State unless-

    a. he is a legal practitioner in Nigeria and has been so qualified for a period of not less than ten years and has obtained a recognised qualification in Islamic law from an institution acceptable to the National Judicial Council; or

    b. he has attended and has obtained a recognised qualification in Islamic law from an institution approved by the National Judicial council and has held the qualification for a period of not less than ten years; and

        i. he either has considerable experience in the practice of Islamic law, or

3. b. ii. he is a distinguished scholar of Islamic law.

4. If the office of the Grand Kadi of the Sharia Court of Appeal of a State is vacant or if a person holding the office is for any reason unable to perform the function of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has resumed those functions, the Governor of the State shall appoint the most senior Kadi of the Sharia Court of Appeal of the State to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment, and the Governor shall not re-appoint a person whose appointment has lapsed.

- Status of religious law

277

1. The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic personal Law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

2. For the purposes of subsection (1) of this section, the sharia Court of Appeal shall be competent to decide-

    a. any question of Islamic personal Law regarding a marriage concluded in accordance with that Law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant;

    b. where all the parties to the proceedings are muslims, any question of Islamic personal Law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a founding or the guarding of an infant;

    c. any question of Islamic personal Law regarding a wakf, gift, will or succession where the endower, donor, testator or deceased person is a muslim;

    d. any question of Islamic personal Law regarding an infant, prodigal or person of unsound mind who is a muslim or the maintenance or the guardianship of a muslim who is physically or mentally infirm; or

    e. where all the parties to the proceedings, being muslims, have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

278

For the purpose of exercising any jurisdiction conferred upon it this Constitution or any law, a sharia Court of Appeal of a State shall be duly constituted if it consists of at least three kadis of that Court.

279

Subject to provisions of any made by the House of Assembly of the State, the Grand Kadi of the Sharia Court of Appeal of the state may make rules regulating the practice and procedure of the Sharia Court of Appeal.

C. Customary Court of Appeal of a State

280

1. There shall be for any State that requires it a Customary Court of Appeal for that State.

2. The Customary Court of Appeal of a State shall consist of-

    a. a President of the Customary Court of Appeal of the State; and

    b. such number of Judges of the Customary Court of Appeal as may be prescribed by the House of Assembly of the State.

- Establishment of judicial council

281

1. The appointment of a person to the office of President of a Customary Court of Appeal shall be made by the Governor of the State on the recommendation of the National Judicial Council, subject to confirmation of such appointment by the House of Assembly of the State.

2. The appointment of a person to the office of a Judge of a Customary Court of Appeal shall be made by the Governor of the State on the recommendation of the National Judicial Council.

3. Apart from such other qualification as may be prescribed by a law of the House of Assembly of the State, a person shall not be qualified to hold office of a president or of a Judge of a Customary Court of Appeal of a State unless-

    a. he is a legal practitioner in Nigeria and he has been so qualified for a period of not less than ten years and In the opinion of the National Judicial Council he has considerable knowledge and experience in the practice of Customary law; or

    b. in the opinion of the National Judicial Council he has considerable knowledge of and experience in the practice of Customary law.

4. If the office of President of the Customary Court of Appeal of a State is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then until a person has been appointed to and has assumed the functions of that office, or until the person holding the office has resumed the functions of that office, or until the person holding the office has resumed those functions, the Governor of the State shall appoint the most senior Judge of the Customary Court of Appeal of the State to perform those functions.

5. Except on the recommendation of the National Judicial Council, an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of three months from the date of such appointment, and the Governor shall not re-appoint a person whose appointment has lapsed.

282

1. A Customary Court of Appeal of a State shall exercise appellate and supervisory jurisdiction in civil proceedings involve questions of Customary law.

2. For the purpose of this section, a Customary Court of Appeal of a State shall exercise such jurisdiction and decide such questions as may be prescribed by the House of Assembly of the State for which it is established.

283

For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any law, a Customary Court of Appeal of the State may make rules for regulating the practice and procedure of the Customary Court of Appeal of the State.

284

Subject to the provisions of any law by the House of Assembly of the State, the President of the Customary Court of Appeal of the State may make rules for regulating the practice and procedure of the customary Court of Appeal of the State.

Part III. Election Tribunals

285

- Electoral court powers

1. There shall be established for the each State of the Federation and the Federal Capital Territory, one or more election tribunals to be known as the National and State Houses of Assembly Election Tribunals which shall, to the exclusion of any Court or tribunal, have original jurisdiction to hear and determine petitions as to whether-
    a. any person has been validly elected as a member of the National Assembly; or
    b. any person has been validly elected as a member of the House of Assembly of a State.

- Electoral court powers

2. There shall be established in each State of the Federation an election tribunal to be known as the Governorship Election Tribunal which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor of a State.
3. The composition of the National and State Houses of Assembly Election Tribunal and the Governorship Election Tribunal, respectively, shall be as set out in the Sixth Schedule to this Constitution.
4. The quorum of an election tribunal established under this section shall be the Chairman and one other member.
5. An election petition shall be filed within 21 days after the date of the declaration of result of the elections;
6. An election tribunal shall deliver its judgment in writing within 180 days from the date of the filing of the petition;
7. An appeal from a decision of an election tribunal or Court of Appeal in an election matter shall be heard and disposed of within 60 days from the date of the delivery of judgment of the tribunal or Court of Appeal.
8. Where a preliminary objection or any other interlocutory issue touching on the jurisdiction of the tribunal or court in any pre-election matter or on the competence of the petition itself is raised by a party, the tribunal or court shall suspend its ruling and deliver it at the stage of final judgment.
9. Notwithstanding anything to the contrary in this Constitution, every pre-election matter shall be filed not later than 14 days from the date of the occurrence of the event, decision or action complained of in the suit.
10. A Court in every pre-election matter shall deliver its judgment in writing within 180 days from the date of filing of the suit.
11. An appeal from a decision in a pre-election matter shall be filed within 14 days from the date of delivery of the judgment appealed against.
12. An appeal from a decision of a Court in a pre-election matter shall be heard and disposed of within 60 days from the date of filing of the appeal.
13. An election tribunal or conrt shall not declare any person a winner at an election in which such a person has not fully participated in all stages of the election.

14. For the purpose of this section, "pre-election matter" means any suit by-

a. an aspirant who complains that any of the provisions of the Electoral Act or any Act of the National Assembly regulating the conduct of primaries of political parties and the provisions of the guidelines of a political party for conduct of party primaries has not been complied with by a political party in respect of the selection or nomination of candidates for an election;

b. an aspirant challenging the actions, decisions or activities of the Independent National Electoral Commission in respect of his participation in an election or who complains that the provisions of the Electoral Act or any Act of the National Assembly regulating elections in Nigeria has not been complied with by the Independent National Electoral Commission in respect of the selection or nomination of candidates and participation in an election; and

c. a political party challenging the actions, decisions or activities of the Independent National Electoral Commission disqualifying its candidate from participating in an election or a complaint that the provisions of the Electoral Act or any other applicable law has not been complied with by the Independent National Electoral Commission in respect of the nomination of candidates of political parties for an election, timetable for an election, registration of voters and other activities of the Commission in respect of preparation for an election.

Part IV. Supplemental

286

1. Subject to the provisions of this Constitution-

a. where by the Law of a State jurisdiction is conferred upon any court for the hearing and determination of civil causes and of appeals arising out of such causes, the court shall have like jurisdiction with respect to the hearing and determination of Federal causes and of appeals arising out of such causes;

b. where by the Law of a State jurisdiction is conferred upon any court for the investigation, inquiry into, or trial of persons accused of offences against the Laws of the State and with respect to the hearing and determination of appeals arising out of any such trial or out of any proceedings connected therewith, the court shall have like jurisdiction with respect to the investigation, inquiry into, or trial of persons for Federal offences and the hearing and determination of appeals arising out of the trial or proceedings; and

c. the jurisdiction conferred on a court of a state pursuant to the provisions of this section shall be exercised in conformity with the practice and procedure for the time being prescribed in relation to its jurisdiction over civil or criminal causes other than Federal causes.

2. Nothing in the provisions of this section shall be construed, except in so far as other provisions have been made by the operation of sections 299 and 301 of this Constitution, as conferring jurisdiction as respects Federal causes or Federal offences upon a court presided over by a person who is not or has not been qualified to practice as a legal practitioner in Nigeria.

3. In this section, unless the context otherwise requires-

- “causes” includes matter;
- “Federal cause” means civil or criminal cause relating to provisions of the National Assembly has power to make laws; and
-

3. • "Federal offence" means an offence contrary to the provisions of Act of the National Assembly or any law having effect as if so enacted.

287

1. The decisions of the Supreme court shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the supreme Court.

2. The decisions of the Court of Appeal shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Court of Appeal.

3. The decisions of the Federal High Court, the National Industrial Court, a High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of law with subordinate jurisdiction to that of the Federal High Court, the National Industrial Court, a High Court and those other courts, respectively.

288

1. In exercising his powers under the foregoing provisions of this Chapter in respect of appointments to the offices of Justices of the Supreme court and Justices of the Court of Appeal, the President shall have regard to the need to ensure that there are among the holders of such offices persons learned in Islamic personal law and persons learned in Customary law.

2. For the purposes of subsection (1) of this section-

   a. a person shall be deemed to be learned in Islamic personal law if he is a legal practitioner in Nigeria and has been so qualified for a period of not less than fifteen years in the case of a Justice of the Supreme Court or not less than twelve years in the case of a Justice of the Court of Appeal and has in either case obtained a recognized qualification in Islamic law from an institution acceptable to the National Judicial Council; and

   b. a person shall be deemed to be learned in Customary law if he is a legal practitioner in Nigeria and has been so qualified for a period of not less than fifteen years in the case of a Justice of the Supreme Court or not less than twelve years in the case of a Justice of the Court of Appeal and has in either case and in the opinion of the National Judicial Council considerable knowledge of and experience in the practice of Customary law.

289

No legal practitioner shall be qualified for appointment as a Justice of the Supreme Court, the Court of Appeal or a Judge of a Federal High Court or Judge of the National Industrial Court or a Judge of a High Court or a Kadi of a Sharia Court of Appeal or a Judge of the Customary Court of Appeal whilst he is a member of the National Judicial Council or Committee of the Federal Capital Territory, Abuja or a State Judicial Service Commission, and he shall remain so disqualified until a period of three years has elapsed since he ceased to be member.

• Oaths to abide by constitution

290

1. A person appointed to any judicial office shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed under this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Judicial Oath prescribed in the seventh Schedule to this Constitution.

2. The oaths aforesaid shall be administered by the person for the time being authorized by law to administer such oaths.

- Mandatory retirement age for judges

291

1. A judicial officer appointed to the Supreme Court or the Court of Appeal may retire when he attains the age of sixty-five years and he shall cease to hold office when he attains the age of seventy years.

2. A judicial officer appointed to any other court, other than those specified in subsection (1) of this section may retire when he attains the age of sixty years and he shall cease to hold office when he attains the age of sixty-five years.

3. Any person who has held office as a judicial officer-

    a. for a period of not less than fifteen years shall, if he retires at or after the age of sixty-five years in the case of the Chief Justice of Nigeria, a Justice of the Supreme Court, the President of the Court of Appeal or a Justice of the Court of Appeal or at or after the age of sixty years in any other case, be entitled to pension for life at a rate equivalent to his last annual salary and all his allowances in addition to any other retirement benefits to which he may be entitled;

    b. for a period of less than fifteen years shall, if he retires at or after the age of sixty-five years or sixty years, as the case may be, be entitled to pension for life at a rate as in paragraph (a) of this subsection pro rata the number of years he served as a judicial officer in relation to the period of fifteen years, and all his allowances in addition to other retirement benefits to which he may be entitled under his terms and conditions of service; and

    c. in any case, shall be entitled to such pension and other retirement benefits as may be regulated by an Act of the National Assembly or by a Law of a House of Assembly of a State.

4. Nothing in this section or elsewhere in this Constitution shall preclude the application of the provisions of any other law that provides for pensions, gratuities and other retirement benefits for persons in the public service of the Federation or a State.

