

Awaiting Presidential Assent



Details of Legislative Amendments to
the Nigerian Constitution
March 2015



The Legislature: Powers, Bills, Financial Autonomy, Right of Attendance of President etc.

↻ Section 4: Legislative Powers

The amendment to this section confers immunity on legislators in respect of words spoken or written before their respective chambers or Committees.

↻ Section 50A: Establishment of the National Assembly Service Commission

This establishes a National Assembly Service Commission and provides for its composition, tenure, structure, finance, functions and powers. This amendment is to deliberately strengthen the capacity of legislative institutions by bringing them at par with counterparts such as the Federal Judicial Service Commission and the Federal Civil Service Commission.

Section 92 is the corresponding provision establishing the State Assembly Service Commission.

↻ Section 58: Mode of exercising Federal Legislative power: general

This amendment dispenses with the requirement of the assent of the President where he fails to signify that he assents or withholds assent within 30 days of the presentation of the bill for assent. The dispensation of his assent can only occur however, when the bill is passed again by a two-third majority of each House.

Section 100 is the corresponding provision on mode of exercising State Legislative Power for the State Houses of Assembly.

↻ Section 59 (4): Mode of exercising Federal Legislative power: money bills

The amendment to this provision authorizes the President of the Senate to convene a joint meeting of the National Assembly to reconsider a money bill where the President withholds or fails to signify his assent within the time prescribed to do so. If passed by a two third majority of both houses at such sitting, the Bill shall become law.

↻ Section 67 (1): Right of attendance of President

This amendment mandates the President to attend a joint session of the National Assembly once a year to deliver an address on the state of the nation.

➤ **Section 68 (1) (e): Tenure of Seat of Members**

The amendment here would prevent a member of the National Assembly who becomes a member of a Parliamentary body or any other similar body by virtue of his position, from vacating his seat in the National Assembly.

Section 109 (1) (e) is the corresponding provision on Tenure of seat of members for the State Houses of Assembly.

➤ **Section 81(3): Authorisation of expenditure from Consolidated Revenue Fund**

The amendment to section 81 puts the offices of the Auditor General of the Federation, Attorney General of the Federation, National Security Agencies, Nigerian Police, and Revenue Mobilization, Allocation and Fiscal Commission on the first line charge. These bodies would be funded directly from the Consolidated Revenue Fund of the federation.

➤ **Section 84: Remuneration, etc. of the President and certain other officers**

There is a new subsection 5A that provides for a life pension for the President of the Senate, Deputy President, Speaker of the House of Representatives and Deputy Speaker at a rate equivalent to the annual salary of each of their respective incumbents. However, persons impeached or removed from office for breaching the provision of the Constitution are not entitled to the benefit of this provision.

A corresponding provision for the Speakers and Deputy Speakers of State Houses of Assembly can be found in the amended **section 124 (5)**. It however does not provide that the pension rate be equivalent to the annual salary of the incumbent.

➤ **Section 89 (1) & (2): Power as to matters of evidence**

This empowers the National Assembly to prescribe sanctions, civil or criminal or both for failure, refusal or neglect to obey summons issued by a legislative house or any of its Committees. The Sergeant-at-arms would also be authorized to execute a summons or warrant on behalf of the Senate President or Speaker of the House.

The State Assembly's corresponding provision is in the amended **section 129 (1) & (2)**

➤ **Section 121 (3): Authorisation of Expenditure from Consolidated Revenue Fund**

State legislatures are now granted financial autonomy by virtue of this amendment. This amendment places the State Houses of Assembly, offices of the Attorney General of a State and Auditor-General of a State on the first line charge where any amount standing to these bodies or offices are to be paid directly to them from the Consolidated Revenue Fund of the State.

States, Boundary Adjustment

🔄 Section 8: New States and boundary adjustment, etc.

This clarifies the process of creating new states and boundary adjustment. The current provision requires a referendum from “two third majority of the people of the area” for such adjustments and this has been subject to different interpretations. The amendment now provides that a referendum must be approved by at least two-thirds majority of the “registered voters” of the local government area.

