

# A BILL

## FOR

AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 TO GIVE ADDITIONAL JURISDICTIONS TO THE SHARIA COURTS AND CUSTOMARY COURTS OF APPEAL; AND FOR RELATED MATTERS

*Sponsored by Hon. E.Y. Orker-Jev*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria:

- 1           1. The Constitution of the Federal Republic of Nigeria, 1999      Alteration of the
- 2 (herein referred to as the "Principal Act") is altered as set      1999 Constitution
- 3 out below:
- 4           2. Section 237 (2) (b) of the Principal Act is altered by substituting      Amendment of
- 5 for the existing provisions, new provisions as follows:      Section 237
- 6           “(2) (b) such number of Justices of the Court of Appeal, not less
- 7 than One Hundred of which not less than Seventeen shall be learned in
- 8 Islamic Law, and not less than Seventeen shall be learned in Customary law,
- 9 as may be prescribed by an Act of the National Assembly”.
- 10          3. Section 244 (1) of the Principal Act is altered by inserting a full      Alteration of
- 11 stop after the words "Sharia Court of Appeal" in lines 2-3 and      Section 245
- 12 deleting all the subsequent provisions thereafter.
- 13          4. Section 245 (1) of the Principal Act is altered by inserting a full      Alteration of
- 14 stop after the word "Customary Court of Appeal" in line 3, and deleting all      Section 245
- 15 the subsequent provisions thereafter.
- 16          5. Section 262 (1) of the Principal Act is altered by substituting for      Alteration of
- 17 the existing provisions, new provisions as follows:      Section 262
- 18           “262 (1) The Sharia Court of Appeal of the Federal Capital
- 19 Territory, Abuja, shall in addition to such other jurisdiction as may be

1 conferred upon it by an Act of the National Assembly, exercise such appellate  
2 and supervisory jurisdiction in civil proceedings where the subject matter of  
3 the claim is on, or relates to Islamic Law;”

4 (b) Section 262 (2) of the Principal Act is altered by deleting entirely  
5 sub-section 262 (2);

Alteration of  
Section 267

6 6. Section 267 of the Principal Act is altered by substituting for the  
7 existing provisions, new provisions as follows:

8 “267 (1) The Customary Court of Appeal of the Federal Capital  
9 Territory, Abuja, shall in addition to such other jurisdiction that may be  
10 conferred upon it by an Act of the National Assembly, exercise such appellate  
11 and supervisory jurisdiction in civil proceedings where the subject matter of  
12 the claim is in or relates to customary law and other ancillary matters.”

13 (2) The Customary Court of Appeal of the Federal Capital Territory,  
14 Abuja, shall have and exercise Exclusive Original jurisdiction in chieftaincy  
15 matters.

Alteration of  
Section 277

16 7. Section 277 of the Principal Act is altered by substituting for the  
17 existing provisions, new provisions as follows:

18 “277 (1) The Sharia Court of Appeal of a State shall in addition to such  
19 other jurisdiction as may be conferred upon it by a law of the State House of  
20 Assembly, exercise such appellate and supervisory jurisdiction in civil  
21 proceedings where the subject matter of the claim is on or relates to Islamic  
22 Law.”

23 (2) The Sharia Court of Appeal of a State shall have and exercise  
24 Exclusive Original jurisdiction in Emirship matters.

25 (3) A Sharia Court of Appeal of a State shall be competent to decide:

26 (a) any question of Islamic law regarding a marriage concluded in  
27 accordance with that law, including question relating to the validity or  
28 dissolution of such a marriage a question that depends on such a marriage and  
29 relating to any family relationship or guardianship of an infant;

30 (b) where all the parties to the proceedings are Muslims, any question

1 of Islamic Law regarding to a marriage, including the validity or dissolution  
2 of that marriage, or regarding family relationship, a founding a or  
3 guardianship of an infant;

4 (c) question of Islamic law regarding a wakf, gift, will or  
5 succession where the endower donor, testator or deceased person is a  
6 Muslim;

7 (d) any question of Islamic Law regarding an infant, prodigal or  
8 person of unsound mind who is a Muslim or the maintenance or the  
9 guardianship of a Muslim who is physically or mentally infirm; or

10 (e) where all the parties to the proceedings, being Muslims, have  
11 requested the court that hears the case in the first instance to determine that  
12 case in accordance with Islamic personal law, any other question.