- Supreme/ordinary court judge removal

292

- Establishment of judicial council

1. A judicial officer shall not be removed from his office or appointment before his age of retirement except in the following circumstances-

    a. in the case of-

        i. Chief Justice of Nigeria, President of the Court of Appeal, Chief Judge of the Federal High Court, President of the National Industrial Court, Chief Judge of the High Court of the Federal Capital Territory, Abuja, Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja and President, Customary Court of Appeal of the Federal Capital Territory, Abuja, by the President acting on an address supported by two-thirds majority of the Senate,

        ii. Chief Judge of a State, Grand Kadi of a Sharia Court of Appeal or President of a Customary Court of Appeal of a State, by the Governor acting on an address supported by two-thirds majority of the House of Assembly of the State,

    praying that he be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or of body) or for misconduct or contravention of the Code of Conduct;

    b. in any case, other than those to which paragraph (a) of this subsection applies, by the President or, as the case may be, the Governor acting on the recommendation of the National Judicial Council that the judicial

1. b. officer be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or of body) or for misconduct or contravention of the Code of Conduct.

2. Any person who has held office as a judicial officer shall not on ceasing to be a judicial officer for any reason whatsoever thereafter appear or act as a legal practitioner before any court of law or tribunal in Nigeria.

293

Except for the purposes of exercising any jurisdiction conferred by this Constitution or by any other law, every court established under this Constitution shall be deemed to be duly constituted notwithstanding any vacancy in the membership of the court.

294

1. Every court established under this Constitution shall deliver its decision in writing not later than ninety days after the conclusion of evidence and final addresses and furnish all parties to the cause or matter determined with duly authenticated copies of the decision within seven days of the delivery thereof.

- Supreme court opinions

2. Each Justice of the Supreme Court or of the Court of Appeal shall express and deliver his opinion in writing, or may state in writing that he adopts the opinion of any other Justice who delivers a written opinion:

   Provided that it shall not be necessary for the Justices who heard a cause or matter to be present when judgment is to be delivered and the opinion of a Justice may be pronounced or read by any other Justice whether or not he was present at the hearing.

3. A decision of a court consisting of more than one Judge shall be determined by the opinion of the majority of its members.

4. For the purpose of delivering its decision under this section, the Supreme court, or the Court of Appeal or the National Industrial Court shall be deemed to be duly constituted if at least one member of that court sits for that purpose.

5. The decision of a court shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of subsection (1) of this section unless the court exercising jurisdiction by way of appeal or review of that decision is satisfied that the party complaining has suffered a miscarriage of justice by reason thereof.

6. As soon as possible after hearing and deciding any case in which it has been determined or observed that there was non-compliance with the provisions of subsection (1) of this section, the person presiding at the sitting of the court shall send a report on the case to the Chairman of the National Judicial Council who shall keep the Council informed of such action as the Council may deem fit.

- Constitutional interpretation

295

1. Where any question as to the interpretation or application of this Constitution arises in any proceedings in any court of law in any part of Nigeria (other than in the Supreme Court, the Court of Appeal, the Federal High Court or the National Industrial Court or a High Court) and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any of the parties to the proceedings so requests, refer the question to the Federal High Court or the National Industrial Court or a High Court having jurisdiction in that part of Nigeria and the Federal High Court or the National Industrial Court or the High Court shall-

   a. if it is of opinion that the question involves a substantial question of law, refer the question to the Court of Appeal; or

   b. if it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be

1. **b.** disposed of in accordance with such directions as the Federal High Court or the National Industrial Court or the High Court may think fit to give.

2. Where any question as to the interpretation or application of this constitution arises in any proceedings in the Federal High Court or the National Industrial Court or a High Court, and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Court of Appeal; and where any question is referred in pursuance of this subsection, the court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

3. Where any question as to the interpretation or application of this constitution arises in any proceedings in the Court of Appeal and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court which shall give its decision upon the question and give such directions to the Court of Appeal as it deems appropriate.

296. In this Chapter, unless the context otherwise requires, "office" when used with reference to the validity of an election to an office includes the office of President of the Federation, Vice-President of the Federation and Governor or Deputy Governor of a State but does not include the office of President of the Senate, Speaker of the House of Representatives, Speaker of a House of Assembly or any office established by this Constitution.

Chapter VIII. Federal Capital Territory, Abuja and General Supplementary Provisions

- Subsidiary unit government

Part I. Federal Capital Territory, Abuja

297

1. There shall be a Federal Capital Territory, Abuja the boundaries of which are as defined in Part II of the First Schedule to this Constitution.

2. The ownership of all lands comprised in the Federal Capital Territory, Abuja shall vest in the Government of the Federal Republic of Nigeria.

298

The Federal Capital Territory, Abuja shall be the Capital of the Federation and seat of the Government of the Federation.

299

The provisions of this Constitution shall apply to the Federal Capital Territory, Abuja as if it were one of the States of the Federation; and accordingly-

a. all the legislative powers, the executive powers and the judicial powers vested in the House of Assembly, the Governor of a State and in the courts of a State shall, respectively, vest in the National Assembly, the President of the Federation and in the courts which by virtue of the foregoing provisions are courts established for the Federal Capital Territory, Abuja;

b. all the powers referred to in paragraph (a) of this section shall be exercised in accordance with the provisions of this Constitution; and

c. the provisions of this Constitution pertaining to the matters aforesaid shall be read with such modifications and adaptations as may be reasonably necessary to

c. bring them into conformity with the provisions of this section.

300

For the purposes of Chapter V of this Constitution, the Federal Capital Territory, Abuja shall constitute one Senatorial district and as many Federal constituencies as it is entitled to under section 49 of this Constitution.

301

Without prejudice to the generality of the provisions of section 299 of this Constitution, in its application to the Federal Capital Territory, Abuja, this Constitution shall be construed as if-

a. references to the Governor, Deputy Governor and the executive council of a State (howsoever called) were references to the President, Vice-President and the executive council of the Federation (howsoever called) respectively;

b. references to the Chief Judge and Judges of the High Court of a State were references to the Chief Judge and Judges of the High Court, which is established for the Federal Capital Territory, Abuja by the provisions of this Constitution; and

c. references to persons, offices and authorities of a State were references to the persons, offices and authorities of the Federation with like status, designations and powers, respectively; and in particular, as if references to the Attorney-General, Commissioners and the Auditor-General for a State were references to the Attorney-General, Ministers and the Auditor-General of the Federation with like status, designations and powers.

302

The President may, in exercise of the powers conferred upon him by section 147 of this Constitution, appoint for the Federal Capital Territory, Abuja a Minister who shall exercise such powers and perform such functions as may be delegated to him by the President, from time to time.

303

The Federal Capital Territory, Abuja shall comprise six area councils and the administrative and political structure thereof shall be as provided by an Act of the National Assembly.

304

1. There shall be for the Federal Capital Territory, Abuja, a Judicial Service Committee of the Federal Capital Territory, Abuja, the composition and functions of which shall be as provided in Part III of the Third Schedule to this Constitution.

2. The provisions of sections 154(1) and (3), 155, 156, 157(1) and (2), 158(1) and 159 to 161 of this Constitution shall apply with necessary modifications to the Judicial Service Committee of the Federal Capital Territory, Abuja.

Part II. Miscellaneous Provisions

- Emergency provisions

305

1. Subject to the provisions of this Constitution, the President may by instrument published in the Official Gazette of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof.

2. The President shall immediately after the publication, transmit copies of the Official Gazette of the Government of the Federation containing the proclamation including the details of the emergency to the President of the

2. Senate and the Speaker of the House of Representatives, each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation.

3. The President shall have power to issue a Proclamation of a state of emergency only when-

    a. the Federation is at war;

    b. the Federation is in imminent danger of invasion or involvement in a state of war;

    c. there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security;

    d. there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extraordinary measures to avert such danger;

    e. there is an occurrence or imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation;

    f. there is any other public danger which clearly constitutes a threat to the existence of the Federation; or

    g. the President receives a request to do so in accordance with the provisions of subsection (4) of this section.

4. The Governor of a State may, with the sanction of a resolution supported by two-thirds majority of the House of Assembly, request the President to issue a Proclamation of a state of emergency in the State when there is in existence within the State any of the situations specified in subsection (3) (c), (d) and (e) of this section and such situation does not extend beyond the boundaries of the State.

5. The President shall not issue a Proclamation of a state of emergency in any case to which the provisions of subsection (4) of this section apply unless the Governor of the State fails within a reasonable time to make a request to the President to issue such Proclamation.

6. A Proclamation issued by the President under this section shall cease to have effect-

    a. if it is revoked by the President by instrument published in the Official Gazette of the Government of the Federation;

    b. if it affects the Federation or any part thereof and within two days when the National Assembly is in session, or within ten days when the National Assembly is not in session, after its publication, there is no resolution supported by two-thirds majority of all the members of each House of the National Assembly approving the Proclamation;

    c. after a period of six months has elapsed since it has been in force:

        Provided that the National Assembly may, before the expiration of the period of six months aforesaid, extend the period for the Proclamation of the state of emergency to remain in force from time to time for a further period of six months by resolution passed in like manner; or

    d. at any time after the approval referred to in paragraph (b) or the extension referred to in paragraph (c) of this subsection, when each House of the National Assembly revokes the Proclamation by a simple majority of all the members of each House.

306

1. Save as otherwise provided in this section, any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the authority or person by whom he was appointed, elected or selected.

2. The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the authority or person to whom it is addressed or by any person authorised by that authority or person to receive it.

3. The notice of resignation of the President and of the Vice-President shall respectively be addressed to the President of the Senate and to the President.

4. On the resignation of the President, the President of the Senate shall forthwith give notice of the resignation to the Speaker of the House of Representatives.

5. The notice of resignation of the Governor and of the Deputy Governor of a State shall respectively be addressed to the Speaker of the House of Assembly and the Governor of the State.

6. The notice of resignation of the President of the Senate and of the Speaker of the House of Representatives shall in each case be addressed to the Clerk of the National Assembly, and the notice of resignation of the Speaker of a House of Assembly shall be addressed to the Clerk of the House of Assembly of the State.

7. The notice of resignation of a member of a legislative house shall be addressed to the President of the Senate or, as the case may require, to the Speaker of the legislative house in question.

307

Notwithstanding any provisions contained in Chapter IV and subject to sections 131 and 177 of this Constitution, no citizen of Nigeria by registration or under a grant of certificate of naturalisation shall within ten years of such registration or grant, hold any elective or appointive office under this Constitution.

- Head of state immunity

308

1. Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) of this section-

    a. no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office;

    b. a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and

    c. no process of any court requiring or compelling the appearance of a person to whom this section applies, shall be applied for or issued:

    Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies, no account shall be taken of his period of office.

2. The provisions of subsection (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party.

3. This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to "period of office" is a reference to the period during which the person holding such office is required to perform the functions of the office.

Part III. Transitional Provisions and Savings

309

Notwithstanding the provisions of Chapter III of this Constitution but subject to section 28 thereof, any person who became a citizen of Nigeria by birth, registration or naturalisation under the provisions of any other Constitution shall continue to be a citizen of Nigeria under this Constitution.

310

1. Until the National Assembly or a House of Assembly has exercised its powers to initiate legislation in accordance with the provisions of section 51 or 93 of this Constitution, the Clerk or other staff of a legislative house shall be appointed, as respects each House of the National Assembly by the Federal Civil Service Commission, and as respects a House of Assembly by the State Civil Service Commission.

2. In exercising its powers under the provisions of this section, the Federal Civil Service Commission shall consult, as appropriate, the President of the Senate or the Speaker of the House of the Representatives, and a State Civil Service Commission shall consult the Speaker of the House of Assembly of the State.

311

1. The provisions of this section shall have effect until the National Assembly or a House of Assembly exercises the powers conferred upon it by section 60 or 101 of this Constitution as appropriate.

2. The Standing Orders of the Senate established under the former Constitution shall apply in relation to the proceedings in the Senate established under this Constitution.

3. The Standing Orders of the House of Representatives established under the former Constitution shall apply in relation to the proceedings in the House of Representatives established under this Constitution.

4. The Standing Orders of a House of Assembly established under the former Constitution shall apply in relation to a House of Assembly of a State established under this Constitution.

5. The Standing Orders of the former legislative houses referred to in subsections (2), (3) and (4) of this section, shall apply in relation to a legislative house with such modifications as may be necessary to bring them into conformity with the provisions of this Constitution.

6. In this section, the “former Constitution” refers to the Constitution of the Federal Republic of Nigeria 1979.

312

1. The electoral commission established for the Federation under any law in force immediately before the date when this section comes into force shall be responsible for performing the functions conferred on the Independent National Electoral Commission established by the provisions of this Constitution.

2. Any person who before the coming into force of this Constitution was elected to any elective office mentioned in this Constitution in accordance with the provisions of any law in force immediately before the coming into force of this Constitution shall be deemed to have been duly elected to that office under this Constitution.

