SENATE

DRAFT AMENDMENTS TO THE 1999 NIGERIA CONSTITUTION

JULY 2013

POLICY AND LEGAL ADVOCACY CENTRE (PLAC)

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EXPLANATORY MEMORANDUM

A BILL
FOR
AN ACT TO FURTHER ALTER THE PROVISIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 AND FOR OTHER MATTERS CONNECTED THEREWITH, 2013

Sections	Provisions of the Constitution	Committee Recommendation	Remarks
		Clause 1 The Constitution of the Federal Republic of Nigeria 1999 (in this Act referred to as the "Principal Act") is amended as set out in this Bill.	
9.	Mode of Altering Provisions of the Constitution **9.**(1) The National Assembly may, subject to the provision of this section, alter any of the provisions of this Constitution. (1)…… (2)……. (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.	Clause 2 **Alteration of section 9** Section 9 of the Principal Act is amended by inserting new subsections "(3A)" – (3N)" – "(3A) For the purpose of altering the provisions of this Constitution, the assent of the President shall not be required. (3B) The National Assembly may propose a new Constitution for the Federation. (3C) A new Constitution shall come into effect in the manner stipulated under subsections (3D) – (3N) of this section – (3D) There shall be a committee of the Senate and House of Representatives to be set up by the President of the Senate in consultation with the Speaker of the House of Representatives to be known as the Joint Constitution Drafting Committee. (3E) The Joint Constitution Drafting Committee shall consist of - (a) two members from each State of the Federation,	**Procedure for Drafting an Entirely New Constitution**

		one from the Senate and the other from the House of Representatives; and (b) two members representing the Federal Capital Territory, one from the Senate and the other from the House of Representatives. (3F) The President of the Senate shall in consultation with the Speaker of the House of Representatives appoint the Chairman of the Joint Constitution Drafting Committee; (3G) The Joint Constitution Drafting Committee shall produce a draft Constitution which shall be submitted to the President of the Senate and the Speaker of the House of Representatives. (3H) The draft Constitution shall be presented in each House of the National Assembly within 3 months thereafter as a committee report; (3I) If the report of the Joint Constitution Drafting Committee is approved by two-thirds votes of the members of each House of the National Assembly, the report shall be forwarded to the State Houses of Assembly; (3J) The members of the House of Assembly of each State shall vote for each section of the draft Constitution and any provision of the draft Constitution that receives a simple majority approval of members in two-thirds of the States shall form part of the proposed Constitution; (3K) When returns are received from all State Houses of Assembly addressed to the President of the Senate, the President of the Senate shall direct the Clerk of the National Assembly to check the returns to ensure compliance with subsection (3J); (3L) The Clerk shall thereafter circulate the draft Constitution to each member of the National Assembly	

		and forward copies to the Independent National Electoral Commission; (3M) The Independent National Electoral Commission shall, within 6 months of the receipt of the draft Constitution, cause a referendum to be conducted to approve the draft Constitution. (3N) If the draft Constitution receives a simple majority of votes cast in two-thirds of all States of the Federation, it shall come into force as the Constitution of the Federal Republic of Nigeria.	
26.	Citizenship by Registration **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)…….. (c)…… (**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.	Clause 3 **Alteration of section 26** Section 26 (2)(a) is altered by substituting for the word "woman", the word "person".	**Gender Equity**
29.	Renunciation of 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. (1)……. (2)……. (3)……. (4) For the purposes of subsection (1) of this section.	Clause 4 **Alteration of section 29** *Section 29(4)(b) is deleted*	**Child Rights/Protection**

	(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		
42.	**Right to freedom from discrimination** **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:-	Clause 5 **Alteration of section 42** Section 42(1) is altered by inserting immediately after the word "sex" in line 2, the word "disability"	**Protection of People with Disability**
58	**Mode of exercising Federal Legislative power: general** **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. (5) Where the President withholds his assent and	**Clause 6** **Alteration of section 58** Section 58 is altered by inserting a new subsection "5A" "5A"- Where the President neither signifies that he assents or that he withholds assent, the bill shall at the expiration of thirty days become law."	**Strengthening the legislative arm of government and ensuring timely passage of laws.**

