

# A BILL

## FOR

AN ACT TO ALTER SECTION 7 OF THE CONSTITUTION OF THE FEDERAL  
REPUBLIC OF NIGERIA 1999 (AS AMENDED) AND FOR RELATED MATTERS,  
2017

*Sponsored by Hon. Tony Nwoye*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal

1 Republic of Nigeria:

2 1. -(1) The principal Act is altered by substituting Section 7 (1) with  
3 new Subsection sections 7 (1) (a) - (z):

Alteration of  
Section 7(1) of  
the Principal Act

4 7 (1) (a) There shall be for each Local Government Council a  
5 Chairman and a Vice-Chairman.

Chairman and  
Vice-Chairman

6 7 (1) (b). A person shall be qualified for election to the Office of  
7 Chairman if-

Qualifications of  
Chairman

8 (a) he is a citizen of Nigeria;

9 (b) he has attained the age of 25 years; and

10 (c) he has been educated up to at least the School Certificate level  
11 or its equivalent.

12 7(1) (c). (1) a person shall not be qualified for election to the Office  
13 of Chairman if-

Disqualifications  
of Chairman

14 (a) he does any act, acquires any status or suffers any disability  
15 which, if he were a member of a House of Assembly, would have  
16 disqualified him for membership of that House; and

17 (b) he has been elected to such Office at two previous elections.

18 (2) A Chairman shall not hold any other executive office or paid  
19 employment in any capacity whatsoever during his tenure of office.

20 7(1) (d). A person elected to the Office of Chairman shall not begin  
21 to perform the functions of that Office until he has declared his assets and

Declaration of  
Assets and Liabilities:  
Oaths of Chairman

1 liabilities as prescribed in this Constitution and has subsequently taken and  
2 subscribed before the Chief Judge of the State or his nominee, the Oath of  
3 Allegiance and the Oath of Office as prescribed in the Seventh Schedule to this  
4 Constitution.

Election of  
Chairman

5 7(1) (e). (1) An election to the Office of Chairman shall be held on a  
6 date to be appointed by the Independent National Electoral Commission.

7 (2) An election to the said Office shall be held on a date not earlier  
8 than one hundred and fifty days and not later than thirty days before the  
9 expiration of the term of Office of the last holder of that Office.

10 (3) Where in an election to the Office of Chairman-

11 (a) at the close of nomination only one candidate has been nominated,  
12 the Independent National Electoral Commission shall extend the time for  
13 nomination; or

14 (b) at the close of nomination one of the candidates nominated for the  
15 election is the only candidate by reason of the disqualification, withdrawal,  
16 incapacitation, disappearance, or death of the other candidates, the  
17 Independent National Electoral Commission shall extend the time for  
18 nomination, so that where after the extension only one candidate remains  
19 validly nominated, there shall be no further extension.

20 (4) A candidate for election to the Office of Chairman shall be  
21 deemed to have been duly elected where, being the only candidate nominated  
22 for election, he has majority of yes votes cast at the election, but where the only  
23 candidate fails to be elected in accordance with this subsection, there shall be  
24 fresh nominations.

25 (5) A candidate for an election to the Office of Chairman shall be  
26 deemed to have been duly elected where, there being two or more candidates,  
27 he has a majority of the valid votes cast at the election.

28 (6) In default of a candidate being duly elected- under subsection (4)  
29 of this section, the Independent National Electoral Commission shall, within  
30 30 days of the declaration of results, order another or further nominations and

1 election until the emergence of a candidate as provided for in this section;

2 (b) under subsection (5) of this section by reason of a tie the  
3 Independent National Electoral Commission shall declare as duly elected  
4 that candidate who scored the highest number of votes in a majority of wards  
5 in the Local Government Area.

6 (7) For the purpose of an election under this section, a Local  
7 Government Area shall be regarded as one constituency.

8 7(1) (f). (1) In any election to a Local Government Council under  
9 this Constitution, a candidate for the Office of Chairman shall not be deemed  
10 to have been validly nominated for such Office unless he nominates another  
11 candidate as his associate for his running for the Office of Chairman who is  
12 to occupy the office of Vice-Chairman and that candidate shall be deemed to  
13 have been duly elected to the Office of Vice-Chairman if the candidate who  
14 nominated him is duly elected as Chairman in accordance with the  
15 provisions of this Constitution.

Nomination and  
election of Vice-  
Chairman

16 (2) The provisions of this Constitution relating to qualification for  
17 election, tenure of Office, disqualification, declaration of assets and  
18 liabilities and Oaths of man shall apply in relation to the Office of Vice-  
19 Chairman as if references to Chairman were references to Vice-Chairman.