313

Pending any Act of the National Assembly for the provision of a system of revenue allocation between the Federation and the States, among the States, between the States and local government councils and among the local government councils in the States, the system of revenue allocation in existence for the financial year beginning from 1st January 1998 and ending on 31st December 1998 shall, subject to the provisions of this Constitution and as from the date when this section comes into force, continue to apply:

Provided that where functions have been transferred under this Constitution from the Government of the Federation to the States and from the States to local government councils the appropriations in respect of such functions shall also be transferred to the States and the local government councils, as the case may require.

314

Any debt of the Federation or of a State which immediately before the date when this section comes into force was charged on the revenue and assets of the Federation or on the revenue and assets of a State shall, as from the date when this section comes into force, continue to be so charged.

315

1. Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be-

    a. an Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws; and

    b. a Law made by a House of Assembly to the extent that it is a law with respect to any matter on which a House of Assembly is empowered by this Constitution to make laws.

2. The appropriate authority may at any time by order make such modifications in the text of any existing law as the appropriate authority considers necessary or expedient to bring that law into conformity with the provisions of this Constitution.

3. Nothing in this Constitution shall be construed as affecting the power of a court of law or any tribunal established by law to declare invalid any provision of an existing law on the ground of inconsistency with the provision of any other law, that is to say-

    a. any other existing law;

    b. a Law of a House of Assembly;

    c. an Act of the National Assembly; or

    d. any provision of this Constitution.

4. In this section, the following expressions have the meanings assigned to them, respectively-

    a. "appropriate authority" means-

        i. the President, in relation to the provisions of any law of the Federation,

        ii. the Governor of a State, in relation to the provisions of any existing law deemed to be a Law made by the House of Assembly of that State, or

4. a. iii. any person appointed by any law to revise or rewrite the laws of the Federation or of a State;

b. "existing law" means any law and includes any rule of law or any enactment or instrument whatsoever which is in force immediately before the date when this section comes into force or which having been passed or made before that date comes into force after that date; and

c. "modification" includes addition, alteration, omission or repeal.

5. Nothing in this Constitution shall invalidate the following enactments, that is to say-

a. the National Youth Service Corps Decree 1993;

b. the Public Complaints Commission Act;

c. the National Security Agencies Act;

d. the Land Use Act,

and the provisions of those enactments shall continue to apply and have full effect in accordance with their tenor and to the like extent as any other provisions forming part of this Constitution and shall not be altered or repealed except in accordance with the provisions of section 9(2) of this Constitution.

6. Without prejudice to subsection (5) of this section, the enactments mentioned in the said subsection shall hereafter continue to have effect as Federal enactments and as if they related to matters included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

316

1. Any office, court of law or authority which immediately before the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged with such function until other provisions are made, as if the office, court of law or authority was established and charged with the function by virtue of this Constitution or in accordance with the provisions of a law made thereunder.

2. Any person who immediately before the date when this section comes into force holds office by virtue of any other Constitution or law in force immediately before the date when this section comes into force shall be deemed to be duly appointed to that office by virtue of this Constitution or by any authority by whom appointments to that office fall to be made in pursuance of this Constitution.

3. Notwithstanding the provisions of subsection (2) of this section, any person holding such office, a member of a court of law or authority, who would have been required to vacate such office, or where his membership of such court of law or authority would have ceased but for the provisions of the said subsection (2) of this section, shall at the expiration of the period prescribed therefor after the date when this section comes into force vacate such office or, as the case may be, his membership of such court of law or authority shall cease, accordingly.

4. The foregoing provisions of this section are without prejudice to the exercise of such powers as may be conferred by virtue of this Constitution or a law upon any authority or person to make provisions with respect to such matters as may be prescribed or authorised by this Constitution or such law, including the establishment and abolition of offices, courts of law or authorities, and with respect to the appointment of persons to hold offices or to be members of courts of law or authorities and their removal from such offices, courts of law or authorities.

5. Notwithstanding the provisions of this section, the National Industrial Court Act, 2006 and any office or authority established and charged with any function

5. under the Act, shall be deemed to have been duly established and shall continue to be charged with such function by virtue of this Constitution or in accordance with the provision of a law made thereunder.

317

1. Without prejudice to the generality of section 315 of this constitution, any property, right, privilege, liability or obligation which immediately before the date when this section comes into force was vested in, exercisable or enforceable by or against-

    a. the former authority of the Federation as representative or trustee for the benefit of the Federation;

    b. any former authority of a state as representative or trustee for the benefit of the state,

    shall on the date when this section comes into force and without further assurance than the provisions thereof vest in, or become exercisable of enforceable by or against the President and Government of the Federation, and the Governor and Government of the state, as the case may be.

2. For the purposes of this section-

    a. the President and Government of the Federation, and the Governor and Government of a state, shall be deemed, respectively, to be successors to the said former authority of the Federation and former authority of the state in question; and

    b. references in this section to “former authority of the Federation” and “former authority of a state” include references to the former Government of the Federation and the former government of a state, a local government authority or any person who exercised any authority on its behalf.

Part IV. Interpretation, Citation and Commencement

318

1. In this constitution, unless it is otherwise expressly provided or the context otherwise requires-

    - “Act” or “Act of the National Assembly” means any law made by the National Assembly and includes any law which takes effect under the provisions of this constitution as an Act of the National Assembly;
    - “appointment” or its cognate expression includes appointment on promotion and transfer or confirmation of appointment;
    - “area council” means each of the administrative areas within the Federal Capital Territory, Abuja;
    - “authority” includes government;
    - “belong to” or its grammatical expression when used with reference to a person in a state refers to a person either or whose parents or any of whose grandparents was a member of a community indigenous to that state;
    - “civil service of the Federation” means service of the Federation in a civil capacity as staff of the office of the President, the Vice-President, a ministry or department of the government of the Federation assigned with the responsibility for any business of the Government of the Federation;

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- "civil service of the state" means service of the government of a state in a civil capacity as staff of the office of the Governor, Deputy Governor or a ministry or department of the government of the state assigned with the responsibility for any business of the government of the state;
- "Code of Conduct" refers to the Code of Conduct contained in the fifth schedule to this constitution;
- "Commissioner" means a Commissioner of the Government of a State;
- "Concurrent Legislative List" means the list of matters set out in the first column in Part II of the second schedule to this constitution with respect to which the National Assembly and a House of Assembly may make laws to the extent prescribed, respectively, opposite thereto in the second column thereof;
- "decision" means, in relation to a court, any determination of that court and includes judgement decree, order, conviction, sentence or recommendation;
- "enactment" means provision of any law or a subsidiary instrument;
- "Exclusive Legislative List" means the list in Part I of the second schedule to this constitution;
- "existing law" has the meaning assigned to it in section 315 of this constitution;
- "federal character of Nigeria" refers to the distinctive desire of the peoples of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation as expressed in section 14(3) and (4) of this constitution;
- "Federation" means the Federal Republic of Nigeria;
- "financial year" means any period of twelve months beginning on the first day of January in any year or such other date as the National Assembly may prescribe;
- "function" includes power and duty;
- "government" includes the Government of the Federation, or of any state, or of a local government council or any person who exercises power of authority on its behalf;
- "Governor" or "Deputy Governor" means the Governor of a state or a Deputy Governor of a state;
- "House of Assembly" means the House of Assembly of a state;
- "Judicial office" means the office of Chief Justice of Nigeria or a Justice of the Supreme Court, the President or Justice of the Court of Appeal, the office of the Chief Judge or a Judge of the Federal High Court, the office of the President or Judge of the National Industrial Court, the office of the Chief Judge or Judge of the High Court of the Federal Capital Territory, Abuja, the office of the Chief Judge of a State and Judge of the High Court of a State, a Grand Kadi or Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, a President or Judge of the Customary Court of Appeal; of the Federal Capital Territory, Abuja, a Grand Kadi or Kadi of the Sharia Court of Appeal of a State; and a reference to a "judicial officer" is a reference to the holder of any such office;
- "law" means a law enacted by the House of Assembly of a State;
- "Legislative house" means the Senate, House of Representatives or a House of Assembly;

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- "Local government area" or "local government council" includes an area council;
- "member" when used with reference to any commission or other bodies established by this Constitution, includes the Chairman of that commission or body;
- "Minister" means a Minister of the Government of the Federation;
- "National Assembly" means the Senate and the House of Representatives established by this Constitution;
- "oath" includes affirmation;
- "Oath of Allegiance" means the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution;
- "office" when used with reference to the validity of an election, means any office the appointment to which is by election under this Constitution;
- "population quota"—
  - **a.** when used with reference to a Senatorial district, means the number obtained by dividing the number of the inhabitants of a State by the number of districts into which that State is divided under section 71 (a) of this Constitution;
  - **b.** when used with reference to a Federal constituency, means the number obtained by dividing the number of the inhabitants of Nigeria by the number of Federal constituencies into which Nigeria is divided under section 71 (b) of this Constitution; and
  - **c.** when used with reference to a State constituency, means the number obtained by dividing the number of the inhabitants of a State by the number of State constituencies into which that State is divided under section 112 of this Constitution;
- "power" includes function and duty;
- "prescribed" means prescribed by or under this Constitution or any other law;
- "President" or "Vice-President" means the President or Vice-President of the Federal Republic of Nigeria;
- "public service of the Federation" means the service of the Federation in any capacity in respect of the Government of the Federation, and includes service as—
  - **a.** Clerk or other staff of the National Assembly or of each House of the National Assembly;
  - **b.** member of staff of the Supreme Court, the Court of Appeal, the Federal High Court, the National Industrial Court, the High Court of the Federal Capital Territory, Abuja, the Sharia Court of Appeal of the Federal Capital Territory, Abuja, the Customary Court of Appeal of the Federal Capital Territory, Abuja or other courts established for the Federation by this Constitution and by an Act of the National Assembly;
  - **c.** member or staff of any commission or authority established for the Federation by this Constitution or by an Act of the National Assembly;
  - **d.** staff of any area council;

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- **e.** staff of any statutory corporation established by an Act of the National Assembly;

  f. staff of any educational institution established or financed principally by the Government of the Federation;

  g. staff of any company or enterprise in which the Government of the Federation or its agency owns controlling shares or interest; and

  h. members or officers of the armed forces of the Federation or the Nigeria Police Force or other government security agencies established by law;

- "public service of a State" means the service of the State in any capacity in respect of the Government of the State and includes service as:

  a. Clerk or other staff of the House of Assembly;

  b. member of staff of the High Court, the Sharia Court of Appeal, the Customary Court of Appeal; or other courts established for a State by this Constitution or by a Law of a House of Assembly;

  c. member or staff of any commission or authority established for the State by this Constitution or by a Law of a House of Assembly;

  d. staff of any local government council;

  e. staff of any statutory corporation established by a Law of a House of Assembly;

  f. staff of any educational institution established or financed principally by a government of a State; and

  g. staff of any company or enterprise in which the government of a State or its agency holds controlling shares or interest;

- "School Certificate or its equivalent" means-

  a. a Secondary School Certificate or its equivalent, or Grade II Teacher's Certificate, the City and Guilds Certificate; or

  b. education up to Secondary School Certificate level; or

  c. Primary Six School Leaving Certificate or its equivalent and-

  i. service in the public or private sector in the Federation in any capacity acceptable to the Independent National Electoral Commission for a minimum of ten years, and

  ii. attendance at courses and training in such institutions as may be acceptable to the Independent National Electoral Commission for periods totaling up to a minimum of one year, and

  iii. the ability to read, write, understand and communicate in the English language to the satisfaction of the Independent National Electoral Commission, and

  d. any other qualification acceptable by the Independent National Electoral Commission;

- "Secret society" includes any society, association, group or body of persons (whether registered or not)-

  a. that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose or part of the purpose of which is to foster the interest of its members and to aid one another under

1. • **a.** any circumstances without due regard to merit, fair play or justice to the detriment of the legitimate interest of those who are not members;

   b. the membership of which is incompatible with the function or dignity of any public office under this Constitution and whose members are sworn to observe oaths of secrecy; or

   c. the activities of which are not known to the public at large, the names of whose members are kept secret and whose meetings and other activities are held in secret;

   • "State" when used otherwise than in relation to one of the component parts of the Federation, includes government.

2. Wherever it is provided that any authority or person has power to make, recommend or approve an appointment to an office, such power shall be construed as including the power to make, recommend or approve a person for such appointment, whether on promotion or otherwise, or to act in any such office.

3. In this Constitution, references to a person holding an office shall include reference to a person acting in such office.

