

A BILL

FOR

AN ACT TO PURSUANT TO SECTION 59(1)(B) OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED) TO ABROGATE LEGISLATIVE POWERS DELEGATED TO EXECUTIVE, ADMINISTRATIVE, JUDICIAL AND OTHER OFFICES, OFFICERS, AGENCIES AND AUTHORITIES FOR THE DETERMINATION, IMPOSITION, INCREASE, CANCELLATION, WITHDRAWAL OR REDUCTION OF TAXES, DUTIES, TARIFFS AND FEES AND TO PROHIBIT THE EXERCISE OF SUCH POWERS WITHOUT THE APPROVAL OF THE NATIONAL ASSEMBLY AND RELATED MATTERS

Sponsored by Hon. Garba Datti Muhammad

[] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 1.-(1) Powers delegated by means of any act of the National
2 Assembly to any executive, administrative, Judicial or other offices,
3 officers, agencies and authorities for the determination, imposition, and
4 increase cancellation, withdrawal or reduction of taxes, tariffs and or fees
5 are hereby abrogated.

Abrogation of
delegated Monetary
Powers

6 (2) The offices, officers; agencies and authorities to which this
7 section applies to include:

8 (a) Those listed under the first schedule hereto;

9 (b) Any other office, officers, agency or authority previously
10 delegated powers to determine, impose, increase, cancel, withdraw or
11 reduce taxes, duties, tariffs and/or fees under an Act of the National
12 Assembly;

13 (c) Any office, officer, agency or authority having statutory powers
14 to administer any form of tax, duty, tariff or fee under an Act of the
15 National Assembly;

1 (d) Any office, officer, agency or authority empowered to make rules
2 and regulations under an Act of the National Assembly pursuant to which that
3 office, officer, agency or authority has made or may make rules and/or
4 regulations prescribing the payment of any tax, duty, tariff of fee.

Regularisation
of the
implementation
of certain Monetary
Powers

5 2.-(1) Any executive, administrative, judicial or other office, officer,
6 agency or authority which or, as the case may be, who has been conferred with
7 powers by the Constitution of the Federal Republic of Nigeria 1999 (as
8 amended) to make rules, rules of practice and procedure and/or regulations
9 (whether or not there has been an Act of the National Assembly authorising it or
10 him in that behalf) pursuant to which that office, officer, agency or authority
11 has made rules and/or regulations prescribing the payment of any tax, duty,
12 tariff or fee shall not determine, impose, increase, cancel, withdraw or reduce
13 taxes, duties, tariffs and/or fees, as the case may be, without recourse to and
14 approval of the National Assembly and to procedures laid down by the
15 Constitution of the Federal Republic of Nigeria 1999 (as amended);

16 (2) The offices, officers, agencies and authorities to which this section
17 applies include those listed under the Second Schedule hereto and any other
18 office, officer, agency or authority which has been conferred with power by the
19 Constitution of the Federal Republic of Nigeria 1999 (as amended) to make
20 rules, rules of practice and procedure and/or regulations pursuant to which that
21 office, officer, agency or authority has made or intends to make rules, rules of
22 practice and procedure and/or regulations prescribing the payment of any tax,
23 duty, tariff or fee.

Prohibition of
imposition and
determination of
taxes, duties,
tariffs and fees
without approval
of the National
Assembly

24 3. It shall be unlawful for any office, officer, agency or authority of the
25 descriptions mentioned in sections 2 and 3 or any agency or authority at all to
26 unilaterally determine, impose, increase, cancel, withdraw or reduce taxes, -
27 duties, tariffs and/or fees without recourse to and approval of the National
28 Assembly and to procedures laid down by the Constitution of the Federal
29 Republic of Nigeria 1999 (as amended) and, as such and without prejudice to
30 the immunity to which certain officers and offices are privileged:

1 (1) Where any tax, duty, tariff or fee is imposed or increased and
2 implemented without the approval of the National Assembly properly
3 obtained, the persons from whom such tax, duty, tariff or fee is collected
4 shall be entitled to a refund to the extent of the sums collected within two (2)
5 calendar months from the date of such collection from the office, officer or
6 entity which or who, as the case may be, implemented the same;

7 (2) Where any tax, duty, tariff or fee is cancelled, withdrawn or
8 reduced and implemented without the approval of the National Assembly
9 properly obtained, the officer or administrative head of the office, agency or
10 authority (as the case may be) shall be liable to refund to the Government of
11 the Federation to the extent of the loss incurred by it within two (2) months
12 of the formal notification to the officer or administrative head of the office,
13 agency or authority;

14 (3) Where the officer or administrative head of the office, agency
15 or authority has not complied with the requirements of sub-section (2) of this
16 section, the sum shall be recovered from him using appropriate judicial
17 processes.

