

A BILL

FOR

AN ACT TO FURTHER ALTER THE CONSTITUTION OF THE FEDERAL
REPUBLIC OF NIGERIA TO PROVIDE FOR THE ESTABLISHMENT OF STATE
POLICE AND FOR RELATED MATTERS

Sponsored by Hon. Kayode Oladele

[] Commencement

BE IT ENACTED by the National Assembly of the Federal
Republic of Nigeria-

1 1. The Constitution of the Federal Republic of Nigeria (in this Act
2 referred to as "the Principal Act") is hereby further altered as set out under
3 this Bill. Alteration of the
Principal Act

4 2. Section 34 (2) (b) of the Principal Act is altered by substituting Alteration of
Section 34(2)(b)
5 for the words, "Nigeria Police Force", in line 2, the words, "Federal Police".

6 3. Section 35 (7) (b) of the Principal Act is altered by substituting Alteration of
Section 35(7)(b)
7 for the words, "Nigeria Police Force" in line 3, the words, "Federal Police".

8 4. Section 39 (3) (b) of the Principal Act is altered by substituting Alteration of
Section 39(3)(b)
9 for the words, "Nigeria Police Force", in line 3, the words, "Federal Police".

10 5. Section 42 (3) of the Principal Act is altered by substituting for Alteration of
Section 42(3)
11 the words, "Nigeria Police Force", in line 4, the words, "Federal Police".

12 6. Section 84 (4) of the Principal Act is altered by substituting for Alteration of
Section 84(4)
13 the words, "The Nigeria Police Council" and "The Police Service
14 Commission", in lines 17 and 18, with the words, "National Police Service
15 Commission" and "National Police Council";

16 7. Section 89 (2) of the Principal Act is altered by substituting for Alteration of
Section 89(2)
17 the words, "Nigeria Police Force", in line 2, with the words, "Federal
18 Police".

19 8. Section 129 (2) of the Principal Act is altered by substituting for Alteration of
Section 129(2)
20 the words, "Nigeria Police Force", in line 2, with the words, "State Police".

Alteration of
Section 153

1 9. Section 153 of the principal act is altered-

2 (a) In Section 153(1)(j) by substituting the words "Nigerian Police
3 Council" with the words "National Police Council".

4 (b) In Section 153(1)(m) by substituting the words "Police Service
5 Commission" with the words "National Police Service Commission".

Alteration of
Section 162(2)

6 10. Section 162 (2) of the Principal Act is altered by substituting for
7 the words, "Nigeria Police Force", in lines 4 and 5, the words, "Federal Police".

Alteration of
Section 197

8 11. Section 197 is altered by inserting a new "paragraph "d" after the
9 existing paragraph c in subsection 1 thus-

10 "(l)(d) State Police Service Commission"

11 12. The existing header of Chapter VI, Part III (B), "is substituted with
12 the words "Federal Police Service".

Alteration of
Section 214

13 13. Section 214 is altered by substituting the provisions with the
14 following:

15 *"Establishment of Federal and State Police"*

16 214 (1) The following bodies are hereby established for the
17 maintenance of public security, preservation of public order and security of
18 persons and property throughout the federation-

19 (i) The Federal Police, and

20 (ii) State Police.

21 (2) The National Assembly shall by an Act prescribe for the structure,
22 organisation, administration and powers of the Federal Police and provide
23 framework and guidelines for the establishment of State Police.

24 (3) The Federal Police shall-

25 (a) be responsible for the maintenance of public security, preservation
26 of public order and security of persons and property throughout the federation
27 to the extent provided for under this constitution or by an Act of the National
28 Assembly;

29 (b) Provide state policing for any state that is unable to operate a State
30 Police until such a time that a State Police is established by the House of

1 Assembly of that state.

2 (4) Subject to subsection 4 and other provisions of this
3 Constitution, the Federal Police shall not interfere with the operations of any
4 State Police or the internal security affairs of a state except in the following
5 instances-

6 (a) To contain serious threats to public order where it is shown that
7 there is a complete breakdown of law and order within a state which the State
8 Police is unable to handle;

9 (b) Where the Governor of the state requests the intervention of the
10 Federal Police to prevent or contain a breakdown of law and order in the
11 state;

12 (c) Where a State Police is unable to function owing to
13 administrative, financial or other problems which render it inoperative at a
14 given time;

15 Provided that any intervention under this sub-section shall only be
16 made after approval by two-third majority of the Senate".

17 (5) State Police shall be organised and administered in accordance
18 with such provisions as may be prescribed by a Law of the House of
19 Assembly of a State subject to the framework and guidelines established by
20 an Act of the National Assembly.

21 14. Section 215 is altered by substituting the provisions with the
22 following: "Appointment of Inspector General of Police and the
23 Commissioner of Police of a State".

Alteration of
Section 215

24 215 (1)(a) The Federal Police shall be headed by an Inspector-
25 General of Police who shall be appointed by the President on the advice of
26 the National Police Council from among serving members of the Federal
27 Police, subject to confirmation of such appointment by the Senate;

28 (b) The term of office of the Inspector General of Police shall be for
29 a period of five years only or until he attains a retirement age as provided by
30 law, whichever is earlier.