4. The Interpretation Act shall apply for the purpose of interpreting the provision of this Constitution.

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This Constitution may be cited as the Constitution of the Federal Republic of Nigeria 1999.

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The provision of this Constitution shall come into force on 29th day of May 1999.

Schedule I

Part I. States of the Federation

1. State: Abia

   Local Government Areas: Aba North, Aba South, Arochukwu, Bende, Ikwuano, Isiala-Ngwa North, Isiala-Ngwa South, Isuikwato, Obi Nwa, Ohafia, Osisioma Ngwa, Ugwunagbo, Ukwa East, Ukwa West, Umuahia North, Umuahia South, Umu-Neochi.

   Capital City:Umuahia

2. State: Adamawa

   Local Government Areas: Demsa, Fufore, Ganaye, Gireri, Gombi, Guyuk, Hong, Jada, Lamurde, Madagali, Maiha, Mayo-Belwa, Michika, Mubi North, Mubi South, Numan, Shelleng, Song, Toungo, Yola North, Yola South.

   Capital City: Yola

3. State: Akwa Ibom

   Local Government Areas: Abak, Eastern Obolo, Eket, Esit Eket, Essien Udim, Etim Ekpo, Etinan, Ibeno, Ibesikpo Asutan, Ibiono Ibom, Ika, Ikono, Ikot Abasi, Ikot Ekpene, Ini, Itu, Mbo, Mkpat Enin, Nsit Atai, Nsit Ibom, Nsit Ubium, Obot

3. Akara, Okobo, Onna, Oron, Oruk Anam, Udung Uko, Ukanafun, Uruan, Urue-Offong/Oruko, Uyo.

   Capital City: Uyo

4. State: Anambra

   Local Government Areas: Aguata, Anambra East, Anambra West, Anaocha, Awka North, Awka South, Ayamelum, Dunukofia, Ekwusigo, Idemili North, Idemili south, Ihiala, Njikoka, Nnewi North, Nnewi South, Ogbaru, Onitsha North, Onitsha South, Orumba North, Orumba South, Oyi.

   Capital City: Awka

5. State: Bauchi

   Local Government Areas: Alkaleri, Bauchi, Bogoro, Damban, Darazo, Dass, Ganjuwa, Giade, Itas/Gadau, Jama'are, Katagum, Kirfi, Misau, Ningi, Shira, Tafawa-Balewa, Toro, Warji, Zaki.

   Capital City: Bauchi

6. State: Bayelsa

   Local Government Areas: Brass, Ekeremor, Kolokuma/Opokuma, Nembe, Ogbia, Sagbama, Southern Ijaw, Yenagoa.

   Capital City: Yenegoa

7. State: Benue

   Local Government Areas: Ado, Agatu, Apa, Buruku, Gboko, Guma, Gwer East, Gwer West, Katsina-Ala, Konshisha, Kwande, Logo, Makurdi, Obi, Ogbadibo, Oju, Okpokwu, Ohimini, Oturkpo, Tarka, Ukum, Ushongo, Vandeikya.

   Capital City: Makurdi

8. State: Borno

   Local Government Areas: Abadam, Askira/Uba, Bama, Bayo, Biu, Chibok, Damboa, Dikwa, Gubio, Guzamala, Gwoza, Hawul, Jere, Kaga, Kala/Balge, Konduga, Kukawa, Kwaya Kusar, Mafa, Magumeri, Maiduguri, Marte, Mobbar, Monguno, Ngala, Nganzai, Shani.

   Capital City: Maiduguri

9. State: Cross River

   Local Government Areas: Abi, Akamkpa, Akpabuyo, Bakassi, Bekwara, Biase, Boki, Calabar-Municipal, Calabar South, Etung, Ikom, Obanliku, Obubra, Obudu, Odukpani, Ogoja, Yakurr, Yala.

   Capital City: Calabar

10. State: Delta

    Local Government Areas: Aniocha North, Aniocha South, Bomadi, Burutu, Ethiope East, Ethiope West, Ika North East, Ika South, Isoko North, Isoko South, Ndokwa East, Ndokwa West, Okpe, Oshimili North, Oshimili South, Patani, Sapele, Udu, Ughelli North, Ughelli South, Ukwuani, Uvwie, Warri North, Warri South, Warri South West.

    Capital City: Asaba

11. State: Ebonyi

    Local Government Areas: Abakaliki, Afikpo North, Afikpo South, Ebonyi, Ezza North, Ezza South, Ikwo, Ishielu, Ivo, Izzi, Ohaozara, Ohaukwu, Onicha.

11. Capital City: Abakaliki

12. State: Edo

Local Government Areas: Akoko-Edo, Egor, Esan Central, Esan North East, Esan South East, Esan West, Etsako Central, Etsako East, Etsako West, Igueben, Ikpoba-Okha, Oredo, Orhionmwon, Ovia North East, Ovia South West, Owan East, Owan West, Uhunmwonde.

Capital City: Benin City

13. State: Ekiti

Local Government Areas: Ado Ekiti, Aiyekire, Efon, Ekiti East, Ekiti South West, Ekiti West, Emure, Idosi-Osi, Ijero, Ikere, Ikole, Ilemeji, Irepodun/Ifelodun, Ise/Orun, Moba, Oye.

Capital City: Ado Ekiti

14. State: Enugu

Local Government Areas: Aninri, Awgu, Enugu East, Enugu North, Enugu South, Ezeagu, Igbo-Etiti, Igbo-Eze North, Igbo-Eze South, Isi-Uzo, Nkanu East, Nkanu West, Nsukka, Oji-River, Udenu, Udi, Uzo-Uwani.

Capital City: Enugu

15. State: Gombe

Local Government Areas: Akko, Balanga, Billiri, Dukku, Funakaye, Gombe, Kaltungo, Kwami, Nafada, Shomgom, Yamaltu/Deba.

Capital City: Gombe

16. State: Imo

Local Government Areas: Aboh-Mbaise, Ahiazu-Mbaise, Ehime-Mbano, Ezinihitte, Ideato North, Ideato South, Ihitte/Uboma, Ikeduru, Isiala bano, Isu, Mbaitoli, Ngor-Okpala, Njaba, Nwangele, Nkwerre, Obowo, Oguta, Ohaji/Egbema, Okigwe, Orlu, Orsu, Oru East, Oru West, Owerri-Municipal, Owerri North, Owerri West, Unuimo.

Capital City: Owerri

17. State: Jigawa

Local Government Areas: Auyo, Babura, Birni Kudu, Biriniwa, Buji, Dutse, Gagarawa, Garki, Gumel, Guri, Gwaram, Gwiwa, Hadejia, Jahun, Kafin Hausa, Kaugama Kazaure, Kiri Kasamma, Kiyawa, Maigatari, Malam Madori, Miga, Ringim, Roni, Sule-Tankarkar, Taura, Yankwashi.

Capital City: Dutse

18. State: Kaduna

Local Government Areas: Birnin-Gwari, Chikun, Giwa, Igabi, Ikara, Jaba, Jema'a, Kachia, Kaduna North, kaduna South, Kagarko, Kajuru, kauru, Kubau, kudan, Lere, Markafi, Sabon-Gari, Sanga, Soba, Zango-Kataf, Zaria.

Capital City: Kaduna

19. State: Kano

Local Government Areas: Ajingi, Albasu, Bagwai, Bebeji, Bichi, Bunkure, Dala, Dambatta, Dawakin Kudu, Dawakin Tofa, Doguwa, Fagge, Gabasawa, Garko, Garum Mallam, Gaya, Gezawa,Gwale, Gwarzo, Kabo, Kano Municipal, Karaye, Kibiya, Kiru, kumbotso, Kunchi, Kura, Madobi, Makoda, Minjibir, Nasarawa, Rano,

19. Rimin Gado, Rogo, Shanono, Sumaila, Takali, Tarauni, Tofa, Tsanyawa, Tudun Wada, Ungogo, Warawa, Wudil.

    Capital City: Kano

20. State: Katsina

    Local Government Areas: Bakori, Batagarawa, Batsari, Baure, Bindawa, Charanchi, Dandume, Danja, Dan Musa, Daura, Dutsi, Dutsin-Ma, Faskari, Funtua, Ingawa, Jibia, Kafur, Kaita, Kankara, Kankia, Katsina, Kurfi, Kusada, Mai'Adua, Malumfashi, Mani, Mashi, Matazuu, Musawa, Rimi, Sabuwa, Safana, Sandamu, Zango.

    Capital City: Katsina

21. State: Kebbi

    Local Government Areas: Aleiro, Arewa-Dandi, Argungu, Augie, Bagudo, Birnin Kebbi, Bunza, Dandi, Fakai, Gwandu, Jega, Kalgo, Koko/Besse, Maiyama, Ngaski, Sakaba, Shanga, Suru, Wasagu/Danko, Yauri, Zuru.

    Capital City: Birnin Kebbi

22. State: Kogi

    Local Government Areas: Adavi, Ajaokuta, Ankpa, Bassa, Dekina, Ibaji, Idah, Igalamela-Odolu, Ijumu, Kabba/Bunu, Kogi, Lokoja, Mopa-Muro, Ofu, Ogori/Mangongo, Okehi, Okene, Olamabolo, Omala, Yagba East, Yagba West.

    Capitcal City: Lokoja

23. State: Kwara

    Local Government Areas: Asa, Baruten, Edu, Ekiti, Ifelodun, Ilorin East, Ilorin West, Irepodun, Isin, Kaiama, Moro, Offa, Oke-Ero, Oyun, Pategi.

    Capital City: Ilorin

24. State: Lagos

    Local Government Areas: Agege, Ajeromi-Ifelodun, Alimosho, Amuwo-Odofin, Apapa, Badagry, Epe, Eti-Osa, Ibeju/Lekki, Ifako-Ijaye, Ikeja, Ikorodu, Kosofe, Lagos Island, Lagos Mainland, Mushin, Ojo, Oshodi-Isolo, Shomolu, Surulere.

    Capital City: Ikeja

25. State: Nasarawa

    Local Government Areas: Akwanga, Awe, Doma, Karu, Keana, Keffi, Kokona, Lafia, Nasarawa, Nasarawa-Eggon, Obi, Toto, Wamba.

    Capital City: Lafia

26. State: Niger

    Local Government Areas: Agaie, Agwara, Bida, Borgu, Bosso, Chanchaga, Edati, Gbako, Gurara, Katcha, Kontagora, Lapai, Lavun, Magama, Mariga, Mashegu, Mokwa, Muya, Pailoro, Rafi, Rijau, Shiroro, Suleja, Tafa, Wushishi.

    Capital City: Minna

27. State: Ogun

    Local Government Areas: Abeokuta North, Abeokuta South, Ado-Odo/Ota, Egbado North, Egbado South, Ewekoro, Ifo, Ijebu East, Ijebu North, Ijebu North East, Ijebu Ode, Ikenne, Imeko-Afon, Ipokia, Obafemi-Owode, Ogun Waterside, Odeda, Odogbolu, Remo North, Shagamu.

27. Capital City: Abeokuta

28. State: Ondo

Local Government Areas: Akoko North East, Akoko North West, Akoko South Akure East, Akoko South West, Akure North, Akure South, Ese-Odo, Idanre, Ifedore, Ilaje, Ile-Oluji-Okeigbo, Irele, Odigbo, Okitipupa, Ondo East, Ondo West, Ose, Owo.

Capital City: Akure

29. State: Osun

Local Government Areas: Aiyedade, Aiyedire, Atakumosa East, Atakumosa West, Boluwaduro, Boripe, Ede North, Ede South, Egbedore, Ejigbo, Ife Central, Ife East, Ife North, Ife South, Ifedayo, Ifelodun, Ila, Ilesha East, Ilesha West, Irepodun, Irewole, Isokan, Iwo, Obokun, Odo-Otin, Ola-Oluwa, Olorunda, Oriade, Orolu, Osogbo.

Capital City: Oshogbo

30. State: Oyo

Local Government Areas: Afijio, Akinyele, Atiba, Atigbo, Egbeda, Ibadan Central, Ibadan North, Ibadan North West, Ibadan South East, Ibadan South West, Ibarapa Central, Ibarapa East, Ibarapa North, Ido, Irepo, Iseyin, Itesiwaju, Iwajowa, Kajola, Lagelu Ogbomosho North, Ogbmosho South, Ogo Oluwa, Olorunsogo, Oluyole, Ona-Ara, Orelope, Ori Ire, Oyo East, Oyo West, Saki East, Saki West, Surulere.