FIRST SCHEDULE

The offices, officers, agencies or authorities to which section 2(a) of this Act refers include:

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
1	President and Commander in Chief, Federal Republic of Nigeria	Companies Income Tax Act	s. 100
2	Chief Judge, Federal High Court with the approval of the National Council of Ministers	Federal High Court Act	s. 44(c)(i)
3	Federal Government	Stamp Duty Act	s. 4(1)
4	National Assembly	Stamp Duty Act	s. 116(1)
5	State Houses of Assembly	Stamp Duty Act	s. 116(2)
6	Minister of Finance	Value Added Tax Act	s. 38
7	Minister charged with responsibility for trade	Companies and Allied Matters Act	ss. 16(d), 549(1), 609
8	Minister charged with responsibility for Business Names	Companies and Allied Matters Act	s. 585(c)
9	Minister of Internal Affairs	Immigration Act	ss. 33(1), 51(1) &(2)
10	National Examinations Council	National Examinations Council (Establishment) Act	ss. 8, 13(2)(c)
11	West African Examinations Council	West African Examinations Council Act	s. 11(2)(c)
12	Minister charged with responsibility for Higher Education	Joint Admissions and Matriculation Board Act	ss. 10(b), 15
13	Nigerian Communications Commission	Nigeria Communications Act	s. 4(1)(g)
14	Nigerian Broadcasting Commission	Nigerian Broadcasting Commission Act	s. 13(1)(g)
15	Petroleum Products Pricing and Regulatory Agency	Petroleum Products Pricing and Regulatory Agency Act	ss. 7(a), 23

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
16	Nigerian Maritime Administration and Safety Agency	Nigerian Maritime Administration and Safety Agency Act	ss. 26(1) & (2)(a) & (b)
17	National Hajj Commission of Nigeria	National Hajj Commission of Nigeria Act	ss. 4(1)(a), 11(1)(a), 16(3), 24(1)(c)
18	Nigerian Civil Aviation Authority	Civil Aviation (Repeal and Re-Enactment) Act	s. 13(b), 30(2)(c) & (d)
19	Minister of Solid Minerals	Nigeria Minerals and Mining Act	s. 13
20	Small and Medium Scale Industries Development Agency	Small and Medium Scale Industries Development Agency (Establishment) Act	ss. 14(c), 26, 27
21	National Pension Commission	Pension Reform Act	ss. 21(d), 23(1)(c)
22	All Professional Regulatory Bodies	Statutes of All Professional Regulatory Bodies	Relevant Provisions
23	Governing Councils	Statutes of All Federal Universities	Relevant Provisions
24	Governing Councils	Statutes of All Federal Institutes	Relevant Provisions
25	Governing Councils with the approval of relevant Ministers	Statutes of All Federal Research Institutes	ss. 3(2)(d), 7
26	Governing Councils	Statutes of All Federal hospitals, Medical Centres and Teaching Hospitals	Relevant Provisions
27	Chief Judge, Federal High Court	Admiralty Jurisdiction Act	s. 21
28	Minister of Health	Anatomy Act	s. 2(1)
29	House of Representatives	Casino Taxation Act	s. 1(6)
30	Minister of Culture	Copyright Act	s. 45(2)(a)
31	President, Court of Appeal	Court of Appeal Act	s. 8(2)
32	Minister of Defence	Defence Industries Corporation of Nigeria	Ss 12(1), 6(c)

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
		Act	
33	President of the Federal Republic of Nigeria	Deep Offshore and Inland Basin Production Sharing Act	By reference to the s. 3(1) of the Petroleum Profits Tax Act and consequently s. 100 of the Companies Income Tax Act.
34	Minister of Power	Electricity Act	s. 4(a)
35	Minister responsible for explosives	Explosives Act	s. 1(2)(d)
36	Minister charged with responsibility for External Trade	Export of Nigeria Produce Act	s. 5(b)
37	Federal Airports Authority of Nigeria	Federal Airports Authority of Nigeria Act	s. 3(d)
38	President, Customary Court of Appeal	Federal Capital Territory Customary Court Act	s. 61(j) & (k)
39	Federal Character Commission	Federal Character Commission Act	s. 10(1)(c)
40	Federal Environmental Protection Agency	Federal Environmental Protection Agency Act	s. 13(2)(d)
41	Federal Housing Authority	Federal Housing Authority Act	s. 8(1)(b)
42	Federal Lands Registry	Federal Lands Registry (Miscellaneous Provisions) Act	s. 6
43	Board of Directors	Federal Mortgage Bank of Nigeria Act	s. 22(c)
44	Federal Radio Corporation of Nigeria	Federal Radio Corporation of Nigeria Act	s. 21(c)
45	Federal Road Safety Commission	Federal Road Safety Commission	s. 5(h)