1 (2) The Federal Police shall be under the command of the Inspector-
2 General of Police including contingents of the Federal Police service stationed
3 in a state for the enforcement of federal laws and regulations and other
4 administrative or collaborative roles in a state.

5 (3) The President or such other Minister of the Government of the
6 Federation as he may authorise in that behalf may give to the Inspector-General
7 of Police such lawful directions with respect to the maintenance and securing
8 of public safety and public order as he may consider necessary, and the
9 Inspector-General of Police shall comply with those direction or cause them to
10 be complied with.

11 (4) State Police shall be headed by a Commissioner of Police who
12 shall-

13 (a) be appointed by the Governor of the state on the advice of the
14 National Police Service Commission. subject to confirmation of such
15 appointment by the House of Assembly of the State;

16 (b) The term of office of the Commissioner of Police under a State
17 Police shall be for a period of five years only or until he attains a retirement age
18 prescribed by law, whichever is earlier.

19 (5) The Governor or such other Commissioner of the Government of
20 the State as he may authorise in that behalf may give to the Commissioner of
21 Police such lawful directions with respect to the maintenance and securing of
22 public safety and public order as he may consider necessary, and the
23 Commissioner of Police shall comply with those directions or cause them to be
24 complied with;

25 Provided that where the Commissioner of Police feels that any order
26 given under this subsection is unlawful or contradicts general policing
27 standards or practice, he may request that the matter be referred to the State
28 Police Service Commission for review and the decision of the State Police
29 Service Commission shall be final.

30 (6) The question as to whether any, and if so what directions have been

1 given under this section shall not be inquired into by any court.

2 (7) An Act of the National Assembly may prescribe a bi-annual
3 certification review of the activities of State Police by the National Police
4 Service Commission to ensure they meet lip with approved national
5 standards and guidelines of policing and their operations do not undermine
6 national integrity, promote ethnic, tribal or sectional agenda or marginalize
7 any segment of the society within the state.

8 15. Section 216 is altered by substituting the provisions with the
9 following:

Alteration of
Section 216

10 *"Removal of: ispector General of Police and the Commissioner*
11 *of Police of a State"*

12 216 (J) An Inspector General of Police shall only be removed by
13 the President upon the recommendation of the National Police Council
14 praying that he be so removed on any of the following grounds-

- 15 (a) Misconduct in the performance of his official duties;
- 16 (b) Serious breach of policing standards;
- 17 (c) Conviction of any offence by a court of law or tribunal,
18 including administrative tribunals set up by the police authorities for
19 internal discipline of police officers; d. Indictment by a judicial body or
20 tribunal for corruption, fraud, embezzlement or other unacceptable
21 conducts in office;
- 22 (e) Bankruptcy;
- 23 (f) Mental Incapacity; and
- 24 (g) Participation in political activities of any kind either within or
25 outside the country and including sponsoring or giving aid to any political
26 group or movement.

27 Provided that such removal shall be subject to approval by a
28 resolution of a simple majority of the Senate.

29 (2) A Commissioner of Police of a State shall only be removed by
30 the Governor upon the recommendation of the National Police Service

1 Commission praying that he be so removed on any of the following grounds-

2 (a) Misconduct in the performance of his official duties;

3 (b) Serious breach of policing standards;

4 (c) Conviction of any offence by a court of law or tribunal, including
5 administrative tribunals set up by the police authorities for internal disciplining
6 of police officers;

7 (d) Indictment by a judicial body or tribunal for corruption, fraud,
8 embezzlement or other unacceptable conducts in office;

9 (e) Bankruptcy;

10 (f) Mental Incapacity; and

11 (g) Participation in political activities of any kind either within or
12 outside the state and including sponsoring or giving aid to any political group
13 of movement.

14 Provided that such removal shall be subject to approval by two-third
15 majority of the House of Assembly of the State.

16 (3) The Federal Government may from time to time provide grant or
17 aids to State Police on the recommendation of the National Police Service
18 Commission subject to the approval of the National Assembly.

19 (4) Members of the Federal and State Police shall be entitled to bear
20 arms in the execution of their policing duties and an Act of the National
21 Assembly shall specify from time to time the type of arms that members of
22 State Police shall bear."

23 **16.** The Second Schedule to the Constitution is altered as follows-

24 (a) In Part I by deleting item 45;

25 (b) In Part II by inserting a new subsection "29A" after the existing
26 sub-paragraph 29-

27 (a) the National Assembly may make laws for the organisation and
28 administration of the Federal Police and the framework for the structure,
29 powers and approved guidelines of State and community Police;

30 (b) The House of Assembly of a State may make laws for the

1 establishment, organisation and administration of state and community
2 police within the state and ancillary matters related thereto.