20 7(1) (g). (1) The Chairman or Vice-Chairman may be removed  
21 from Office in accordance with the provisions of this section.

Removal of  
Chairman or Vice-  
Chairman

22 (2) Whenever a notice of any allegation in writing signed by not  
23 less than one- half of the Members of the Local Government Legislative  
24 Council-

25 (a) is presented to the Leader of the Local Government Legislative  
26 Council;

27 (b) stating that the holder of such Office is guilty of gross  
28 misconduct in the performance of the functions of his Office, detailed  
29 particulars of which shall be specified, the Leader of the Local Government  
30 Legislative Council shall, within seven days of the notice, cause a copy

1       thereof to be served on the holder of the Office and on each Member of the  
2       Local Government Legislative Council and shall cause any statement made in  
3       reply within seven days from the date of service of the allegation by the holder  
4       of the Office to be served on each Member of the Local Government  
5       Legislative Council.

6               (3) Within 14 days of the presentation of the notice, (whether or not  
7       any statement was made by the holder of the Office in reply to the allegation  
8       contained in the notice) the Local Government Legislative Council shall  
9       resolve by Motion without any debate whether or not the allegation shall be  
10      investigated.

11              (4) A Motion of the Local Government Legislative Council that the  
12      allegation be investigated shall not be declared as having been passed unless it  
13      is supported by the votes of not less than two-thirds majority of all the  
14      Members of the Local Government Legislative Council.

15              (5) Within 7 days of the passing of a Motion under this section, the  
16      Leader of the Local Government Legislative Council shall inform the Chief  
17      Judge of the State who shall appoint a panel of seven persons who, in his  
18      opinion, are of unquestionable integrity not being members of any public  
19      service, legislative house or political party to investigate the allegation as  
20      provided in this section.

21              (6) The holder of an Office whose conduct is being investigated under  
22      this section shall have the right to defend himself in person or be represented  
23      before the panel by a legal practitioner of his own choice.

24              (7) A panel appointed under this section shall-

25              (a) have such powers and exercise its functions in accordance with  
26      such procedure as may be prescribed by Law; and

27              (b) within three months of its appointment report its findings to the  
28      Local Government Legislative Council.

29              (8) Where the panel reports to the Local Government Legislative  
30      Council that the allegation has not been proved, no further proceedings shall be

1 taken in respect of the matter.

2 (9) Where the Report of the panel is that the allegation against the  
3 holder of the Office has been proved, then within 14 days of the receipt of the  
4 Report, the Local Government Legislative Council shall consider the report  
5 and If by a resolution of the Local Government Legislative Council  
6 supported by not less than two-thirds majority of all its Members, the Report  
7 of the panel is adopted, then the holder of the Office shall stand removed  
8 from Office as from the date of the adoption of the Report.

9 (10) In this section, "gross misconduct" means a grave violation of  
10 the Oath of Office or breach of the provisions of this Constitution or a  
11 misconduct of such nature as amounts, in the opinion of the Local  
12 Government Legislative Council, to a gross misconduct.

13 7(1) (h). (1) The Chairman or Vice-Chairman shall cease to hold  
14 Office if-

Permanent  
incapacity of  
Chairman and  
Vice-Chairman

15 (a) by a resolution passed by two-thirds majority of all the  
16 Members of the Local Government Legislative Council, it is declared that  
17 the Chairman or the Vice- Chairman is incapable of discharging the  
18 functions of his Office; and

19 (b) the declaration is verified, after such medical examination as  
20 may be necessary, by a medical panel established under subsection (4) of  
21 this section in its Report to the Leader of the Local Government Legislative  
22 Council.

23 (2) Where the medical panel certifies in such Report that in its  
24 opinion, the Chairman or Vice-Chairman is suffering from such infirmity of  
25 body or mind as renders him permanently incapable of discharging the  
26 functions of his Office, a notice thereof signed by the Leader of the Local  
27 Government Legislative Council shall be published in a Journal of the Local  
28 Government.

29 (3) The Chairman or Vice-Chairman shall cease to hold Office  
30 from the date of publication of the notice of the medical report pursuant to

1 subsection (2) of this section.

2 (4) The medical panel to which this section relates shall be appointed  
3 by the Leader of the Local Government Legislative Council and shall comprise  
4 three medical practitioners in Nigeria-

5 (a) one of whom may be a medical practitioner of the choice of the  
6 officer concerned; and

7 (b) two other medical practitioners.

Discharge of  
functions of  
Chairman

8 7(1) (i). (1) The Vice-Chairman shall hold the Office of Chairman of  
9 the Council if the Office of the Chairman becomes vacant by reason of death,  
10 resignation or removal from Office in accordance with the provisions of this  
11 Constitution.