	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.		
84	Remuneration of the President and certain other officer s 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. (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 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, 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	Clause 7 **Alteration of Section 84** Section 84 is altered by inserting immediately after the existing subsection (5) a new subsection "(5A)" - "(5A)- Any person who has held office as President or Deputy President of the Senate, Speaker or Deputy Speaker of the House of Representatives, shall be entitled to pension for life at a rate equivalent to the annual salary of the incumbent President or Deputy President of the Senate, Speaker or Deputy Speaker of the House of Representatives:	

	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.		

100	**Mode of exercising legislative power of a State** 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.	Clause 8 **Alteration of section 100** Section 100 is altered by inserting a new subsection "5A" "5A"- Where the Governor neither signifies that he assents or that he withholds assent, the bill shall at the expiration of thirty days become law."	**Strengthening the legislative arm of government and ensuring timely passage of laws**
121.	Authorisation of expenditure from Consolidated Revenue fund **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	Clause 9 **Alteration of section 121** Section 121 of the Principal Act is altered by substituting for subsection (3), a new subsection "(3)"- "(3) Any amount standing to the credit of the- (a) State Independent Electoral Commission; (b) House of Assembly of the State; (c) Auditor-General of the State; (d) Judiciary; and (e) Attorney-General of the State; in the Consolidated Revenue Fund of the State shall be	**First-line Charge for Certain State Bodies and Offices**

	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 judiciary in the Consolidated Revenue Fund of the State shall be paid directly to 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.	paid directly to the heads of the respective bodies for the use of the Institution for which he is head.	
135.	Tenure of Office of President 135. (1)……. (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. (3) If the Federation is at war in which the territory of Nigeria is physically involved and the	Clause 10 **Substitution of Section 135 with a New Section 135** 135. (1) Subject to the provisions of this constitution, a person shall hold 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 provision of this Constitution. (2) Subject to the provisions of subsection (1) of this section, the President shall vacate his office at the expiration of a period of six years commencing from the date, when – (a) in the case of a person elected as President under this Constitution, he took the Oath of	**A Six Year Single Term**

	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.	Allegiance and the oath of office; and (b) in any other case, the person 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. (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 six- 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.	
136	Death of President-elect before Oath of Office **136.** (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.	Clause 11 Substitution of Section 136 with a new section 136. "136 (1) Where a person duly elected as President – a. dies before taking and subscribing the Oath of Allegiance and oath of office ; b. is for any reason whatsoever unable to be sworn in; c. dies while holding such office, resigns from office or otherwise ceases to hold office in accordance with the provisions of this Constitution the Vice-President –elect shall be sworn in as President and a Vice President appointed in accordance with the provisions of this Constitution and in the case of (c) above, the Vice-President shall hold the office of President and shall complete the remaining term of office of the President. (2) Where a Vice President-elect or Vice- President succeeds the President-elect or the President in accordance with subsection (1) of this section, he shall	

		not be eligible to contest for the office of the President in any subsequent election.	
137.	Qualifications **137.** (1) A person shall not be qualified for election to the office of President if - (a……. (b) he has been elected to such office at any two previous elections; or	Clause 12 Alteration of section 137 Section 137(1)(b) is altered by- (a) deleting the word "two"; (b) substituting for the word "elections", the word "election"; and (c) inserting a new subsection "3"; "(3) A person holding the office of the President or Vice-President immediately before the coming into force of the alteration of sections 135 and 136 of this Constitution shall not be eligible to contest election for a single term of six years".	**Disqualification of Current Office Holder(s) from Benefitting from the Six Year Single Term.**
150	Attorney General of the Federation **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.	Clause 13 **Substitution for section 150** Substitute for section 150, a new section "150"- "**Attorney-General of the Federation** (1) There shall be an Attorney-General of the Federation who shall be the Chief Law officer of the Federation. (2) The President shall appoint the Attorney-General subject to confirmation by the Senate. (3) A person shall not be qualified to hold or perform the functions of the office of Attorney-General for the Federation unless he- (a) is qualified to practice as a legal practitioner; (b) has been so qualified for not less than ten years.	**Separation of the Office of the Attorney General of the Federation from the office of the Minister of Justice**