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
		(Establishment) Act	
46	Federal Urban Mass Transit Agency	Federal Urban Mass Transit Agency Act	s. 11(2)(c)
47	The President or the Governor of a State	Firearms Act	ss. 32(1)(a), 32(2) respectively
48	Governing Council, National Agency for Food, Drug and Administration Control with the approval of the Minister of Health	National Agency for Food, Drug and Administration Control Act	s. 30(b)
49	Central Bank of Nigeria with the approval of the Minister of Finance	Foreign Exchange (Monitoring and Miscellaneous) Provisions Act	s. 5(2)
50	Commissioner responsible for Fisheries in a State	Inland Fisheries Act	s. 2(1)(c)
51	National Insurance Commission	Insurance Act	s. 97(2)
52	Securities and Exchange Commission	Investment and Securities Act	ss. 13(4), 313(1)(f)
53	Council of Legal Education	Legal Education (Consolidation) Act	ss. 8(3), 9
54	Governing Council with the approval of the Minister responsible for matters relating to the Academy	Maritime Academy of Nigeria Act	s. 5(1)(e)
55	Chief Justice of Nigeria	Matrimonial Causes Act	s. 112(1)(b)
56	Minister charged with responsibility for merchant shipping	Merchant Shipping Act	s. 435(q)
57	Minister charged with responsibility for Works and Housing	Mortgage Institutions Act	s. 25
58	Board of Customs and Excise	Motor Spirit (Returns) Act	s. 3(3)
59	Minister of Finance	Motor Vehicle (Third	s. 23(i)

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
		Party) Insurance Act	
60	Governing Board, National Agency for Science and Engineering Infrastructure with the approval of the President of the Federal Republic of Nigeria	National Agency for Science and Engineering Infrastructure Act	s. 35(b)
62	The Governing Board, National Agricultural Land Development Authority	National Agricultural Land Development Authority Act	s. 16(2)(d)
63	Minister charged with the responsibility for National Archives	National Archives Act	s. 49(e)
64	Management Board, National Centre for Agricultural Mechanisation with the approval of Minister of Agriculture	National Centre for Agricultural Mechanisation Act	s. 20(1)
65	The President of the Federal Republic of Nigeria	National Centre for Women Development Act	ss. 11(1)(c), 24
66	Minister with responsibility for antiquities, museums and national monuments with the approval of the National Council of Ministers	National Museums and Monuments Act	s. 18(2)
67	National Film and Video Censors Board with the approval of the Minister of Information	National Film and Video Censors Board Act	s. 10(1)(b)
68	National Health Insurance Scheme	National Health Insurance Scheme Act	s. 48(1)(i)
69	National Insurance Commission with the approval of the Minister charged with responsibility for Insurance	National Insurance Commission Act	s. 16(1)(e)
70	National Park Service with the approval of the Minister	National Park Service Act	s. 51(1)(s)

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
	responsible for matters related to Forestry		
71	Nigerian Communications Commission with the approval of the Minister of Communication	Nigerian Communications Commission Act	ss. 26(b), 31(2)(c)
72	Governing Board, Nigerian Airspace Management Agency with the approval of the Minister of Aviation	Nigerian Airspace Management Agency Act	ss. 7(1)(r), 11(b), 33
73	President of the Federal Republic of Nigeria	Nigerian Coal Corporation Act	s. 32
74	Minister responsible for matters related to Cooperative Societies	Nigerian Cooperative Societies Act	s. 3(8)
75	Minister charged with the responsibility for Culture	Copyright Act	s. 40(2)
76	Minister charged with responsibility for Economic Development	Nigerian Council for Management Development Act	s. 10(2)(d)
77	Nigeria Christian Pilgrim Commission	Nigeria Christian Pilgrim Commission Act	ss. 3(a), 18(1)(d)
78	Governing Board of the Joint Dock Labour Industrial Council	Nigerian Dock Labour Act	s. 17(4)
79	Board of Directors, Nigerian Education Bank with the approval of the Minister of Education	Nigerian Education Bank Act	s. 28(c)
80	Minister of Education with the approval of the President of the Federal Republic of Nigeria	Nigerian Educational Research and Development Council Act	ss. 15(2)(c), 23(2)
81	President of the Federal Republic of Nigeria/Minister of Information	Nigerian Film Corporation Act	ss. 4, 6(c)
82	Nigerian Investment Promotion	Nigerian Investment	s. 12(2)(b)