🔄 First Schedule, Part I: States of the Federation

The alteration in First Schedule Part 1 substitutes “Afikpo North” and “Afikpo South” with “Afikpo” and “Edda”. “Egbado North” and “Egbado South” are also substituted with “Yewa North” and “Yewa South” respectively. “Obia Akpor” is altered or corrected to read “Obio Akpor”.

🔄 First Schedule, Part II: Definition and Area Councils of Federal Capital Territory, Abuja

This is amended by substituting “Plateau” with Nasarawa” in the definition of boundaries of the Federal Capital Territory Abuja.

Mode of Altering the Constitution

🔄 Section 9: Mode of Altering Provisions of the Constitution

The amendment to this section dispenses with the need for the President’s assent for the purpose of altering the Constitution.

Residency, Citizenship and the Indigeneship Rights

🔄 Section 25: Citizenship by birth

“Indigeneship” rights are added to this provision. The amendment defines an indigene of a particular community of a State in Nigeria as a person born in that State; a person whose parents or grandparents belong to a community indigenous to that State; a person who has resided in that State continuously for a period of not less than ten years; or a woman who is married to an indigene of the community of that State. A married woman would have the choice of indigeneship of either her paternal or marital home. This provision however restricts the claim of indigeneship by any person to one State at a time.

🔄 Section 26 (2) (a): Citizenship by registration

The amendment to this provision would make it possible for any non-Nigerian man married to a Nigerian woman to be able to acquire Nigerian citizenship through registration provided that other requirements in the section are fulfilled. This is a marked departure from the current provision, which restricts such benefit to non-Nigerian women married to Nigerian men.

Human Rights Provisions

↻ Section 42: Right to Freedom from Discrimination

Persons with disabilities are included in the category of persons who are entitled to freedom from discrimination under the Constitution in the amended section 42.

↻ New Sections 45A-B: Right to Education, Right to Health

New provisions are created to include the right to free basic education and the right to free primary and maternal healthcare as justiciable rights in the Constitution.

Electoral Reforms, INEC and Political Parties

↻ Section 65(2) (2) (b): Qualifications for election

This amendment gives room for independent candidates to contest elective positions, in the National Assembly. This is further replicated in the amended **sections 106(d), 131(c), and 177**, which are for the offices of the State House of Assembly, President and Governor respectively.

↻ Section 66 (1) (c): Disqualifications

The amendment in section 66 inserts an additional qualification barring persons from being elected into the Senate or the House of Representatives when they have been previously convicted for an electoral offence.

The corresponding provision for State Houses of Assembly is in the amended **section 107**.

↻ Section 134: Election: two or more Presidential Candidates

This amendment extends the time for INEC to conduct run-off presidential elections from 7 days to 21 days.

A corresponding provision for gubernatorial run-off elections is in **section 179**.

↻ Section 225: Finances of Political Parties

New section 225A empowers the Independent Electoral Commission to deregister political parties for breaching registration requirements and/or failing to win presidential, governorship, Local Government chairmanship positions or a seat in the National or State Assembly.

↻ Section 228: Powers of the National Assembly with respect to Political Parties

The amendment to this section confers powers on the National Assembly to make laws for the procedures, guidelines and qualifications for access to the ballot by political parties and independent candidates.

↻ **Section 285: Establishment of Election Tribunals and Time for Determination of Election Petitions**

This provision is altered to cover pre-election matters. Consequently, new subsections inserted under this section provide that a pre-election matter must be filed no later than 7 days of the event complained of while judgment must be delivered within 180 days from the filing of the suit. An appeal on a decision in a pre-election matter must be filed within 14 days and disposed of within 60 days from the date of the filing of the appeal by the Court. The amendment here also addresses the issue of computation of time where an intervening event occurs within the stipulated period for hearing and determination of an election petition. The days of such supervening events that make it impracticable for a judge to sit will not be counted as being part of the 180 days period.

Fiscal Provisions

↻ **Section 82: Authorisation of expenditure in default of Appropriations**

This amendment reduces the period within which the President may authorize the withdrawal of money from the Consolidated Revenue Fund in the absence of an Appropriation Act from 6 months to 3 months.