		(c) is not a member of a political party or a civil servant. (4) The Attorney-General of the Federation shall not be subject to the direction or control of any other authority or person in the performance of the functions of his office. (5) The Attorney-General shall hold office for a single term of seven years. (6) A person holding the office of the Attorney-General of the Federation shall only be removed from office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of his-office (whether arising from infirmity of mind or body or any other cause) or for misconduct or offences relating to the code of conduct."	
162	C-Public Revenue Distributable pool account **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)…….. (3)…….. (4)…….. (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	Clause 14 Section 162 is altered by- (a) substituting for subsection (5), a new section "(5)"- "(5) Any amount standing to the credit of local government in the Federation Account shall be allocated and paid directly to the local governments for their benefit on such terms and in such manner as may be prescribed by the National Assembly"; and (b) substituting for subsection (6), a new subsection "(6)"- "(6) The amount standing to the credit of a local government without a democratically elected council shall be withheld until there is a democratically elected local government Council in such local government." (c) inserting new subsections "(6A)"- "(6B) "(6A) The provision of subsection (6) of this section shall not apply to a Local Government without a democratically elected council where elections have not	**Direct Payment to Local Governments from the Funds of the Federation**

	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.	been held for reasons of natural disaster, serious breach of peace and other emergencies". (6B) Nothing in this Constitution shall empower a court to stop the holding of Local Government election".	
174	Public prosecutions **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;	Clause 15 Alteration of section 174 Section 174(1) is altered by inserting a new subsection "(1A)"- "(a) may direct investigation of crimes; and (b) renumbering the paragraphs appropriately.	**Conferment of Powers on the Attorney General to Direct Investigations in Certain Cases**
180.	Tenure of Office of Governor **180.** (1) Subject to the provisions of this Constitution, a person shall hold the office of a 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 h old 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;	Clause 16 **Substitution of section 180 with a New Section 180** **180.** (1) Subject to the provisions of this Constitution, a person shall hold the office of a 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 h old 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 six years commencing from the date when – (a) in the case of a person elected as Governor under this Constitution, he took the Oath of Allegiance and oath of office; and	**Six Year Single Term**

	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. (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 be 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.	(b) the person elected to that office took the Oath of Allegiance and oath of office or would, but for his death, have taken such oaths. (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 be resolution extend the period of six 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	Death, etc. of Governor-elect before oath of office **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.	Clause 17 Alteration of section 181 Substitution of Section 181 with a new section 181. "181 (1) Where a person duly elected as Governor – a. dies before taking and subscribing the Oath of Allegiance and oath of office ; b. is for any reason whatsoever unable to be sworn in; c. dies while holding such office, resigns from office or otherwise ceases to hold office in accordance with the provisions of this Constitution - the Deputy-Governor-elect shall be sworn in as Governor and a new Deputy-Governor appointed in accordance with the provisions of this Constitution and in the case of (c) above, the Deputy Governor shall hold the office of the Governor and shall complete the term of office of the Governor. (2) Where a Deputy-Governor-elect or Deputy Governor succeeds the Governor-elect or Governor in accordance	