Capital City: Ibadan

31. State: Plateau

Local Government Areas: Barikin Ladi, Bassa, Bokkos, Jos East, Jos North, Jos South, Kanam, Kanke, Langtang North, Langtang South, Mangu, Mikang, Pankshin, Qua'an Pan, Riyom, Shendam, Wase.

Capital City: Jos

32. State: Rivers

Local Government Areas: Abua/Odual, Ahoada East, Ahoada West, Akuku Toru, Andoni, Asari-Toru, Bonny, Degema, Emohua, Eleme, Etche, Gokana, Ikwerre, Khana, Obia/Akpor, Ogba/Egbema/Ndoni, Ogu/Bolo, Okrika, Omumma, Opobo/Nkoro, Oyigbo, Port-Harcourt, Tai.

Capital City: Port-Harcourt

33. State: Sokoto

Local Government Areas: Binji, Bodinga, Dange-shnsi, Gada, Goronyo, Gudu, Gawabawa, Illela, Isa, Kware, Kebbe, Rabah, Sabon Birni, Shagari, Silame, Sokoto North, Sokoto South, Tambuwal, Tqngaza, Tureta, Wamako, Wurno, Yabo.

Capital City: Sokoto

34. State: Taraba

Local Government Areas: Ardo-Kola, Bali, Donga, Gashaka, Cassol, Ibi, Jalingo, Karin-Lamido, Kurmi, Lau, Sardauna, Takum, Ussa, Wukari, Yorro, Zing.

Capital City: Jalingo

35. State: Yobe

35. Local Government Areas: Bade, Bursari, Damaturu, Fika, Fune, Geidam, Gujba, Gulani, Jakusko, Karasuwa, Karawa, Machina, Nangere, Nguru Potiskum, Tarmua, Yunusari, Yusufari.

    Capital City: Damaturu

36. State: Zamfara

    Local Government Areas: Anka, Bakura, Birnin Magaji, Bukkuyum, Bungudu, Gummi, Gusau, Kaura, Namoda, Maradun, Maru, Shinkafi, Talata Mafara, Tsafe, Zurmi.

    Capital City: Gusau

Part II

1. Definition of Federal Capital Territory, Abuja

The definition of the boundaries of the Federal Capital Territory, Abuja referred to under Chapters 1 and VIII of this Constitution is as follows:

Starting from the village called Izom on 7°E Longitude and 9° 15 Latitude, project a straight line westward to a point just north of Lehu on the Kemi River, then project a line along 6° 47½ 'E southward passing close to the villages called Semasu, Zui and Bassa down to a place a little west of Abaji town; thence project a line along parallel 8° 27½ 'N Latitude to Ahinza village 7° 6" (on Kanama River); thence a straight line to Buga Village on 8° 30 'N Latitude and 7" 20'E Longitude; thence draw a line northwards joining the villages of Odu, Karshi and Karu. From Karu the line shall proceed along the boundary between the Niger and Plateau States as far as Kawu; thence the line shall proceed along the boundary between Kaduna and Niger States up to a point just north of Bwari village, hence the line goes straight to Zuba village and thence straight to Izom.

2. Federal Capital Territory, Abuja

Area Council/Headquarters.

Abaji/Abaji

Abuja Municipal/Garki

Bwari/Bwari

Gwagwalada/Gwagwalada

Kuje/Kuje

Kwali/Kwali

Schedule II. Legislative Powers

Part I. Exclusive Legislative List

Item

1. Accounts of the Government of the Federation, and of offices, courts, and authorities thereof, including audit of those accounts.

2. Arms, ammunition and explosives.

3. Aviation, including airports, safety of aircraft and carriage of passengers and goods by air.

4. Awards of national titles of honour, decorations and other dignities.

5. Bankruptcy and insolvency.

6. Banks, banking, bills of exchange and promissory notes.

7. Borrowing of moneys within or outside Nigeria for the purposes of the Federation or of any State.

8. Census, including the establishment and maintenance of machinery for continuous and universal registration of births and deaths throughout Nigeria.

9. Citizenship, naturalisation and aliens.

10. Commercial and industrial monopolies, combines and trusts.

11. Construction, alteration and maintenance of such roads as may be declared by the National Assembly to be Federal trunk roads.

12. Control of capital issues.

- Provisions for intellectual property

13. Copyright.

14. Creation of States.

15. Currency, coinage and legal tender.

16. Customs and excise duties.

17. Defence.

- Power to deport citizens

18. Deportation of persons who are not citizens of Nigeria.

19. Designation of securities in which trust funds may be invested.

20. Diplomatic, consular and trade representation.

21. Drugs and poisons.

22. Election to the offices of President and Vice-President or Governor and Deputy Governor and any other office to which a person may be elected under this Constitution, excluding election to a local government council or any office in such council.

23. Evidence.

24. Exchange control.

25. Export duties.

26. External affairs.

27. Extradition.

28. Fingerprints identification and criminal records.

29. Fishing and fisheries other than fishing and fisheries in rivers, lakes, waterways, ponds and other inland waters within Nigeria.

30. Immigration into and emigration from Nigeria.

31. Implementation of treaties relating to matters on this list.

32. Incorporation, regulation and winding up of bodies corporate, other than co-operative societies, local government councils and bodies corporate established

32. directly by any Law enacted by a House of Assembly of a State.

33. Insurance.

34. Labour, including trade unions, industrial relations; conditions, safety and welfare of labour; industrial disputes; prescribing a national minimum wage for the Federation or any part thereof; and industrial arbitration.

35. Legal proceedings between Governments of States or between the Government of the Federation and Government of any State or any other authority or person.

36. Maritime shipping and navigation, including-

a. shipping and navigation on tidal waters;

b. shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be designated by the National Assembly to be an international waterway or to be an inter-State waterway;

c. lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation;

d. such ports as may be declared by the National Assembly to be Federal ports (including the constitution and powers of port authorities for Federal ports).

37. Meteorology.

38. Military (Army, Navy and Air Force) including any other branch of the armed forces of the Federation.

39. Mines and minerals, including oil fields, oil mining, geological surveys and natural gas.

40. National parks being such areas in a State as may, with the consent of the Government of that State, be designated by the National Assembly as national parks.

41. Nuclear energy.

42. Passports and visas.

- Provisions for intellectual property

43. Patents, trademarks, trade or business names, industrial designs and merchandise marks.

44. Pensions, gratuities and other-like benefit payable out of the Consolidated Revenue Fund or any other public funds of the Federation.

45. Police and other government security services established by law.

- Telecommunications

46. Posts, telegraphs and telephones.

47. Powers of the National Assembly, and the privileges and immunities of its members.

48. Prisons.

49. Professional occupations as may be designated by the National Assembly.

50. Public debt of the Federation.

51. Public holidays.

52. Public relations of the Federation.

53. Public service of the Federation including the settlement of disputes between the Federation and officers of such service.

54. Quarantine.

55. Railways.

56. Formation and Regulation of political parties.

57. Service and execution in a State of the civil and criminal processes, judgements, decrees, orders and other decisions of any court of law outside Nigeria or any court of law in Nigeria other than a court of law established by the House of Assembly of that State.

58. Stamp duties.

59. Taxation of incomes, profits and capital gains, except as otherwise prescribed by this Constitution.

60. The establishment and regulation of authorities for the Federation or any part thereof-

a. to promote and enforce the observance of the Fundamental Objectives and Directive Principles contained in this Constitution;

b. to identify, collect, preserve or generally look after ancient and historical monuments and records and archaeological sites and remains declared by the National Assembly to be of national significance or national importance;

c. to administer museums and libraries other than museums and libraries established by the Government of a state;

d. to regulate tourist traffic; and

e. to prescribe minimum standards of education at all levels.

61. The formation, annulment and dissolution of marriages other than marriages under Islamic law and Customary law including matrimonial causes relating thereto.

62. Trade and commerce, and in particular-

a. trade and commerce between Nigeria and other countries including import of commodities into and export of commodities from Nigeria, and trade and commerce between the states;

b. establishment of a purchasing authority with power to acquire for export or sale in world markets such agricultural produce as may be designated by the National Assembly;

c. inspection of produce to be exported from Nigeria and the enforcement of grades and standards of quality in respect of produce so inspected;

d. establishment of a body to prescribe and enforce standards of goods and commodities offered for sale;

e. control of the prices of goods and commodities designated by the National Assembly as essential goods or commodities; and

f. registration of business names.

63. Traffic on Federal trunk roads.

64. Water from such sources as may be declared by the National Assembly to be sources affecting more than one state.

65. Weights and measures.

- Telecommunications
- Television
- Radio

66. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a state; allocation of wave-lengths for wireless, broadcasting and television transmission.

67. Any other matter with respect to which the National Assembly has power to make laws in accordance with the provisions of this Constitution.

68. Any matter incidental or supplementary to any matter mentioned elsewhere in this list.

Part II. Concurrent Legislative List Extent of Federal and State Legislative Powers

Extent of Federal and State Legislative Powers.

1. Subject to the provisions of this Constitution, the National Assembly may by an Act make provisions for-
- **a.** the division of public revenue-
  - **i.** between the Federation and the States;
  - **ii.** among the States of the Federation;
  - **iii.** between the States and local government councils;
  - **iv.** among the local government councils in the States; and
- **b.** grants or loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public funds of the Federation or for the imposition of charges upon the revenue and assets of the Federation for any purpose notwithstanding that it relates to a matter with respect to which the National Assembly is not empowered to make laws.

2. Subject to the provisions of this Constitution, any House of Assembly may make provisions for grants or loans from and the imposition of charges upon any of the public funds of that State or the imposition of charges upon the revenue and assets of that State for any purpose notwithstanding that it relates to a matter with respect to which the National Assembly is empowered to make laws.

3. The National Assembly may make laws for the Federation or any part thereof with respect to such antiquities and monuments as may, with the consent of the State in which such antiquities and monuments are located, be designated by the National Assembly as National Antiquities or National Monuments but nothing in this paragraph shall preclude a House of Assembly from making Laws for the State or any part thereof with respect to antiquities and monuments not so designated in accordance with the foregoing provisions.

4. The National Assembly may make laws for the Federation or any part thereof with respect to the archives and public records of the Federation.

5. A House of Assembly may, subject to paragraph 4 hereof, make laws for that State or any part thereof with respect to archives and public records of the Government of the State.

6. Nothing in paragraphs 4 and 5 hereof shall be construed as enabling any laws to be made which do not preserve the archives and records which are in existence at the date of commencement of this Constitution, and which are kept by authorities empowered to do so in any part of the Federation.

7. In the exercise of its powers to impose any tax or duty on-
- **a.** capital gains, incomes or profits or persons other than companies; and
- **b.** documents or transactions by way of stamp duties,

the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.

8. Where an Act of the National Assembly provides for the collection of tax or duty on capital gains, incomes or profit or the administration of any law by an authority of a State in accordance with paragraph 7 hereof, it shall regulate the liability of persons to such tax or duty in such manner as to ensure that such tax or duty is not levied on the same person by more than one State.

- Subsidiary unit government

9. A House of Assembly may, subject to such conditions as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of the Law providing for such collection by a local government council.
10. Where a Law of a House of Assembly provides for the collection of tax, fee or rate or for the administration of such Law by a local government council in accordance with the provisions hereof it shall regulate the liability of persons to the tax, fee or rate in such manner as to ensure that such tax, fee or rate is not levied on the same person in respect of the same liability by more than one local government council.
11. The National Assembly may make laws for the Federation with respect to the registration of voters and the procedure regulating elections to a local government council.
12. Nothing in paragraph 11 hereof shall preclude a House of Assembly from making laws with respect to election to a local government council in addition to but not inconsistent with any law made by the National Assembly.
13. The National Assembly may make laws for the Federation or any part thereof with respect to-
    a. electricity and the establishment of electric power stations;
    b. the generation and transmission of electricity in or to any part of the Federation and from one State to another State;
    c. the regulation of the right of any person or authority to dam up or otherwise interfere with the flow of water from sources in any part of the Federation;
    d. the participation of the Federation in any arrangement with another country for the generation, transmission and distribution of electricity for any area partly within and partly outside the Federation;
    f. the regulation of the right of any person or authority to use, work or operate any plant, apparatus, equipment or work designed for the supply or use of electrical energy.
14. A House of Assembly may make laws for the State with respect to-
    a. electricity and the establishment in that State of electric power stations;
    b. the generation, transmission and distribution of electricity to areas not covered by a national grid system within that State; and
    c. the establishment within that State of any authority for the promotion and management of electric power stations established by the State.
15. In the foregoing provisions of this item, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them-
    - "distribution" means the supply of electricity from a sub- station to the ultimate consumer;
    - "management" includes maintenance, repairs or replacement;
    - "power station" means an assembly of plant or equipment for the creation or generation of electrical energy; and
    - "transmission" means the supply of electricity from a power station to a sub-station or from one sub-station to another sub-station, and the reference to a "sub-station" herein is a reference to an assembly of plant, machinery or equipment for distribution of electricity.
16. The National Assembly may make laws for the establishment of an authority with power to carry out censorship of cinematograph films and to prohibit or restrict the exhibition of such films; and nothing herein shall-
    a. preclude a House of Assembly from making provision for a similar authority for that State; or
    b. authorise the exhibition of a cinematograph film in a State without the sanction of the authority established by the Law of that State for the censorship of such films.
17. The National Assembly may make laws for the Federation or any part thereof with respect to-
    a. the health, safety and welfare of persons employed to work in factories, offices or other premises or in inter-State transportation and commerce including the training, supervision and qualification of such persons;
    b. the regulation of ownership and control of business enterprises throughout the Federation for the purpose of promoting, encouraging or facilitating such ownership and control by citizens of Nigeria;

17. **c.** the establishment of research centres for agricultural studies; and
    d. the establishment of institutions and bodies for the promotion or financing of industrial, commercial or agricultural projects.
18. Subject to the provisions of this Constitution, a House of Assembly may make Laws for that State with respect to industrial, commercial or agricultural development of the State.
19. Nothing in the foregoing paragraphs of this item shall be construed as precluding a House of Assembly from making Laws with respect to any of the matters referred to in the foregoing paragraphs.
20. For the purposes of the foregoing paragraphs of this item, the word "agricultural" includes fishery.