3 17. Part I of the Third Schedule to the principal Act is altered as
4 follows-

Alteration of
Part I of the
Third Schedule

5 (a) In item "L" by Substituting the words 'Nigeria Police Council'
6 with the words 'National Police Council' in the header and throughout "Item
7 L";

8 (b) Altering sub-paragraph C of Paragraph 27 to read "Chairman of
9 the National Police Service Commission".

10 (c) Substituting the provisions of sub-paragraph "cc" of paragraph
11 "21" as follows-

12 "Chairman of the State Police Service Commission of each State of the
13 Federation"

14 (d) Altering Paragraph 28 of item L by substituting the words
15 "Nigeria Police Force" with the phrase "Federal Police and State Police"
16 throughout paragraph 28.

17 (e) By altering item "M" as follows-

18 (a) Substituting the name 'Police Service Commission' with
19 'National Police Service Commission' in the header and throughout 'Item
20 M';

21 (b) Deleting the existing Paragraphs 29 and 30 of Item M and
22 replacing them with new Paragraphs 29 and 30 as follows-

23 "(29). The National Police Service Commission shall comprise the
24 following:

25 (a) A Chairman to be appointed by the President subject to the
26 confirmation of the Senate;

27 (b) Two members representing the National Human Rights
28 Commission;

29 (c) One representative of the Public Complaints Commission;

30 (d) A representative of the Nigerian Labour Congress to be

- 1 appointed by the President of the Nigerian Labour Congress:
- 2 (e) Six retired police officers not below the rank of Assistant
3 Commissioner of Police representing each of the Geo-Political zones of the
4 country to be appointed by the President subject to confirmation of the Senate:
- 5 (f) A representative of the Nigerian Bar Association to be appointed
6 by the President of the Nigerian Bar Association;
- 7 (g) A representative of the Nigerian Union of Journalists to be
8 appointed by the President of the Nigerian Union of Journalist;
- 9 (h) The Attorney General of each of the States of the Federation.
- 10 "(30) (1) The National Police Service Commission shall be
11 responsible for-
- 12 (i) the appointment of persons to offices (other than office of the
13 Inspector-General of Police) in the Federal Police;
- 14 (ii) exercising disciplinary control over members of the Federal
15 Police;
- 16 (iii) Recommending to the Governor of a State the appointment of the
17 Commissioner of Police, Deputy Commissioners of Police and Assistant
18 Commissioners of Police of the State Police based on a list submitted to it by
19 the State Police Service Commission of the relevant state and subject to
20 confirmation by the House of Assembly of the State;
- 21 (iv) Recommending to the Governor, the discipline and removal of
22 the Commissioner of Police, Deputy Commissioners of Police and Assistant
23 Commissioners of Police of the State Police;
- 24 (v) Supervising the activities of the Federal Police and State Police to
25 the extent provided for in this constitution or by an Act of the National
26 Assembly;
- 27 (vi) Prescribe standards for all police forces in the country in training,
28 criminal intelligence data bases, forensic laboratories and render assistance to
29 State Police in areas as may be requested by such State Police.

1 inserting a new item "D" after the existing item "C"-

2 *"D- State Police Service Commission"*

3 A State Police Service Commission shall comprise the following members-

4 (a) A Chairman to be appointed by the Governor subject to the
5 confirmation of the State House of Assembly;

6 (b) A representative of the Federal Government to be appointed by
7 the National Police Service Commission;

8 (c) Two members to be appointed by the National Human Rights
9 Commission who must be indigenes of the respective State;

10 (d) One representative of the Public Complaints Commission;

11 (e) A representative of the Nigerian Labour Congress to be
12 appointed by the Chairman of the state branch;

13 (f) Three retired police officers to be appointed by the Governor
14 one from each senatorial zone of the state subject to confirmation of the
15 State House of Assembly;

16 (g) A representative of the Nigerian Bar Association to be
17 appointed by the President of the Nigerian Bar Association who must be a
18 lawyer from the respective state;

19 (h) A representative of the Nigerian Union of Journalists to be
20 appointed by the Chairman of the state branch.

21 The Commission shall be responsible for-

22 (a) Recommending the appointment of a Commissioner of Police,
23 Deputy Commissioner of Police and Assistant Commissioner of Police to
24 the National Police Service Commission;

25 (b) the appointment, discipline and removal of members of the
26 state police below the rank of Assistant Commissioner of Police;

27 (c) other functions and powers of the commission as may be
28 specified either in the Constitution or a Law of the House of Assembly of a
29 State; and

30 (d) In recommending the appointment of a Commissioner of

1 Police, the Commission shall propose three qualified candidates to the
2 National Police Service Commission.

3 19. The Third Schedule Part I, Paragraph 8(1)(a) line 4, is altered by
4 substituting the words "Nigeria Police Force", with the words "Federal Police".

Citation

5 20. This Bill may be cited as the Constitution (Fifth Alteration) Bill,
6 2018.

EXPLANATORY MEMORANDUM

This Bill seeks to alter the provisions of the Constitution to establish State and Community Police; change the names of Nigeria Police Force to Federal Police Service; the Nigerian Police Service Commission to National Police Service Commission; the Nigerian Police Council to the National Police Council.