		with subsection (1) of this section, he shall not be eligible to contest for the office of the Governor in any subsequent election.	
182	Qualifications **182.** (1) A person shall not be qualified for election to the office of Governor of a State if - (a)……. (b) he has been elected to such office at any two previous elections; or	Clause 18 Alteration of section 182 Section 182(1)(b) is altered by- (a) deleting the word "two"; and (b) substituting for the word "elections", the word "election" (c) inserting a new subsection "3"'; "(3) A person holding the office of the Governor or Deputy Governor immediately before the coming into force of the alteration of sections 180 and 181 of this Constitution shall not be eligible to contest election for a single term of six years".	**Disqualification of Certain Office Holders from Benefitting from the Six Year Single Term**
195.	Attorney-General of a State **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.	Clause 19 **Alteration of section 195** Substitute for section 195, a new section "195" "**Attorney-General of the State** "195(1).There shall be an Attorney-General of the State who shall be the Chief Law officer of the State. (2) The Governor shall appoint the Attorney-General subject to confirmation by the State House of Assembly. (3) A person shall not be qualified to hold or perform the functions of the office of Attorney-General of the State unless he- (a) is qualified to practice as a legal practitioner; (b) has been so qualified for not less than ten years;	**Separation of the Office of the Attorney General of the State from the Office of the Commissioner for Justice**

		(c) is not a member of a political party or a civil servant. (4) The Attorney-General of the State shall not be subject to the direction or control of any other authority or person in the performance of his functions. (5) The Attorney-General shall hold office for a single term of seven years; and (6) A person holding the office of the Attorney-General of the State shall only be removed from office by the Governor of the state acting on an address supported by two-thirds majority of the State 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 or offences relating to the code of conduct."	
211	Public prosecutions **211**. (1) The Attorney General of a state 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 law of the House of Assembly;	Clause 20 **Alteration of section 211** Section 211 is altered by inserting a new subsection "(1)"- "(a) may direct investigation of crimes; and (b) renumbering the paragraphs appropriately.	**Empowering the Attorney General of State to Direct Investigations in Certain Cases**
214	***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	Clause 21 Section 214 is altered by substituting for the word "Force"- (a) in heading B and marginal note, and in subsections (2)(a), (b), (c) and anywhere the Nigeria Police Force appears in this Constitution, with the word "Service";	**Removing the Word "Force" from the Nigeria Police Force**

	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.		
299	Application of Constitution **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;	Clause 22 **Alteration of section 299** Section 299(a) is altered by deleting the words "President of the Federation", immediately after the word "the" in lines 4 and 5 and replacing with the words "Mayor of the Federal Capital Territory".	**Mayoral Status for the FCT**
302	Minister of the Federal Capital Territory, Abuja **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.	Clause 23 **Substitution for section 302** Substitute for section 302 a new section "302"- "302(1) There shall be for the Federal Capital Territory a Mayor. (2). The National Assembly shall make law to provide for the establishment, structure, composition, finance, and functions of the office of Mayor of the Federal Capital Territory. (3) A person shall be qualified for election to the office of Mayor if	**Mayoral Status for the FCT**

		(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. 302(4) There shall be for the Federal Capital Territory a Deputy Mayor. (i) In any election to which the foregoing provisions of this part of this Chapter relate, a candidate for the office of the Mayor of the Federal Capital Territory shall not be deemed to have been validly nominated for such office unless he nominates another candidate as his associate for his running for the office of Mayor, who is to occupy the office of Deputy Mayor; and that candidate shall be deemed to have been duly elected to the office of Deputy Mayor if the candidate who nominated him is duly elected as Mayor in accordance with the said provisions. (ii) The provisions of this Constitution relating to qualifications for election, tenure of office, disqualifications, declaration of assets and liabilities, Death, Removal, Resignation and Cessation of office of a Governor and Deputy Governor of a state shall apply to the offices of Mayor and Deputy Mayor respectively as if references to Governor and Deputy Governor were references to Mayor and Deputy Mayor.	
315	**Existing Law** 315. (5) Nothing in this Constitution shall invalidate the following enactments, that is to say - (a) the National Youth Service Corps Decree	Clause 24 (**SB.158**) Section 315 is amended by deleting subsections (5), (a), (b), (c), (d) and (6) 315. (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;	**Removal of the Listed Acts of the National Assembly from the Constitution**