The corresponding provision for the State is stated in [section 122](#).

↻ **Sections 84 A-F**

There are new provisions that define and distinguish the office of the Accountant General of the Federation from a newly created office of the Accountant General of the Federal Government, and provides for their role, process of appointment, tenure and removal from office. Under this provision, the Accountant General of the Federation shall be charged with the administration and disbursement of the allocations of the Federation account to the tiers of Government while the Accountant General for the Federal Government shall be responsible for supervising and administering the accounts of the Federal Government.

Judicial Reforms

↻ **Section 150: Minister of Justice**

The amendment to this section separates the Office of the Minister of Justice from that of the Attorney General of the Federation. The Minister of Justice shall only be concerned with administrative and legal matters of government. The aim is to separate the political and prosecutorial roles of the Attorney General as currently exists in the Constitution.

↻ **Section 155: Tenure of office of members**

The amendment to this section provides a renewable tenure for members of the National Judicial Council. The current Constitutional provision provides for life tenure.

➤ **Section 174: Public Prosecutions**

Following the amendment in section 150 to separate the Office of the Minister for Justice from that of the Attorney General of the Federation, this amendment creates an independent office for the Attorney General who is expected to be a professional lawyer with good knowledge of the criminal justice system. The aim of this amendment is to provide the office of the Attorney General with independent authority to carry out his/her duties without undue interference. The amendment in section 174 establishes the office of the Attorney General of the Federation and prescribes his qualifications while the insertions of new **sections 174 A-H** stipulates the process of appointment, independence, role, and tenure as well as provide for records of account and audit that must be kept and filed by the Attorney General.

➤ **Section 195: Commissioner for Justice**

Similar to the amendment in section 150, the alteration to section 195 establishes the office of a Commissioner for Justice of the Government of a State and separates it from the office of the Attorney General of the State.

➤ **Section 211: Public Prosecutions**

Following the amendment in section 195 separating the office of the Commissioner for Justice from that of the Attorney General of the State, this amendment creates an independent office for the Attorney General who is expected to be a professional lawyer with good knowledge of the criminal justice system. New **sections 211 A-I** defines the mode of appointment, qualifications, role, tenure and removal of office.

➤ **Section 233: Appellate jurisdiction**

This is modified to provide for appeals to the Supreme Court with leave where the ground of appeal against a civil or criminal decision involves a question of law alone. It further makes provisions for the disposal of applications for leave to appeal in the Supreme Court in chambers.

➤ **Section 241: Appeals as of right from the Federal High Court or a High Court**

The amendment here aims to prevent any court from staying a procedure due to an interlocutory appeal so that justice is quickly dispensed.

➤ **Section 251: Jurisdiction of the Federal High Court**

The amendment to Section 251 confers exclusive jurisdiction on the Federal High Court for the trial of electoral offences.

The Legislative Lists

➤ Second Schedule, Part I: Exclusive legislative list

Current Provision	Amended Provision
-	National Security
44. Pensions, gratuities and other benefits payable from the Consolidated Revenue Fund or any public fund of the Federation	Provision deleted. Pensions moved to concurrent list
46. Posts, telegraphs and telephones	Post and telecommunications
55. Railways	Moved to concurrent list
58. Stamp duties	Moved to concurrent list

➤ Second Schedule, Part II: Concurrent legislative list

Current Provision	Amended Provision
-	Agriculture
-	Arbitration
-	Environment
-	Railways
-	Health
-	Stamp Duties
-	Road Safety
-	Pensions
-	Youth
Paragraph 12: Power of a House of Assembly to make laws with respect to election to a local government council in addition (but not inconsistent) with any law made by the National Assembly	Deleted
Paragraph 14(b): Power of a State House of Assembly to make laws with respect to the generation, transmission and distribution of electricity to areas not covered by a national grid system within that State.	State Houses of Assembly empowered to make laws on the generation, transmission and distribution of electricity within their State or in collaboration with any other State.

Nigerian Police

🔗 Section 214: Establishment of Nigeria Police Force

This provision was amended to delete the word “Force” from “Nigeria Police Force” and anywhere else it appears in the Constitution.