12 (2) Where any vacancy occurs in the circumstances mentioned in  
13 subsection (1) of this section during a period when the Office of Vice-  
14 Chairman is also vacant, the Leader of the Local Government Legislative  
15 Council shall hold the Office of Chairman for a period of not more than 3  
16 months, during which there shall be an election of a new Chairman, who shall  
17 hold Office in accordance with the provisions of this Constitution.

18 (3) Where the office of Vice-Chairman becomes vacant-

19 (a) by reason of death or resignation or removal in accordance with  
20 the provisions of this Constitution;

21 (b) by his assumption of the Office of Chairman in accordance with  
22 subsection (1) of this section; or

23 (c) for any other reason, the Chairman shall nominate, and with the  
24 approval of the Local Government Legislative Council, appoint a new Vice-  
25 Chairman.

Establishment  
of Local  
Government  
Executive Council

26 7(1) (j). (1) Subject to the provisions of this Constitution, the executive  
27 powers of a Local Government Council-

28 (a) shall be vested in the Chairman of that Local Government Council  
29 and may, subject as aforesaid to the provisions of any bye-law made by the  
30 Local Government Legislative Council, be exercised by him either directly or

1 through the Vice-Chairman or Supervisors of the Local Government  
2 Councilor officers in the service of the Local Government Council; and

3 (b) shall extend to the execution and maintenance of this  
4 Constitution, all bye- laws made by the Local Government Legislative  
5 Council and to all matters with respect to which the Local Government  
6 Legislative Council has, for the time being, power to make bye-laws; but  
7 such executive powers shall be so exercised as not to impede or prejudice the  
8 exercise of the executive powers of the Federation or of the State in which  
9 the Local Government Area concerned is situated or to endanger assets or  
10 investments of the Government of the Federation or of the State in the Local  
11 Government Area.

12 (2) The Chairman shall assign to the Vice-Chairman specific  
13 responsibilities for any business of the Local Government Council.

14 (3) The Chairman shall, in his discretion, assign to any Supervisor  
15 of the Local Government Council responsibility for any business of the  
16 Local Government Council, including the administration of any department  
17 of the Local Government Council.

18 (4) The Chairman shall hold regular meetings with the Vice-  
19 Chairman and all the Supervisors for the purpose of-

20 (a) determining the general direction of the policies of the Local  
21 Government Council;

22 (b) coordinating the activities of the Local Government Council;

23 and

24 (c) generally discharging the executive functions of the Local  
25 Government Council.

26 (5) Whenever the Chairman is proceeding on vacation or is  
27 otherwise unable to discharge the functions of his Office, he shall transmit a  
28 written declaration to the Leader of the Local Government Legislative  
29 Council to that effect, and until he transmits to the Leader of the Local  
30 Government Legislative Council a written declaration to the contrary, the

1 Vice Chairman shall perform the functions of the Chairman as Acting  
2 Chairman.

3 (6) In the event that the Chairman is unable or fails to transmit the  
4 written declaration mentioned in subsection (5) of this section within 21 days,  
5 the Local Government Legislative Council shall, by a resolution made by a  
6 simple majority of the vote of its Members, mandate the Vice Chairman to  
7 perform the functions of the Office of the Chairman as Acting Chairman, until  
8 the Chairman transmits a letter to the Leader of the Local Government  
9 Legislative Council that he is now available to resume his functions as  
10 Chairman.

Tenure of Office  
of Chairman

11 7(1) (k). (1) Subject to the provisions of this Constitution, a person  
12 shall hold the Office of Chairman until-

- 13 (a) his successor in Office takes the Oath of that Office;  
14 (b) he dies while holding such Office;  
15 (c) the date when his letter of resignation from Office takes effect;  
16 (d) he otherwise ceases to hold Office in accordance with the  
17 provisions of this Constitution; or  
18 (e) he becomes a member of a secret society.

19 (2) Subject to the provisions of subsection (1) of this section, the  
20 Chairman shall vacate his Office at the expiration of a period of four years  
21 commencing from the date when-

- 22 (a) he took the Oath of Allegiance and the Oath of Office, and (b) the  
23 person last elected to that Office took the Oath of Allegiance and the Oath of  
24 Office or would, but for his death, have taken such Oaths.

Death of Chairman-  
Elect before Oath  
of Office

25 7(1) (I). If a person duly elected as Chairman dies or withdraws before  
26 taking and subscribing to the Oath of Allegiance and the Oath of Office, the  
27 person elected with him as Vice-Chairman shall be sworn in as Chairman who  
28 shall then nominate, and with the approval of a majority of the Members of the  
29 Local Government Legislative Council, appoint a new Vice-Chairman.