- Reference to science

21. The National Assembly may make laws to regulate or co-ordinate scientific and technological research throughout the Federation.

- Reference to science

22. Nothing herein shall prelude a House of Assembly from establishing or making provisions for an institution or other arrangement for the purpose of scientific and technological research.
23. The National Assembly may make laws for the Federation or any part thereof with respect to statistics so far as the subject matter relates to-
    a. any matter upon which the National Assembly has power to make laws; and
    b. the organisation of co-ordinated scheme of statistics for the Federation or any part thereof on any matter whether or not it has power to make laws with respect thereto.
24. A House of Assembly may make Laws for the State with respect to statistics and on any matter other than that referred to in paragraph 23(a) of this item.
25. The National Assembly may make laws for the Federation or any part thereof with respect to trigonometrical, cadastral and topographical surveys.
26. A House of Assembly may, subject to paragraph 25 hereof, make laws for that State or any part thereof with respect to trigonometrical, cadastral and topographical surveys.
27. The National Assembly shall have power to make laws for the Federation or any part thereof with respect to university education, technological education or such professional education as may from time to time be designated by the National Assembly.
28. The power conferred on the National Assembly under paragraph 27 of this item shall include power to establish an institution for the purposes of university, post-primary, technological or professional education.
29. Subject as herein provided, a House of Assembly shall have power to make laws for the state with respect to the establishment of an institution for purposes of university, technological or professional education.
30. Nothing in the foregoing paragraphs of this item shall be construed so as to limit the powers of a House of Assembly to make laws for the State with respect to technical, vocational, post-primary, primary or other forms of education, including the establishment of institutions for the pursuit of such education.

Part III. Supplemental and Interpretation

1. Where by this Schedule the National Assembly is required to designate any matter or thing or to make any declaration, it may do so either by an Act of the National Assembly or by a resolution passed by both Houses of the National Assembly.
2. In this Schedule, references to incidental and supplementary matters include, without prejudice to their generality, references to:
    a. offences;
    b. the jurisdiction, powers, practice and procedure of courts of law; and
    c. the acquisition and tenure of land.

Schedule III

Part I. Federal Executive Bodies

A. Code of Conduct Bureau

1. The Code of Conduct Bureau shall comprise the following members:
- **a.** a Chairman; and
- **b.** nine other members,

each of whom, at the time of appointment, shall not be less than fifty years of age and subject to the provisions of section 157 of this Constitution shall vacate his office on attaining the age of seventy years.

2. The Bureau shall establish such offices in each state of the Federation as it may require for the discharge of its functions under this Constitution.

3. The Bureau shall have power to:
- **a.** receive declarations by public officers made under paragraph 12 of Part I of the Fifth Schedule to this constitution;
- **b.** examine the declarations in accordance with the requirements of the Code of Conduct or any law;
- **c.** retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe;
- **d.** ensure compliance with and, where appropriate, enforce the provisions of the Code of Conduct or any law relating thereto;
- **e.** receive complaints about non-compliance with or breach of the provisions of the Code of Conduct or any law in relation thereto, investigate the complaint and, where appropriate, refer such matters to the Code of Conduct Tribunal;
- **f.** appoint, promote, dismiss and exercise disciplinary control over the staff of the Codes of Conduct Bureau in accordance with the provisions of an Act of the National Assembly enacted in that behalf; and
- **g.** carry out such other functions as may be conferred upon it by the National Assembly.

4. The terms and conditions of service of the staff of the Code of Conduct Bureau shall be the same as those provided for public officers in the civil service of the Federation.

- Advisory bodies to the head of state

B. Council of State

5. The Council of State shall comprise the following persons:
- **a.** the President, who shall be the Chairman;
- **b.** the Vice-President, who shall be the Deputy Chairman;
- **c.** all former Presidents of the Federation and all former Heads of the Government of the Federation;
- **d.** all former Chief Justices of Nigeria;
- **e.** the President of the Senate;
- **f.** the Speaker of the House of Representatives;
- **g.** all the Governors of the states of the Federation; and
- **h.** the Attorney-General of the Federation.

6. The Council shall have power to:
- **a.** advise the President in the exercise of his powers with respect to the:-
  - **i.** national population census and compilation, publication and keeping of records and other information concerning the same;
  - **ii.** prerogative of mercy;
  - **iii.** award of national honours;
  - **iv.** the Independent National Electoral Commission (including the appointment of members of that Commission);
  - **v.** the National Judicial Council (including the appointment of the members, other than ex-officio members of that Council); and
  - **vi.** the National Population Commission (including the appointment of members of that Commission); and
- **b.** advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof and on such other

- Electoral commission
- Establishment of judicial council

6. **b.** matters as the President may direct.

C. Federal Character Commission

7. **1.** The Federal Character Commission shall comprise the following members:
- **a.** a Chairman; and
- **b.** one person to represent each of the states of the Federation and the Federal Capital Territory, Abuja.

2. The Chairman and members shall be appointed by the President, subject to confirmation by the Senate.

8. **1.** In giving effect to the provisions of section 14(3) and (4) of this Constitution, the Commission shall have the power to:
- **a.** work out an equitable formula subject to the approval of the National Assembly for the distribution of all cadres of posts in the public service of the Federation and of the States, the armed forces of the Federation, the Nigeria Police Force and other government security agencies, government owned companies and parastatals of the states;
- **b.** 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.** take such legal measures, including the prosecution of the head or staff of any Ministry or government body or agency which fails to comply with any federal character principle or formula prescribed or adopted by the Commission; and
- **d.** carry out such other functions as may be conferred upon it by an Act of the National Assembly.

2. The posts mentioned in sub-paragraph (1) (a) and (b) of this paragraph shall include those of the Permanent Secretaries, Directors-General in Extra-Ministerial Departments and parastatals, Directors in Ministries and Extra-Ministerial Departments, senior military officers, senior diplomatic posts and managerial cadres in the Federal and State parastatals, bodies, agencies and institutions.

3. 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.

9. It shall be the duty of the Board of Directors of every state-owned enterprise to recognise and promote the principle of federal character in the ownership and management structure of the company.

D. Federal Civil Service Commission

10. The Federal Civil Service Commission shall comprise the following members-
- **a.** a Chairman; and
- **b.** not more than fifteen other members,

who shall, in the opinion of the President, be persons of unquestionable integrity and sound political judgment.

11. **1.** The Commission shall without prejudice to the powers vested in the President, the National Judicial Council, the Federal Judicial Service Commission, the National Population Commission and the Police Service Commission, have power-
- **a.** to appoint persons to offices in the Federal Civil Service; and
- **b.** to dismiss and exercise disciplinary control over persons holding such offices.

2. The Commission shall not exercise any of its powers under sub-paragraph (1) of this paragraph in respect of such offices of heads of divisions of Ministries or of departments of the government of the Federation as may, from time to time, be designated by an order made by the President except after consultation with the Head of the Civil Service of the Federation.

- Establishment of judicial council

E. Federal Judicial Service Commission

12. The Federal Judicial Service Commission shall comprise the following members-
- **a.** the Chief Justice of Nigeria, who shall be the Chairman;
- **b.** the President of the Court of Appeal;
- **c.** the Attorney-General of the Federation;
- **d.** the Chief Judge of the Federal High Court;
- **dd.** the President of the National Industrial Court;
- **e.** two persons, each of whom has been qualified to practice as a legal practitioner in Nigeria for a period of not less than fifteen years, from a list of not less than four persons so qualified and recommended by the Nigerian Bar Association; and
- **f.** two other persons, not being legal practitioners, who in the opinion of the President are of unquestionable integrity.

13. The Commission shall have power to-
- **a.** advise the National Judicial Council in nominating persons for appointment, as respects appointments to the office of-
  - **i.** the Chief Justice of Nigeria;
  - **ii.** a Justice of the Supreme Court;
  - **iii.** the President of the Court of Appeal;
  - **iv.** a Justice of the Court of Appeal;
  - **v.** the Chief Judge of the Federal High Court;
  - **vi.** a Judge of the Federal High Court; and
  - **via.** the President of the National Industrial Court;
  - **vib.** a Judge of the National Industrial Court, and
  - **vii.** the Chairman and members of the Code of Conduct Tribunal;
- **b.** recommend to the National Judicial Council, the removal from office of the judicial officers specified in sub-paragraph (a) of this paragraph; and
- **c.** appoint, dismiss and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrars of the Supreme Court, the Court of Appeal, the Federal High Court, the National Industrial Court and all other members of the staff of the judicial service of the Federation not otherwise specified in this Constitution and of the Federal Judicial Service Commission.

- Electoral commission

F. Independent National Electoral Commission

14. **1.** The Independent National Electoral Commission shall comprise the following members-
- **a.** a chairman, who shall be the Chief Electoral Commissioner; and
- **b.** twelve other members to be known as National Electoral Commissioners.

2. A member of the Commission shall—
- **a.** be non-partisan and a person of unquestionable integrity; and
- **b.** be not less than 40 years of age in the case of the Chairman and not less than 35 years of age in the case of the National Commissioners.

3. There shall be for each State of the Federation and the Federal Capital Territory, Abuja, a Resident Electoral Commissioner who shall—
- **a.** be appointed by the President subject to confirmation by the Senate;
- **b.** be a person of unquestionable integrity and shall not be a member of any political party; and
- **c.** not be less than 35 years of age.

15. The Commission shall have power to-
- **a.** organise, undertake and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation;
- **b.** register political parties in accordance with the provisions of this Constitution and an Act of the National Assembly;
- **c.** monitor the organisation and operation of the political parties, including their finances, conventions, congresses and party primaries;

15.
d. arrange for the annual examination and auditing of the funds and accounts of political parties, and publish a report on such examination and audit for public information;
e. arrange and conduct the registration of persons qualified to vote and prepare, maintain and revise the register of voters for the purpose of any election under this Constitution;
f. monitor political campaigns and provide rules and regulations which shall govern the political parties;
g. ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe the Oath of Office prescribed by law;
h. delegate any of its powers to any Resident Electoral Commissioner; and
i. carry out such other functions as may be conferred upon it by an Act of the National Assembly.

- Advisory bodies to the head of state

G. National Defence Council

16. The National Defence Council shall comprise the following members-
a. the President who shall be the Chairman;
b. the Vice-President who shall be the Deputy Chairman;
c. the Minister of the Government of the Federation responsible for defence;
d. the Chief of Defence Staff;
e. the Chief of Army Staff;
f. the Chief of Naval Staff;
g. the Chief of Air Staff; and
h. such other members as the President may appoint.

17. The Council shall have power to advise the President on matters relating to the defence of the sovereignty and territorial integrity of Nigeria.

H. National Economic Council

18. The National Economic Council shall comprise the following members-
a. the Vice-President who shall be the Chairman;
b. the Governor of each State of the Federation; and
c. the Governor of the Central Bank of Nigeria established under the Central Bank of Nigeria Decree 1991 or any enactment replacing that Decree.