	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.	(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.	
Second Schedule Part I	**Second Schedule** **Legislative Powers** **Part I** ***Exclusive Legislative List*** **44.** Pensions, gratuities and other-like benefit payable out of the Consolidated Revenue Fund or any other public funds of the Federation. **46.** Posts, telegraphs and telephones **48.** Prisons **55.** Railways **58.** Stamp duties	Clause 25 **Alteration of Second Schedule** **Part I** The Second Schedule Part I is altered by – (a) inserting item "40A", immediately after item 40 "National security"; (b) substituting for item 46, a new item "46"- "46 Post and telecommunications"; and (c) deleting items 44, 48, 55 and 58;	**Inserting National Security on the Exclusive legislative List and Substituting "Post and Telegraphs" with "Post and Telecommunications" and the Removal of Prisons, Railways Stamp Duties and Wages from the Exclusive Legislative List**
Second Schedule of the Constitution	**Part II –** **CONCURRENT LEGISLATIVE LIST**	Clause 26 **Part II** CONCURRENT LEGISLATIVE LIST Part II is altered by inserting the following items- (i) Arbitration;	**Devolution of more Powers to the States**

		(ii) Aviation (iii) Environment; (iv) Healthcare; (v) Land and Agriculture. (vi) Prisons; (vii) Public Complaints (viii) Railways; (ix) Road safety; (x) Stamp duties; **(xi)** Wages; (xii) Youths	
Arbitration		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. Inter-State arbitration (involving parties resident in different states of the federation or where the arbitration is conducted in a state other than where the parties reside, carry on business or the subject matter of the arbitration is located). **ii.** International arbitration including arbitration or commercial transactions of an international nature or involving foreigners or persons not resident in Nigeria. **iii.** Industrial arbitration and other forms of arbitration relating to labour, employment and trade disputes matters. **iv.** Arbitration on items over which the National Assembly has exclusive legislative powers.	

Aviation		2. A House of Assembly may make laws for the State with respect to: **i.** Intra-State arbitration involving parties resident or carrying on business within the state or where the arbitration is conducted in the same state where the subject matter of the arbitration is located. ii. Arbitration in relation to items over which the State Assembly has residual legislative powers under the Constitution. 1. The National Assembly may make laws for the federation or any part thereof with respect to the control and regulation of airports; regulation of professional bodies and associations in the aviation industry including the conditions for entrance and admission of persons entitled to own and operate aircrafts in Nigeria; setting the minimum standards of health, safety, security and professionalism; setting up and designation of national airline and the construction and maintenance of airports and infrastructure throughout the federation except for those established and administered by state governments. 2. A House of Assembly may make laws for the State with respect to the construction, maintenance and	

Environment		administration of state airports, setting up and designation of a state airline and infrastructure 1. The National Assembly may make laws for the federation or any part thereof with respect to: i. Environmental issues affecting more than one state or transcending the boundaries of more than one state i.e. inter-state environmental issues. ii. Environmental issues relating to coastal management and relating to the Exclusive Economic Zone of the Federation and other areas recognized under international law as territories belonging to Nigeria. iii. Environmental issues relating to, arising from, pertaining to and connected with oil and gas exploration, mining activities and other forms of energy exploitation, extraction, transportation and processing. iv. Environmental issues relating to freshwater bodies, ecosystem management, groundwater and other naturally occurring resources the extent of which transcends the boundaries of more than one state.	

		v. Management of fisheries and freshwater aquatic animals within the federation's coastal regions and Exclusive Economic Zone, wildlife, national reserves and parks as may be designated by the National Assembly to be of national interest and affecting more than one state. 2. The House of Assembly may subject to paragraph 1 hereto make laws relating to: **i.** Environmental issues relating to matters within the state's territorial limit. **ii.** Issues relating to sanitation, environmental management and protection of the environment of a state. iii. Establishment and management of game reserves, parks, wildlife management and forestry within the state. iv. Urban development, housing and infrastructural planning within the state.	
Railways		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. Construction and maintenance of inter-state railway tracks and infrastructures.	