SERIAL NO.	OFFICE/ OFFICER/AGENCY/ AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
	Commission	Promotion Commission Act	
83	Nigerian Ports Authority	Nigerian Ports Authority Act	ss. 56, 62, 65
84	Nigerian Postal Service	Nigerian Postal Service Act	ss. 5(c) & (f), 52(2)(b)
85	Minister with responsibility for postal services	Nigerian Postal Service Act	ss. 44(3), 62(a)
86	Nigerian Railway Corporation	Nigerian Railway Corporation Act	s. 18
87	Minister responsible for matters related to shipping	Nigerian Shippers Council Act	ss. 7(2)(c), 3, 9
88	Development Control Department	Nigerian Urban and Regional Planning Act	s. 34(2) (c)
89	Chief Justice of Nigeria	Notaries Public Act	s. 5(3)
90	Nigerian Ports Authority	Oil Terminal Dues Act	S. 1(1)
91	Orthopaedic Hospitals Management Board with the approval of the Minister of Health	Orthopaedic Hospitals Management Board Act	s. 10(3)(b)
92	Not indicated or assigned	Patents and Design Act	s. 3(1)(b)(i), 15(1)(b)(i)
93	Minister charged with the responsibility for External Trade	Produce (Enforcement of Export) Standard Act	s. 7(1)(l)
94	Psychiatric Hospitals Management Board with the approval of the Minister of Health	Psychiatric Hospitals Management Board Act	s. 10(3)(b)
95	National Council on Privatisation	Public Enterprises (Privatisation and Commercialisation) Act	s. 20(2)(c)
96	Chief Justice of Nigeria	Sheriffs and Civil Process Act	s. 111(c) & (d)
97	Standard Council of Nigeria	Standard Organisation of Nigeria Act	ss. 7, 23

EXPLANATORY MEMORANDUM

SERIAL NO.	OFFICE/OFFICER/AGENCY/AUTHORITY	ACT OF THE NATIONAL ASSEMBLY	PROVISION
98	Minister charged with responsibility for Trade Marks	Trade Marks Act	s. 45(1)(e)
99	Utilities Charges Commission	Utilities Charges Commission Act	s. 7(1)
100	Voice of Nigeria Corporation with the approval of the Minister for Information	Voice of Nigeria Act	s. 19(b)
101	Minister charged with the responsibility for Trade	Weights and Measure Act	ss. 47(2)(a), 48(2)
102	Nigerian Communications Commission and the Nigerian Broadcasting Commission with the approval of the Minister charged with the responsibility for Wireless Telegraphy	Wireless Telegraphy Act	ss. 7(1), 9(1), 28(c)

SECOND SCHEDULE

The offices, officers, agencies or authorities to which section 3(2) of this Act refers include:

SERIAL NO.	OFFICE/OFFICER/AGENCY/AUTHORITY	CONSTITUTION	PROVISION
1	Chief Justice of Nigeria	Constitution of the Federal Republic of Nigeria 1999 (as amended)	s. 236
2	The President of the Court of Appeal	Constitution of the Federal Republic of Nigeria 1999 (as amended)	s. 248
3	The Chief Judge of the Federal High Court	Constitution of the Federal Republic of Nigeria 1999 (as amended)	s. 254
4	The Chief Judge of the High Court of the Federal Capital Territory	Constitution of the Federal Republic of Nigeria 1999 (as amended)	s. 259

EXPLANATORY MEMORANDUM

This Bill, which is proposed pursuant to section 59(1)(a) of the Constitution of the Federal Republic of Nigeria 1999 (as amended), seeks, amongst others, to revoke the powers unconstitutionally delegated (in that the powers cannot be delegated in view of the mandatory nature of the section) to many executive, judicial and other offices, officers, agencies and authorities to unilaterally determine, impose, increase, cancel, withdraw or reduce taxes, duties, tariffs and fees without the approval of the National Assembly and outside of the procedures laid down by section 59(1) - (5) of the Constitution of the Federal Republic of Nigeria 1999 (as amended). It seeks to help entrench a planned, modern economy.