- Central bank

19. The National Economic Council shall have power to advise the President concerning the economic affairs of the Federation, and in particular on measures necessary for the co-ordination of the economic planning efforts or economic programmes of the various Governments of the Federation.

- Establishment of judicial council

I. National Judicial Council

20. The National Judicial Council shall comprise the following members-
a. the Chief Justice of Nigeria who shall be the Chairman;
b. the next most senior Justice of the Supreme Court who shall be the Deputy Chairman;
c. the President of the Court of Appeal;
d. five retired Justices selected by the Chief Justice of Nigeria from the Supreme Court or Court of Appeal;
e. the Chief Judge of the Federal High Court;
ee. the President of the National Industrial Court;
f. five Chief Judges of States to be appointed by the Chief Justice of Nigeria from among the Chief Judges of the States and of the High Court of the Federal Capital Territory, Abuja in rotation to serve for two years;
g. one Grand Kadi to be appointed by the Chief Justice of Nigeria from among Grand Kadis of the Sharia Courts of Appeal to serve in rotation for two years;
h. one President of the Customary Court of Appeal to be appointed by the Chief Justice of Nigeria from among the Presidents of the Customary Courts of Appeal to serve in rotation for two years;
i. five members of the Nigerian Bar Association who have been qualified to practice for a period of not less than fifteen years, at least one of whom shall be a Senior Advocate of Nigeria, appointed by the Chief Justice of Nigeria on the recommendation of the National Executive Committee of

20. **i.** the Nigerian Bar Association to serve for two years and subject to re-appointment:

Provided that the five members shall sit in the Council only for the purposes of considering the names of persons for appointment to the superior courts of record; and

j. two persons not being legal practitioners, who in the opinion of the Chief Justice of Nigeria, are of unquestionable integrity.

21. The National Judicial Council shall have power to-

a. recommend to the President from among the list of persons submitted to it by-

i. the Federal Judicial Service Commission, persons for appointment to the offices of the Chief Justice of Nigeria, the Justices of the Supreme Court, the President and Justices of the Court of Appeal, the Chief Judge and Judges of the Federal High Court, the President and Judges of the National Industrial Court, and

ii. the Judicial Service Committee of the Federal Capital Territory, Abuja, persons for appointment to the offices of the Chief Judge and Judges of the High Court of the Federal Capital Territory, Abuja, the Grand Kadi and Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja and the President and Judges of the Customary Court of Appeal of the Federal Capital Territory, Abuja;

b. recommend to the President the removal from office of the judicial officers specified in sub-paragraph (a) of this paragraph and to exercise disciplinary control over such officers;

- Supreme/ordinary court judge removal

c. recommend to the Governors from among the list of persons submitted to it by the State Judicial Service Commissions persons for appointments to the offices of the Chief Judges of the States and Judges of the High Courts of the States, the Grand Kadis and Kadis of the Sharia Courts of Appeal of the States and the Presidents and Judges of the Customary Courts of Appeal of the States;

d. recommend to the Governors the removal from the office of the judicial officers in sub-paragraph (c) of this paragraph, and to exercise disciplinary control over such officers;

- Supreme/ordinary court judge removal

e. collect, control and disburse all moneys, capital and recurrent, for the judiciary;

f. advise the President and Governors or any matter pertaining to the judiciary as may be referred to the Council by the President or the Governors;

g. appoint, dismiss and exercise disciplinary control over members and staff of the Council;

h. control and disburse all monies, capital and recurrent; for the services of the Council; and

i. deal with all other matters relating to broad issues of policy and administration.

22. The Secretary of the Council shall be appointed by the National Judicial Council on the recommendation of the Federal Nation Judicial Service Commission and shall be a legal practitioner.

J. National Population Commission

- Census

23. The National Population Commission shall comprise the following members-

a. a Chairman; and

b. one person from each State of the Federation and the Federal Capital Territory, Abuja.

24. The Commission shall have power to-

a. undertake periodical enumeration of population through sample surveys, censuses or otherwise;

b. establish and maintain a machinery for continuous and universal registration of births and deaths throughout the Federation;

c. advise the President on population matters;

d. publish and provide information and data on population for the purpose of facilitating economic and development planning; and

24. **e.** appoint and train or arrange for the appointment and training of enumerators or the staff of the Commission.

- Advisory bodies to the head of state

K. National Security Council

25. The National Security Council shall comprise the following members-
- **a.** the President who shall be the Chairman;
- **b.** the Vice-President who shall be the Deputy Chairman;
- **c.** the Chief of Defence Staff;
- **d.** the Minister of the Government of the Federation charged with the responsibility for internal affairs;
- **e.** the Minister of the Government of the Federation charged responsibility for defence;
- **f.** the Minister of the Government of the Federation charged with the responsibility for foreign affairs;
- **g.** the National Security Adviser;
- **h.** the Inspector-General of Police; and
- **i.** such other persons as the President may in his discretion appoint.

26. The Council shall have power to advise the President on matters relating to public security including matters relating to any organisation or agency established by law for ensuring the security of the Federation.

L. Nigeria Police Council

27. The Nigeria Police Council shall comprise the following members-
- **a.** the President who shall be the Chairman;
- **b.** the Governor of each State of the Federation;
- **c.** the Chairman of the Police Service Commission; and
- **d.** the Inspector-General of Police.

28. The functions of the Nigeria Police Council shall include-
- **a.** the organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the Force or the appointment, disciplinary control and dismissal of members of the Force);
- **b.** the general supervision of the Nigeria Police Force; and
- **c.** advising the President on the appointment of the Inspector-General of Police.

M. Police Service Commission

29. The Police Service Commission shall comprise the following members-
- **a.** a Chairman; and
- **b.** such number of other persons, not less than seven but not more than nine, as may be prescribed by an Act of the National Assembly.

30. The Commission shall have power to-
- **a.** appoint persons to offices (other than office of the Inspector-General of Police) in the Nigeria Police Force; and
- **b.** dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (a) of this paragraph.

N. Revenue Mobilisation Allocation and Fiscal Commission

31. The Revenue Mobilisation Allocation and Fiscal Commission shall comprise the following members-
- **a.** a Chairman; and
- **b.** one member from each State of the Federation and the Federal Capital Territory, Abuja who in the opinion of the President are persons of unquestionable integrity with requisite qualifications and experience.

32. The Commission shall have power to-
- **a.** monitor the accruals to and disbursement of revenue from the Federation Account;
- **b.** review, from time to time, the revenue allocation formulae and principles in operation to ensure conformity with changing realities:

32. **b.** Provided that any revenue formula which has been accepted by an Act of the National Assembly shall remain in force for a period of not less than five years from the date of commencement of the Act;

c. advise the Federal and State Governments on fiscal efficiency and methods by which their revenue can be increased;
d. determine the remuneration appropriate for political office holders, including the President, Vice-President, Governors, Deputy Governors, Ministers, Commissioners, Special Advisers, Legislators and the holders of the offices mentioned in sections 84 and 124 of this Constitution; and
e. discharge such other functions as are conferred on the Commission by this Constitution or any Act of the National Assembly.

Part II. State's Executive Bodies (Established by section 197

A. State Civil Service Commission

1. A State Civil Service Commission shall comprise the following members-
a. a Chairman; and
b. not less than two and not more than four other persons,

who shall, in the opinion of the Governor, be persons of unquestionable integrity and sound political judgment.

2. **1.** The Commission shall have power without prejudice to the powers vested in the Governor and the State Judicial Service Commission to-
a. appoint persons to offices in the State civil service; and
b. dismiss and exercise disciplinary control over persons holding such offices.
2. The Commission shall not exercise any of its powers under sub-paragraph (1) of this paragraph in respect of such offices of heads of divisions of Ministries or of departments of the Government of the State as may from time to time be designated by an order made by the Governor except after consultation with the Head of the Civil Service of the State.

B. State Independent Electoral Commission

3. A State Independent Electoral Commission shall comprise the following members-
a. a Chairman; and
b. not less than five but not more than seven other persons.
4. The Commission shall have power-
a. to organise, undertake and supervise all elections to local government councils within the State;
b. to render such advice as it may consider necessary to the Independent National Electoral Commission on the compilation of and the register of voters in so far as that register is applicable to local government elections in the State.

C. State Judicial Service Commission

5. A State Judicial Service Commission shall comprise the following members-
a. the Chief Judge of the State, who shall be the Chairman;
b. the Attorney General of the State;
c. the Grand Kadi of the Sharia Court of Appeal of the State, if any;
d. the President of the Customary Court of Appeal of the State, if any;
e. two members, who are legal practitioners, and who have been qualified to practice as legal practitioners in Nigeria for not less than ten years; and
f. two other persons, not being legal practitioners, who in the opinion of the Governor are of unquestionable integrity.
6. The Commission shall have power to-
a. advise the National Judicial Council on suitable persons for nomination to the office of-

6. a. i. the Chief Judge of the State,
ii. the Grand Kadi of the Sharia Court of Appeal of the State, if any,
iii. the President of the Customary Court of Appeal of the State, if any,
iv. Judges of the High Court of the State,
v. Kadis of the Sharia Court of Appeal of the State, if any, and
vi. Judges of the Customary Court of Appeal of the State, if any;
b. subject to the provisions of this Constitution, to recommend to the National Judicial Council the removal from the office of the judicial officers specified in sub-paragraph (a) of this paragraph; and
c. to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrars of the Sharia Court of Appeal and Customary Court of Appeal, Magistrates, Judges and members of Area Courts and Customary Courts and all other members of the staff of the judicial service of the State not otherwise specified in this Constitution.

Part III. Federal Capital Territory, Abuja Executive Body (Established under Section 304) Judicial Service Committee of the Federal Capital Territory, Abuja

Judicial Service Committee of the Federal Capital Territory Abuja

1. The Judicial Service Committee of the Federal Capital Territory, Abuja shall comprise the following members-
a. the Chief Judge of the Federal Capital Territory, Abuja who shall be the Chairman;
b. the Attorney-General of the Federation;
c. the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja;
d. the President of the Customary Court of Appeal of the Federal Capital Territory, Abuja;
e. one person who is a legal practitioner and who has been qualified to practice as a legal practitioner in Nigeria for a period of not less than twelve years; and
f. one other person, not being practitioner, who in the opinion of the President is of unquestionable integrity.
2. The Committee shall have power-
a. to recommend to the National Judicial Council suitable persons for nomination for appointment to the office of-
i. the Chief Judge of the Federal Capital Territory, Abuja,
ii. a Judge of the High Court of the Federal Capital Territory, Abuja,
iii. the Grand Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja,
iv. the President of the Customary Court of Appeal of the Federal Capital Territory, Abuja,
v. a Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja,
vi. a Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja;
b. subject to the provisions of this Constitution, to recommend to the National Judicial Council the removal from office of the judicial officers specified in sub-paragraph (a) of this paragraph;
c. to appoint, promote and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrars of the High Court, the Sharia Court of Appeal and the Customary Court of Appeal of the Federal Capital Territory, Abuja, magistrates, the judges and members of the District and Area Courts of the Federal Capital Territory, Abuja, if any, and all other members of the staff of the judicial service of the Federal Capital Territory, Abuja not otherwise specified in this Constitution and of the Judicial Service Committee of the Federal Capital Territory, Abuja.

- Municipal government

Schedule IV. Functions of a Local Government Council

1. The main functions of a local government council are as follows:
    a. the consideration and the making of recommendations to a State commission on economic planning or any similar body on-
        i. the economic development of the State, particularly in so far as the areas of authority of the council and of the State are affected, and
        ii. proposals made by the said commission or body;
    b. collection of rates, radio and television licences;
    c. establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm;
    d. licensing of bicycles, trucks (other than mechanically propelled trucks), canoes, wheel barrows and carts;
    e. establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences;
    f. construction and maintenance of roads, streets, street lightings, drains and other public highways, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a State;
    g. naming of roads and streets and numbering of houses;
    h. provision and maintenance of public conveniences, sewage and refuse disposal;
    i. registration of all births, deaths and marriages;
    j. assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State; and
    k. control and regulation of-
        i. out-door advertising and hoarding,
        ii. movement and keeping of pets of all description,
        iii. shops and kiosks,
        iv. restaurants, bakeries and other places for sale of food to the public,
        v. laundries, and
        vi. licensing, regulation and control of the sale of liquor.
2. The functions of a local government council shall include participation of such council in the Government of a State as respects the following matters-
    a. the provision and maintenance of primary, adult and vocational education;
    b. the development of agriculture and natural resources, other than the exploitation of materials;
    c. the provision and maintenance of health services; and
    d. such other functions as may be conferred on a local government council by the House of Assembly of the State.