		ii. Inter-state railway regulation and establishment of a national railway agency for regulation and management of railway operations throughout the federation. iii. Maintenance of a national railway carrier for inter-state transportation throughout the federation. 2. A House of Assembly may make laws for the State with respect to the: i. Establishment and maintenance of agencies for railway transportation within the state. ii. Establishment of a state railway carrier and regulation of activities related to and connected with railway systems within the state including the construction and maintenance of railway tracks and infrastructures within the state.	
Healthcare		1. The National Assembly may make laws for the federation or any part thereof with respect to: **i.** Establishment of a National Health Insurance Scheme for the advancement of medical welfare of all persons within the federation. **ii.** Setting of minimum standards in relation to healthcare provisions, services and general access to healthcare throughout the federation.	

		iii. Regulation of professional bodies and associations in the healthcare sector throughout the federation including the conditions for entrance and admissions of persons entitled to practice as medical practitioners in Nigeria. **iv.** Establishment and regulation of hospitals and other healthcare institutions for provision of healthcare other than those established and administered by the Government of a State. 2. A House of Assembly may make laws for the State with respect to the: **i.** Establishment within the state of any authority for the advancement of healthcare services to persons within the state and regulation of healthcare institutions established by the State. **ii.** Establishment of healthcare institutions and bodies for provision of medical services within the state.	
Wages		1. The National Assembly may make laws for the federation or any part thereof with respect to: **i.** Prescribing a national minimum wage for federal government employees including minimum wage for all categories of workers in federal establishments and agencies. ii. Establishment of a body for the regulation, supervision and enforcement of compliance with minimum wage for the federal government.	

		2 The House of Assembly may subject to paragraph 1 hereto make laws relating to making laws on issues relating to payment of wages and other emoluments for staff of the civil service of the State , institutions, bodies and agencies established and managed by the Government of the state including staff of local government councils and local government service commissions.	
Stamp duties		1. The National Assembly may make laws for the federation or any part thereof with respect to: **i.** Payment of stamp duties by incorporated companies and other activities or transactions over which the National Assembly have powers to legislate on. **ii.** Payment of stamp duties by persons/individuals/businesses subject to federal taxation. 2. A House of Assembly may make laws for the State with respect to the: **i.** Payment of stamp duties by persons/individuals/businesses resident within the state or subject to state taxation. **ii.** Payment of stamp duties on transactions or activities over which the State House of Assembly has powers to legislate on.	
Road Safety		1. The National Assembly may make laws for the federation or any part thereof with respect to:	

		i. Safety of road and road users within federal highways and other roads subject to federal regulations including inter-state roads. **ii.** Establishment and control of an agency for the safety, control, regulation and maintenance of federal and inter-state roads and roads subject to federal regulation. 2. A House of Assembly may make laws for the State with respect to the: **i.** Safety of road and road users within the state. **ii.** Establishment of an agency for the safety, control, regulation and maintenance of road safety on trunk roads within the state and other roads subject to state regulation.	
Pensions		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. The regulation of matters relating to pension and gratuity of federal employees, persons in the public service of the federation, employees of federal statutory institutions and parastatals and other persons subject to federal regulation including employees of incorporated companies regulated by federal enactments. ii. Setting of standards for management of pension matters throughout the federation in respect of workers whether in private or public	

		employment. iii. Make laws for regulation of pension matters in relation to persons in military service, the police force and other paramilitary and security agencies in the federation. 2. The House of Assembly may subject to paragraph 1 hereto make laws relating to the regulation of matters relating to pension and gratuity of state employees, persons in the civil service of the state, employees of state institutions and parastatals, employees of local governments within the state and other persons subject to state regulation including employees of business enterprises resident within the state and subject to state regulation.	
Prisons		1. The National Assembly may make laws for the federation or any part thereof with respect to: **i.** The establishment, maintenance and regulation of federal prisons and other correctional facilities established and managed by the Government of the Federation or subject to federal control. **ii.** The incarceration of offenders convicted of offences against federal laws and other offences of an inter-state nature or involving foreigners or offences of an international nature or cutting across national boundaries. iii. The practice and procedure for transfer of prisoners from one state prison or	

