

A BILL

FOR

AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 TO INTRODUCE THE OFFICE OF THE ATTORNEY-GENERAL OF THE FEDERATION ETC, DISTINCT AND SEPARATE FROM MINISTER, ETC, AND FOR RELATED MATTERS

Sponsored by Hon. Mohammed Tahir Monguno

[] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows-

1 **1.** The Constitution of the Federal Republic of Nigeria, 1999, Alteration of the
2 (hereinafter called "the Principal Act") is altered as set out in this Bill. 1999 Constitution

3 **2.-**(a) Section 150 (1) of the Principal Act is altered by substituting Alteration of
4 the existing section 150 (1) with new section 150 (1) thus: Section 150

5 "150 (1) There shall be a Minister of Justice who shall be a Minister
6 of the Government of the Federation".

7 (b) Section 150 (2) of the Principal Act is altered by deleting the
8 words "Attorney- General" appearing in line 2 thereof, and insert instead the
9 words "Minister of Justice".

10 (c) The side note of section 150 of the Principal Act is altered by
11 deleting the words "Attorney-General" and insert instead the words,
12 "Minister of Justice".

13 **3.** Section 174 of the Principal Act is altered by substituting for the Attorney-General
14 existing section 174, new provisions as follows: of the Federation

15 "174 (1) There shall be an Attorney-General of the Federation".

16 (2) A person shall not be qualified to hold or perform the function
17 and powers of the Office of the Attorney-General of the Federation unless he
18 is:

19 (a) qualified to practice as a legal practitioner in Nigeria and has

1 been so qualified for not less than Fifteen years;

2 (b) “a person of integrity and is not a Member of any political party”.

3 (3) (a) The President shall appoint the Attorney-General of the
4 Federation upon recommendation by the National Judicial Council, and
5 subject to confirmation by the Senate;

6 (b) The Attorney-General of the Federation shall hold office for a term
7 of Five years and it may be renewed for a further term of Five years and no
8 more, or he attains the age of Sixty-Five years, whichever is earlier.

9 (4) The Attorney-General of the Federation shall in the discharge of
10 his functions under this Constitution not be subject to the direction or control of
11 any other person or authority;

12 (5) Subject to the provisions of this Constitution, the Attorney-
13 General of the Federation shall have power to:

14 (a) institute and undertake criminal proceedings against any person
15 before any Court by law in Nigeria, other than a Court-Martial, in respect of
16 any offence created by or under an Act of the National Assembly;

17 (b) take over and continue any such criminal proceedings that may
18 have been instituted by any other person or authority;

19 (c) discontinue at any stage before judgment is delivered any such
20 criminal proceedings instituted or under taken by him or any other person or
21 authority;

22 (d) carry out such other functions as may be conferred upon the office
23 by the resolution of House of the National Assembly;

24 (6) (a) The power conferred upon the Attorney-General of the
25 Federation under sub-section 5 of this section may be exercised by him in
26 person or through officers of his department;

27 (b) in exercising his powers under this section, the Attorney-General
28 of the Federation shall have regard to the public interest, the interest of justice
29 and the need to prevent abuse of legal process;

30 (c) the question whether the Attorney-General of the Federation has

1 exercised his powers in accordance with paragraph (b) of this sub-section,
2 shall be subject to the determination of the Court;

3 (7) The Attorney-General of the Federation may be removed from
4 Office by the President acting on a resolution supported by two-thirds
5 majority of the Members of the National Assembly praying that he be so
6 removed for inability to discharge the functions of his office (whether
7 arising from infirmity of mind or body or any other cause) or for misconduct,
8 negligence of duty or incompetence;

9 4. Section 195 of the Principal Act, is altered by substituting for
10 the existing section 195 (1), a new section 195 (1) thus:

Alteration of
Section 195

11 "150 (1) There shall be a Commissioner for Justice who shall be a
12 Commissioner of the Government of the Federation".

13 (b) Section 195 (2) of the Principal Act is altered by deleting the
14 words "Attorney- General" appearing in line 2 thereof, and insert instead the
15 words "Commissioner for Justice".

16 (c) The side note of section 195 of the Principal Act is altered by
17 deleting the words "Attorney-General" and insert instead the words,
18 "Commissioner for Justice".

19 5. Section 211 (1) of the Principal Act is altered by substituting for
20 the existing section 211(1), new provisions as follows:

Alteration of
Section 211

21 "211 (1) There shall be an Attorney-General of the State".

22 (2) A person shall not be qualified to hold or perform the function
23 and powers of the Office of the Attorney-General of the State unless he is:

24 (a) qualified to practice as a legal practitioner in Nigeria and has
25 been so qualified for not less than Fifteen years;

26 (b) "a person of integrity and is not a Member of any political
27 party".

28 (3) (a) The Governor shall appoint the Attorney-General of the
29 State upon recommendation by the Judicial Service Commission, and
30 subject to confirmation by the State Assembly;

1 (b) The Attorney-General of the State shall hold office for a term of
2 Five years and it may be renewed for a further term of Five years and no more,
3 or he attains the age of Sixty-Five years, whichever is earlier;

4 (4) The Attorney-General of the State shall in the discharge of his
5 functions under this Constitution not be subject to the direction or control of
6 any other person or authority;

7 (5) Subject to the provisions of this Constitution, the Attorney-
8 General of the State shall have power to:

9 (a) institute and undertake criminal proceedings against any person
10 before any Court by law in Nigeria, other than a Court-Martial, in respect of
11 any offence created by or under an Act of the National Assembly or law made
12 by the State House of Assembly;

13 (b) take over and continue any such criminal proceedings that may
14 have been instituted by any other person or authority;

15 (c) discontinue at any stage before judgment is delivered any such
16 criminal proceedings instituted or under taken by him or any other person or
17 authority;

18 (d) carry out such other functions as may be conferred upon the office
19 by the resolution of House of the State Assembly;

20 (6) (a) The power conferred upon the Attorney-General of the State
21 under sub- section 5 of this section may be exercised by him in person or
22 through officers of his department;

23 (b) in exercising his powers under this section, the Attorney-General
24 of the State shall have regard to the public interest, the interest of justice and the
25 need to prevent abuse of legal process;

26 (c) the question whether the Attorney-General of the Federation has
27 exercised his powers in accordance with paragraph (b) of this sub-section, shall
28 be subject to the determination of the Court;

29 (7) The Attorney-General of the State may be removed from Office by
30 the Governor acting on a resolution supported by two-thirds majority of the

1 Members of the State Assembly praying that he be so removed for inability
2 to discharge the functions of his office (whether arising from infirmity of
3 mind or body or any other cause) or for misconduct, negligence of duty or
4 incompetence;

5 6. Section 315 (5) of the Principal Act is altered by introducing
6 full stop after the word "Constitution in line 3 and deleting thereof the
7 following, "and shall not be altered or repealed except in accordance with
8 the provisions of section 9 (2) of this Constitution" starting from the end of
9 lines 3-5.

Alteration of
Section 315

10 7. This Bill may be cited as the Constitution of the Federal
11 Republic of Nigeria, 1999 (Alteration) Bill, 2016.

Short Title

EXPLANATORY MEMORANDUM

This Bill seeks to Alter the Constitution of the Federal Republic of Nigeria,
1999 to introduce the Office of the Attorney-General of the Federation etc,
distinct and separate from Minister, etc.