- Radio
- Television
- Telecommunications

Schedule V

Part I. Code of Conduct for Public Officers

General

1. A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.
2. Without prejudice to the generality of the foregoing paragraph, a public officer shall not-
    a. receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office; or

2. **b.** except where he is not employed on full time basis, engage or participate in the management or running of any private business, profession or trade but nothing in this sub-paragraph shall prevent a public officer from engaging in farming.

3. The President, Vice-President, Governor, Deputy Governor, Ministers of the Government of the Federation and Commissioners of the Governments of the States, members of the National Assembly and of the Houses of Assembly of the States, and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria.

4. **1.** A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remuneration position as chairman, director or employee of-
   - **a.** a company owned or controlled by the government; or
   - **b.** any public authority.

   2. A retired public servant shall not receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

5. **1.** Retired public officers who have held offices to which this paragraph applies are prohibited from service or employment in foreign companies or foreign enterprises.

   2. This paragraph applies to the offices of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.

6. **1.** A public officer shall not ask for or accept property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties.

   2. For the purposes of sub-paragraph (1) of this paragraph, the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said sub-paragraph unless the contrary is proved.

   3. A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom:

   Provided that any gift or donation to a public officer on any public or ceremonial occasion shall be treated as a gift to the appropriate institution represented by the public officer, and accordingly, the mere acceptance or receipt of any such gift shall not be treated as a contravention of this provision.

7. The President or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of the Government of a State, or any other public officer who holds the office of a Permanent Secretary or head of any public corporation, university, or other parastatal organisation shall not accept-
   - **a.** a loan, except from government or its agencies, a bank, building society, mortgage institution or other financial institution recognised by law; and
   - **b.** any benefit of whatever nature from any company, contractor, or businessman, or the nominee or agent of such person:

   Provided that the head of a public corporation or of a university or other parastatal organisation may, subject to the rules and regulations of the body, accept a loan from such body.

8. No persons shall offer a public officer any property, gift or benefit of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.

9. A public officer shall not do or direct to be done, in abuse of his office, any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to any government policy.

10. A public officer shall not be a member of, belong to, or take part in any society the membership of which is incompatible with the functions or dignity of his office.

11. **1.** Subject to the provisions of this Constitution, every public officer shall within three months after the coming into force of this Code of Conduct or immediately after taking office and thereafter–

- Earnings disclosure requirement

11. **1.** **a.** at the end of every four years; and
b. at the end of his term of office,

submit to the Code of Conduct Bureau a written declaration of all his properties, assets, and liabilities and those of his unmarried children under the age of eighteen years.

2. Any statement in such declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Code.
3. Any property or assets acquired by a public officer after any declaration required under this Constitution and which is not fairly attributable to income, gift, or loan approved by this Code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

12. Any allegation that a public officer has committed a breach of or has not complied with the provisions of this Code shall be made to the Code of Conduct Bureau.
13. A public officer who does any act prohibited by this Code through a nominee, trustee, or other agent shall be deemed ipso facto to have committed a breach of this Code.
14. In its application to public officers-
a. members of legislative houses shall be exempt from the provisions of paragraph 4 of this Code; and
b. the National Assembly may by law exempt any cadre of public officers from the provisions of paragraphs 4 and 11 of this Code if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of those provisions. Code of Conduct Tribunal

Code of Conduct Tribunal

15. **1.** There shall be established a tribunal to be known as Code of Conduct Tribunal which shall consist of a Chairman and two other persons.
2. The Chairman shall be a person who has held or is qualified to hold office as a Judge of a Court of record in Nigeria and shall receive such remuneration as may be prescribed by law.
3. The Chairman and members of the Code of Conduct Tribunal shall be appointed by the President in accordance with the recommendation of the National Judicial Council.
4. The National Assembly may by law confer on the Code of Conduct Tribunal such additional powers as may appear to it to necessary to enable it more effectively to discharge the functions conferred on it in this Schedule.

- Establishment of judicial council

16. **1.** The tenure of office of the staff of the Code of Conduct Tribunal shall, subject to the provisions of this Code, be the same as that provided for in respect of officers in the civil service of the Federation.
2. The power to appoint the staff of the Code of Conduct Tribunal and to exercise disciplinary control over them shall vest in the members of the Code of Conduct Tribunal and shall be exercisable in accordance with the provisions of an Act of the National Assembly enacted in that behalf.

17. **1.** Subject to the provisions of this paragraph, a person holding the office of Chairman or member of the Code of Conduct Tribunal shall vacate his office when he attains the age of seventy years.
2. A person who has held office as Chairman or member of the Code of Conduct Tribunal for a period of not less than ten years shall, if he retires at the age of seventy years, be entitled to pension for life at a rate equivalent to his last annual salary in addition to other retirement benefits to which he may be entitled.
3. A person holding the office of Chairman or member of the Code of Conduct Tribunal shall not be removed from his office or appointment by the President except upon an address supported by two-thirds majority of each House of the National Assembly praying that he be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of this Code.

17. **4.** A person holding the office of Chairman or member of the Code of Conduct Tribunal shall not be removed from office before retiring age save in accordance with the provisions of this Code.

18. **1.** Where the Code of Conduct Tribunal finds a public officer guilty of contravention of any of the provisions of this Code it shall impose upon that officer any of the punishments specified under sub-paragraph (2) of this paragraph and such other punishment as may be prescribed by the National Assembly.

2. The punishment which the Code of Conduct Tribunal may impose shall include any of the following-

a. vacation of office or seat in any legislative house, as the case may be;

b. disqualification from membership of a legislative house and from the holding of any public office for a period not exceeding ten years; and

c. seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

3. The sanctions mentioned in sub-paragraph (2) hereof shall be without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence.

4. Where the Code of Conduct Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provisions of this Code, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

5. Any right of appeal to the Court of Appeal from the decisions of the Code of Conduct Tribunal conferred by sub-paragraph (4) hereof shall be exercised in accordance with the provisions of an Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

6. Nothing in this paragraph shall prejudice the prosecution of a public officer punished under this paragraph or preclude such officer from being prosecuted or punished for an offence in a court of law.

7. The provisions of this Constitution relating to prerogative of mercy shall not apply to any punishment imposed in accordance with the provisions of this paragraph.

Interpretation

19. In this Code, unless the context otherwise requires–

- “assets” includes any property, movable and immovable and incomes owned by a person;

- “business” means any profession, vocation, trade, or any adventure or concern in the nature of trade and excludes farming;

- “child” includes a step-child, a lawfully adopted child, a child born out of wedlock and any child to whom any individual stands in place of a parent;

- “emolument” means any salary, wage, over-time or leave pay, commission, fee, bonus, gratuity, benefit, advantage (whether or not that advantage is capable of being turned into money or money’s worth), allowance, pension or annuity paid, given or granted in respect of any employment or office;

- "foreign companies" or "foreign enterprises" means companies or enterprises in which the controlling shares are owned by persons other than the Government, its agencies or citizens of Nigeria or whose policies are determined by persons or organisations outside Nigeria;

- “liabilities” includes responsibilities according to law to satisfy a debt, duty or obligation quantifiable in monetary value, instant and contingent;

- “misconduct” means breach of the Oath of Allegiance or oath of office of a member or breach of the provisions of this Constitution or a misconduct of

19.
- such nature as amounts to bribery or corruption or false declaration of assets and liabilities;
- "public office" means a person holding any of the offices specified in Part II of this Schedule; and
- "public office" shall not include the chairmanship or membership of ad hoc tribunals, commissions or committees.

Part II. Public Officers for the Purposes of the Code of Conduct

1. The President of the Federation.
2. The Vice-President of the Federation.
3. The President and Deputy President of the Senate Speakers and Deputy Speaker of the House of Representatives and Speakers and Deputy Speakers of Houses of Assembly of States, and all members and staff of legislative houses.
4. Governors and Deputy Governors of States.
5. Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law.
6. Attorney-General of the Federation and Attorney-General of each State.
7. Ministers of the Government of the Federation and Commissioners of the Governments of the States.
8. Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff and all members of the armed forces of the Federation.
9. Inspector-General of Police, Deputy Inspector-General of Police and all members of the Nigeria Police Force and other government security agencies established by law.
10. Secretary to the Government of the Federation, Head of the Civil service, Permanent Secretaries, Directors-Generals and all other persons in the civil service of the Federation or of the State.
11. Ambassadors, High Commissioners and other officers of Nigeria Missions abroad.
12. Chairman, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
13. Chairman, members and staff of local government councils.
14. Chairman and members of the Boards or other governing bodies and staff of statutory corporations and of companies in which the Federal or State Government has controlling interest.
15. All staff of universities, colleges and institutions owned and financed by the Federal or State Governments or local government councils.
16. Chairman, members and staff of permanent commissions or councils appointed on full time basis.

Schedule VI. Election Tribunals

A. National and State Houses of Assembly Election Tribunals

1.
1. A National and State Houses of Assembly Election Tribunal shall consist of a Chairman and two other members.
2. The Chairman who shall be a Judge of a High Court and the two other members shall be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or other members of the judiciary not below the rank of a Chief Magistrate.
3. The Chairman and other members shall be appointed by the President of the Court of Appeal in consultation with the Chief Judge of the State, the Grand Kadi of the Sharia Court of Appeal of the State or the President of the Customary Court of Appeal of the State, as the case may be.

B. Governorship Election Tribunal

2. **1.** A Governorship Election Tribunal shall consist of a Chairman and two other members.
   2. The Chairman who shall be a Judge of a High Court and the two other members shall be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or members of the judiciary not below the rank of a Chief Magistrate.
   3. The Chairman and other members shall be appointed by the President of the Court of Appeal in consultation with the Chief Judge of the State, the Grand Kadi of the Sharia Court of Appeal of the State or the President of the Customary Court of Appeal of the State, as the case may be.

- Oaths to abide by constitution
- God or other deities

Schedule VII. Oaths

Oaths of Allegiance

I, …….. do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.

So help me God.

Oath of Office of President

I, ... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as President of the Federal Republic of Nigeria, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communication or reveal to any person any matter which shall be brought under my consideration or shall become known to me as President of the Federal Republic of Nigeria, except as may be required for the due discharge of my duties as President; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God.

Oath of Office of Governor of a State

I, ... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as the Governor of ..... State, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will exercise the authority vested in me as Governor so as not to impede or prejudice the authority lawfully vested in the President of the Federal Republic of Nigeria and so as not to endanger the continuance of Federal Government in Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifty Schedule to the Constitution of the Federal Republic of Nigeria; that in all

circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Governor of ..... State, except as may be required for the due discharge of my duties as Governor; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God.

Oath of Office of Vice-President, Deputy Governor, Minister, Commissioner or Special Adviser

I, ... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as Vice-President of the Federal Republic of Nigeria/Deputy Governor of ..... State/Minister of the Government of the Federation/Commissioner of the Government ..... State/Special Adviser to ....., I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions, that I will to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Vice-President of the Federal Republic of Nigeria/Deputy Governor of ..... State/Minister of the Government of the Federation/Commissioner of ..... State/Special Adviser to ..... except as may be required for the due discharge of my duties as Vice-President/Deputy Governor of ..... State/Minister/Commissioner/Special Adviser.

So help me God.

Oath of a Member of the National Assembly or of a House of Assembly

I, ... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as a Member of the Senate/House of Representatives/ ..... House of Assembly, I will perform my functions honestly to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and the rules of the Senate/House of Representatives/ ..... House of Assembly and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria; and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria; and that I will abide by the Code of Conduct contained in the Fifth Schedule of the Constitution of the Federal Republic of Nigeria.

So help me God.

Judicial Oath

I, ... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria; that as Chief Justice of Nigeria/Justice of the Supreme Court/President/Justice of the Court of Appeal/Chief Judge/Judge of the Federal High Court/President/Judge of the National Industrial Court/Chief Judge/Judge of the High Court of the Federal Capital Territory, Abuja/Chief Judge of ..... State/Judge of the High Court of ..... State/Grand Kadi/Kadi of the Sharia Court of Appeal of the Federal Capital Territory, Abuja/Grand Kadi/Kadi of the Sharia Court of Appeal of .... State/President/Judge of the Customary Court of Appeal of the Federal Capital Territory, Abuja/President/Judge of the Customary Court of Appeal of ..... State. I will discharge my duties, and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the law, that I will abide by the Code of Conduct contained in the Fifth Schedule to the

Constitution of the Federal Republic of Nigeria; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.

So help me God.

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