13 8. Section 282 of the Principal Act is altered by substituting for the  
14 existing provisions, new provisions as follows:

Alteration of  
Section 282

15 (1) The Customary Court of Appeal of a State shall in addition to  
16 such other jurisdiction that may be conferred upon it by an Act of the State  
17 House of Assembly, exercise such appellate and supervisory jurisdiction in  
18 civil proceedings where the subject matter of the claim is on, or relates to  
19 Customary law and other ancillary matters;

20 (2) The Customary Court of Appeal of the State shall have and  
21 exercise Exclusive Original Jurisdiction in Chieftaincy matters;

22 (3) A Customary Court of Appeal of the State shall have and  
23 exercise such jurisdiction and decide such questions as may be prescribed by  
24 the House of Assembly of the State for which it is established.

25 9. Section 287 (3) of the Principal Act is altered by substituting for  
26 the existing provision, a new provision as follows:

Alteration of  
Section 287

27 "The decision of the Federal High Court, The National Industrial  
28 Court, a High Court of the Federal Capital Territory, Abuja, a High Court of a  
29 State, Sharia Court of Appeal of the Federal Capital Abuja, the Sharia Court  
30 of Appeal of a State, Customary Court of Appeal of the Federal Capital

1 Abuja, the Customary Court of Appeal of a State, Code of Conduct Tribunal,  
2 established by this Constitution shall be enforced in any part of the Federation  
3 by all authorities and persons, and by other Courts of Law with subordinate  
4 jurisdiction to that of the Federal High Court, The National Industrial Court, a  
5 High Court of the Federal Capital Territory, Abuja, a High Court of a State,  
6 Sharia Court of Appeal of the Federal Capital Abuja, the Sharia Court of  
7 Appeal of a State, Customary Court of Appeal of the Federal Capital Abuja, the  
8 Customary Court of Appeal of a State, Code of Conduct Tribunal,  
9 respectively.”

Alteration of  
paragraph 12  
Third Schedule

10 **10.** Paragraph 12 of part 1, Third Schedule to the Principal Act is  
11 altered by inserting immediately after the existing item (d), new item (e) (f) and  
12 (g):

13 “(e) the Chief Judge of the Federal Capital Territory High Court;  
14 (f) the Grand Kadi of the Federal Capital Territory Sharia Court of  
15 Appeal;  
16 (g) the President of the Federal Capital Territory Customary Court of  
17 Appeal; and the existing items (e) and (f) becomes new items (h) and (i).

Alteration of  
paragraph 20  
Third Schedule

18 **11.** Paragraph 20 of Part I, Third Schedule to the Principal Act is  
19 altered by substituting for the existing items (g) and (h), new provisions as  
20 follows:

21 “(g) five serving Grand Kadis and two retired Grand Kadis of Sharia  
22 Court of Appeal to be appointed by the Chief Justice of Nigeria from among the  
23 serving and retired Grand Kadis of the Sharia Courts of Appeal as the case may  
24 be, to serve in rotation for two years;

25 (h) five serving Presidents and two retired Presidents of Customary  
26 Courts of Appeal to be appointed by the Chief Justice of Nigeria from among  
27 the serving and retired Presidents of Customary Courts of Appeal as the case  
28 may be to serve in rotation for two years.”

Alteration of the  
Sixth Schedule

29 **12.** Paragraph 1 (2) of the Sixth Schedule is altered to read:

30 “(a) five serving Presidents and two retired Presidents of Customary

1 Courts of Appeal to be appointed by the Chief Justice of Nigeria from among  
2 the serving and retired Presidents of Customary Courts of Appeal as the case  
3 may be, to serve in rotation for two years”;

4 (b) “five serving Presidents and two retired Presidents of  
5 Customary Courts of Appeal to be appointed by the Chief Justice of Nigeria  
6 from among the serving and retired Presidents of Customary Courts of  
7 Appeal as the case may be, to serve in rotation for two years”;

8 (c) “The Chairman shall be a Judge of the High Court or Kadi of the  
9 Sharia Court of Appeal or Judge of the Customary Court of Appeal who shall  
10 be a legal practitioner and the two other members shall be appointed from  
11 among the Judges of the High Court, the Kadis of the Sharia Courts of  
12 Appeal and Judges of the Customary Courts of Appeal;”.

13 13. Paragraph 6 (c), Part II Third Schedule is altered by inserting  
14 the words "Deputy Chief Registrars" immediately after the words " Chief  
15 Registrars" before the words "of the Sharia Court of Appeal and Customary  
16 Court Appeal".

Alteration of Part  
II Third Schedule

17 14. This Bill may be cited as the Constitution of the Federal  
18 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 give additional jurisdictions to the Sharia Courts and Customary Courts of Appeals.