1	7(1) (m). There shall be elected from every ward in a Local	Number of Councillors of Local Government Legislative Council
2	Government Area, one councillor to constitute the Local Government	
3	Legislative Council which shall sit for at least 181 days in a year.	
4	7(1) (n). A person shall be qualified for election as a councillor if	Qualification of Councillor
5	he-	
6	(a) is a citizen of Nigeria;	
7	(b) has attained the age of 21 years; and	
8	(c) has been educated up to at least the School Certificate level or	
9	its equivalent.	
10	7(1) (0). (1) No person shall be qualified for election as a councillor	Disqualifications of Councillor
11	if-	
12	(a) he has voluntarily acquired the citizenship of a country other	
13	than Nigeria or, except in such cases as may be prescribed by an Act of the	
14	National Assembly, has made declaration of allegiance to such a country;	
15	(b) under any law in force in any part of the Federation, he is	
16	adjudged to be a lunatic or otherwise declared to be of unsound mind;	
17	(c) he is under a sentence of death imposed on him by any court of	
18	law in Nigeria or a sentence of imprisonment for an offence involving	
19	dishonesty or any electoral offence (by whatever name called) imposed on	
20	him by such a court or substituted by a competent authority for any other	
21	sentence imposed on him by such a court;	
22	(d) he has been convicted and sentenced by any court of law or	
23	tribunal established by law for an offence involving dishonesty or he has	
24	been found guilty of a contravention of the Code of Conduct;	
25	(e) he is an undischarged bankrupt, having been adjudged or	
26	otherwise declared bankrupt under any law in force in any part of the	
27	Federation;	
28	(f) he is a person employed in the public service of the Federation,	
29	State or Local Government Council;	
30	(g) he is a member of a secret society.	

1 (2) Where in respect of any person who has been adjudged to be a  
2 lunatic, declared to be of unsound mind, sentenced to death or imprisonment or  
3 adjudged or declared bankrupt, any appeal against the decision is pending in  
4 any court of law in accordance with any law in force in Nigeria, subsection (1)  
5 of this section shall not apply during a period beginning from the date when  
6 such appeal is lodged and ending on the date when the appeal is finally  
7 determined or, as the case may be, the appeal lapses or is abandoned, whichever  
8 is earlier; and for the purposes of this subsection, an "appeal" includes any  
9 application for an injunction or an order of certiorari, mandamus, prohibition  
10 or habeas corpus, or any appeal from any such application.

Declaration of  
Assets and  
Liabilities: Oaths  
of Councillors

11 7(1) (p). (1) Every person elected as Councillor shall, before taking  
12 his seat, declare his assets and liabilities as prescribed in this Constitution and  
13 subsequently take and subscribe before the Leader of the Local Government  
14 Legislative Council the Oath of Allegiance and the Oath of Membership  
15 prescribed in the Seventh Schedule to this Constitution.

16 (2) A Leader or Deputy Leader of a Local Government Legislative  
17 Council shall, before taking their seat, declare his assets and liabilities as  
18 prescribed in this Constitution and subsequently take and subscribe before the  
19 Clerk of the Local Government Legislative Council, the Oath of Allegiance  
20 and the Oath of Office prescribed in the Seventh Schedule to this Constitution.

Supervisors

21 7(1) (q). (1) There shall be not less than three and not more than five  
22 Offices of Supervisors for each Local Government Council.

23 (2) Any appointment to the Office of Supervisor shall be made by the  
24 Chairman within 30 days of taking Office.

25 (3) Any appointment to the Office of Supervisor shall be subject to  
26 confirmation by the Local Government Legislative Council.

Tenure of seat  
of Members

27 7(1) (r). (1) A member of a Local Government Legislative Council  
28 shall vacate his seat in the Council-

29 (a) if he becomes a member of another legislative house;

30 (b) on the date when his letter of resignation takes effect;

1 (c) if he becomes President, Vice-President, Governor, Deputy  
2 Governor or a Minister of the Government of the Federation or a  
3 Commissioner of the Government of a State or Chairman or Vice Chairman  
4 of a Local Government Council;

5 (d) being a person whose election was sponsored by one political  
6 party, he resigns from that party or becomes a member of another political  
7 party before the expiration of the period for which the Local Government  
8 Council was elected: Provided that his membership of the latter political  
9 party is not as a result of a division in the political party of which he was  
10 previously a member or of a merger of two or more political parties or  
11 factions by one of which he was previously sponsored;

12 (e) if he becomes a member of a secret society; or

13 (f) the Leader of the Local Government Legislative Council  
14 receives a certificate signed by the Chairman of the Independent National  
15 Electoral Commission stating that the provisions of section 7 (s) of this  
16 Constitution have been complied with in respect of the recall of that  
17 Member.