		correctional facilities to the other and other related processes of prison management involving more than one state of the federation. iv. Transfer and receipt of prisoners from Nigeria to other countries or from other countries to Nigeria pursuant to any international treaties or agreements to which Nigeria is a party. 2. A House of Assembly may make laws for the State with respect to the: **i.** Establishment, maintenance and regulation of state prisons and other correctional facilities subject to the control of the Government of the state. **ii.** Incarceration of offenders convicted of offences against State laws and other offences the ingredients of which occurred within the state and is punishable under the state's law. **iii.** Establishment of correctional and other rehabilitation facilities for children, juveniles and young offenders under the state's laws.	
Land and Agriculture		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. The control, regulation and administration of lands within the FCT and other lands belonging to the Federal government under any law or enactment. ii. The control and regulation of lands required or used for such purposes as may be declared	

		to be of national interest such as defence, air space management, mining and other matters over which the National Assembly has exclusive legislative powers under Part I of this schedule. iii. The regulation of minerals, oil and gas and other natural resources, whether solid or liquid, found in any land or water in the federation including the use, management and control over such land or water . iv. The demarcation of state boundaries, boundary adjustments and other inter-state matters relating to lands cutting across the boundaries of more than one state including resettlement of persons in different states arising from boundary adjustment issues. v. Governing national boundaries with other countries and regarding the use and management of land located in national boundaries areas for the purpose of protection of national interests and enforcement of immigration requirements as may be determined by the Federal Government. 2. A House of Assembly may make laws for the State with respect to: i. The regulation, control and management of lands within the state not belonging to the Federal Government or subject to the control and management of the Federal Government. ii. Agriculture, sanitation, waste disposal and	

		management of lands within the state including the ownership and transfer of all lands within the state.	
Public Complaints		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. Regulating complaints against federal bodies, agencies, institutions and public officers of these bodies and other officials in the public service of the federation. ii. Regulating complaints against incorporated companies and other institutions subject to federal regulation, their servants and officers, and complaints against foreign agencies and institutions whether incorporated in Nigeria or not, including international institutions, donor agencies and other representatives of a foreign country or international organizations operating or having presence in Nigeria. 2. A House of Assembly may make laws for the State with respect to: i. Regulating complaints against state bodies, agencies, institutions and public officers of these bodies and other officials in the civil service of the state including Local Government commissions and their officers and staff. ii. Regulating complaints against businesses, other than incorporated companies, resident in the state or having presence in the state and subject to state regulation and control.	

Youths		1. The National Assembly may make laws for the federation or any part thereof with respect to: i. The administration and regulation of welfare and activities of children and young persons within the FCT and activities of federal bodies and institutions, including Federal educational institutions, sports bodies and other federal recreational or correctional centres, as it relates to children, juveniles and young persons. ii. Youth and sport activities involving foreign competitions and participation in international events /programmes and other inter-state sport competitions. 2. A House of Assembly may make laws for the State with respect to: i. The administration and regulation of welfare and activities of children and young persons within the state and activities of state bodies and institutions, including state educational institutions, sports bodies and other state recreational or correctional centres, as it relates to children, juveniles and young persons resident in the state. ii. Youth and sport activities within the state and regulation of participation of persons resident in the state in inter-state youth and sports activities.	
Third Schedule of the Constitution	**Federal Judicial Service Commission** **12.** The Federal Judicial Service Commission shall comprise the following members -	Clause 27 **Alteration of Third Schedule** The Third Schedule is altered-	**Removing the Chief Justice of Nigeria and other serving Judicial Officers as the Chairperson and 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; (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.	(a) in paragraph 12 – (i) by substituting for subparagraphs (a), - (d), new subparagraphs "(a) - (d)" - "(a) a retired Chief Justice of Nigeria or a retired President of the Court of Appeal appointed by the President on the recommendation of the National Judicial Council who shall be the Chairman"; (b) "a retired Justice of the Court of Appeal; (c)The Attorney General of the Federation; (d) A retired Chief Judge of the Federal High Court or a retired Judge of the Federal High Court. (ii) in subparagraph (e), by substituting for the words "from a list of not less than four persons so qualified recommended" in lines 2 and 3, the word "nominated"	**respectively of the Federal Judicial Service Commission**
Section 6 of the **First Alteration Act**	Alteration of Section 5 6. section 81 of the Principal Act is altered by substituting for the existing subsection (3) a new subsection "(3)"- "(3) The amount standing to the credit of the – (a) Independent National Electoral Commission (b) National Assembly, and (c) Judiciary	Clause 28 Alteration of Section 6 Section 6 of the First Alteration Act is altered by substituting for subsection (3)(a) – (c), new subsection "(3)(a) – (g)"- (a) National Assembly, (b) Independent National Electoral Commission, (c) Judiciary, (d) Attorney-General of the Federation, (e) Auditor-General of the Federation, (f) Revenue Mobilization, Allocation and Fiscal Commission; and (g) National Human Rights Commission".	**Increasing the Number of Bodies and Offices to Benefit from First Line Charge**
Section 12 of the **First**	12. Section 135 of the Principal Act is altered by inserting immediately after the existing	Clause 29 **Alteration of Section 12**	**Six Year Single Term**