Note: The same amendments can be found in **sections 215 and 216**. Also, **sections 34, 35(7), 39(3), 89(2), 129(2), 214, and 215** are amended to substitute the term “Nigeria Police Force” with “Nigeria Police.” The amendments intend to emphasize the civility of policing.

Other Provisions

🔗 Section 306: Resignations

This amendment provides for the procedure of resignation of the Chairman, Vice-Chairman, Councilor, Leader and Deputy Leader of the Local Government Legislative Council.

🔗 Section 315: Existing law

The amendment here deletes certain provisions, which makes it possible for the President, Governor of a State or any other appointed person to modify the text of any existing law to bring it into conformity with the Constitution. This original provision was inserted as a transitional clause in the Constitution. The amendment is aimed at bringing the Constitution in conformity with the democratic process and emphasizes the lawmaking powers of the National Assembly.

🔗 Section 318: Interpretation

Section 318 is altered to provide definitions for “Bye law”, “Chairman or Vice-Chairman”, “Councillor”, “Member”, “National Securities Agencies”, “Public Fund of the Federation”, “Public Fund of the State” and “Supervisor.”

🔗 Third Schedule, Part I: Federal Executive Bodies

There is an amendment to the composition of the Council of State to include past Presidents of the Senate, past Speakers of the House of Representatives, the Minister of Justice (as against the Attorney-General) and six traditional rulers reflecting the Federal Character of Nigeria in the Council of States. Another amendment here includes that the Revenue Mobilization Allocation and Fiscal Commission is to determine the remuneration of the positions of Chairman, Vice-Chairman and Councilors of Local Councils of States.

🔗 Third Schedule, Part III: Federal Capital Territory Abuja, Executive Body

The word “executive” is deleted from the heading of part III of the Third Schedule. Also, the “Attorney General of the Federation” is substituted with the “Minister of Justice” and two persons are included in the composition of

the Judicial Service Committee of the Federal Capital Territory, Abuja; one of which must be a legal practitioner of not less than 12 years and the other not being a practitioner and opined by the President to be of unquestionable integrity. The Judicial Service Committee of the Federal Capital Territory, Abuja is also given power to appoint, promote and exercise disciplinary control over the Customary Court.

➤ **Fifth Schedule Part I, Code of Conduct for Public officers**

This amendment would prevent the Chairman, Vice Chairman and Councilors of Local Government Councils, in addition to other listed public officers, from operating or maintaining bank accounts outside Nigeria.

➤ **Seventh Schedule**

The alteration to the Seventh Schedule is a consequential amendment to the Oaths section to include the Chairmen and Members of the Local Government Councils.

REJECTED AMENDMENTS

➤ **Structure, Funding and Creation of Local Governments, Local Government Council Election Tribunals**

1. **Section 7 and new sections 7A-Z: Local government system**
This amendment was aimed at strengthening the administration of local governments in Nigeria by guaranteeing democratically elected local government councils in the Constitution and prescribing their administrative, executive, financial and legal autonomy.
2. **Section 124 (4): Remuneration, etc. of the governor and certain other officers**
This amendment made provisions for the remuneration of the Auditor-General of Local Government Councils, and for members of the State Local Government Service Commission, consequent to the proposal to amend provisions in section 7 that makes the local government a full third tier of government.
3. **Section 162: Distributable pool account**
One of the key amendments here was to abrogate the “State Joint Local Government Accounts” and instead, empower each Local Government to maintain its own special account to be called “Local Government Council Allocation Account” into which allocations due to them from the Federation Account and the Government of the State shall be directly paid. Furthermore, it provided that a State Government would have to pay a proportion of its internally generated revenue into the Local Government Council Allocation Account but in the manner prescribed by the State House of Assembly.

4. **Sections 201: Removal of members**

This amendment removes the State Independent Electoral Commission from “State Bodies” created in the Constitution and includes the State Local Government Service Commission as one of such bodies.

5. **Sixth Schedule**

This amendment establishes the composition and mode of appointment for officers of Local Government Council Election Tribunals.



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