18 (2) The Leader of the Local Government Legislative Council shall  
19 give effect to subsection (1), so however that the Leader shall first present  
20 evidence satisfactory to the Local Government Legislative Council that any  
21 of the provisions of that subsection has become applicable in respect of that  
22 Member.

23 7(1) (s). (1) A member of a Local Government Legislative Council  
24 may be recalled as such a member if-

Recall

25 (a) there is presented to the Chairman of the Independent National  
26 Electoral Commission a petition in that behalf signed by more than one half  
27 of the persons registered to vote in that Member's constituency alleging their  
28 loss of confidence in that Member; and

29 (b) the petition is thereafter approved in a referendum conducted  
30 by the Independent National Electoral Commission within 90 days of the

1 date of the receipt of the petition by a simple majority of the votes of the  
2 persons registered to vote in that Councillor's constituency.

Presiding Officers  
of the Local  
Government  
Legislative  
Council

3 7(1) (t). (1) There shall be a Leader and a Deputy Leader of the Local  
4 Government Legislative Council who shall be elected by the Members of the  
5 Local Government Legislative Council from among themselves.

6 (2) At any sitting of the Local Government Legislative Council, the  
7 Leader shall preside and, in his absence, the Deputy Leader shall preside.

8 (3) The Leader or Deputy Leader shall vacate Office:

9 (a) if he ceases to be a Member of the Local Government Legislative  
10 Council otherwise than by reason of a dissolution of the Local Government  
11 Legislative Council; or

12 (b) If he is removed from Office by a resolution of the Local  
13 Government Legislative Council by votes of not less than two-thirds majority  
14 of the Members of that Council.

Quorum

15 7(1) (u). The quorum of a Local Government Legislative Council  
16 shall be one-third of its Members.

Voting

17 7(1) (v). Except as otherwise provided by this Constitution, any  
18 question proposed for decision in the Local Government Legislative Council  
19 shall be determined by a simple majority of the Members present and voting,  
20 and the person presiding shall have a casting vote whenever necessary to avoid  
21 an equality of votes.

Regulation of  
Procedure

22 7(1) (w). The Local Government Legislative Council shall have  
23 power to regulate its procedure, including the procedure for summoning and  
24 recess of the Local Government Legislative Council.

Remuneration

25 7(1) (x). The Chairman, Vice-Chairman and Members of a Local  
26 Government Legislative Council shall receive salary and such other  
27 allowances as the Revenue Mobilisation Allocation and Fiscal Commission  
28 may determine.

Protection of  
Pension Rights

29 7(1) (y). (1) Subject to the provisions of subsection (2) of this section  
30 the right of a person in the service of a Local Government Council to receive

1 pension or gratuity shall be regulated by Law.

2 (2) Any benefit to which a person is entitled in accordance with or  
3 under such Law as is referred to in sub-section (1) of this section shall not be  
4 withheld or altered to his disadvantage except to such extent as is  
5 permissible under any law including the Code of Conduct.

6 (3) Pension in respect of service in the Service of a Local  
7 Government Council shall not be taxed.

8 7(1)(z). (1) The power of a Local Government Legislative Council  
9 to make laws shall be exercised by a Bill passed by the Local Government  
10 Legislative Council and, except as otherwise provided by this Constitution,  
11 assented to by the Chairman.

Mode of exercising  
legislative powers  
of Local Government  
Council

12 (2) A Bill shall not become Bye-Law unless it has been duly passed  
13 and, subject to subsection (1) of this section, assented to in accordance with  
14 the provisions of this section.

15 (3) Where a Bill has been passed by the Local Government  
16 Legislative Council it shall be presented to the Chairman for assent.

17 (4) Where a Bill is presented to the Chairman for assent, he shall  
18 within 30 days signify that he assents or that he withholds his assent.

19 (5) Where the Chairman withholds assent and the Bill is again  
20 passed by the local Government Legislative Council by two-thirds majority,  
21 the Bill shall become law and the assent of the Chairman shall not be  
22 required.

23 7. This Bill may be cited as Constitution of the Federal Republic of  
24 Nigeria 1999 (Alteration) Bill, 2017. Citation

#### EXPLANATORY MEMORANDUM.

This Bill seeks to alter Section 7 of the Constitution of the Federal Republic  
of Nigeria 1999 (as amended).