Alteration Act	subsection (2) a new subsection (2A)"- "(2) 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."	Section 12 of the First Alteration Act is further altered by deleting the word "four" in line 1 and replacing it with the word "six".	
Section 18 of the **First Alteration Act**	18. Section 180 of the Principal Act is altered by inserting immediately after the existing subsection (2) a new subsection (2A)"- "(2) 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."	Clause 30 **Alteration of Section 18** Section 18 of the First Alteration Act is further altered by deleting the word "four" in line 1 and replacing it with the word "six".	**Six Year Single Term**
Section 6 of the **Second Alteration Act**	6. Section 233 of the Constitution and section 24 of the First Alteration Act are substituted for the following new section – (1)……. (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; (b)…… (c)……. (d) decisions in any civil or 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;	Clause 31 **Alteration of Second Alteration Act** Section 6 of the Second Alteration Act is further altered by- (a) deleting paragraph 6(2) (a); and (b) inserting a new subsection "(3)"- "(3) Three Justices of the Supreme Court sitting in Chambers may dispose of any application for leave to appeal from any decision after consideration of the record of proceedings if the Justices are of the opinion that the interest of justice does not require an oral hearing of the application . "	**Providing for appeals to the Supreme Court with leave where the ground of appeal against a civil or criminal decision involves questions of law alone** **Disposing Application for Leave to Appeal in the Supreme Court in chambers.**

Section 14 of the **Third Alteration Act**	14. The Third Schedule to the Principal Act is altered- (a) in paragraph 12, by inserting immediately after paragraph (d), a new paragraph "(dd)"- "(dd)" the President of the National Industrial Court";	Clause 32 **Alteration of Third Alteration Act** Section 14(a) is further altered by substituting for paragraph (dd), a new paragraph "(dd)"- "(dd) a retired President or a retired Judge of the National Industrial Court".	**Removal of serving President of the National Industrial Court as member of the Federal Judicial Service Commission**
		Short Title This Bill may be cited as the Constitution (Fourth Alteration) Bill, 2013	**Citation**

EXPLANATORY MEMORANDUM

This Bill seeks to further alter the Constitution of the Federal Republic of Nigeria 1999 to among other things, provide for: the procedure for enacting a new Constitution; separation of the Office of Attorney-General and Minister/Commissioner of Justice at the Federal and State levels; the abrogation of the State and Local Government joint account so that funds are released to the Local Governments directly; an elected Mayoral system of Administration for the Federal Capital Territory and the removal of the National Youth Service Corps Decree 1993, the Public Complaints Commission Act, the National Security Agencies Act, and the Land Use Act from the Constitution.