

A BILL

FOR

AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999, THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (FIRST ALTERATION) ACT, 2010 AND THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (SECOND ALTERATION) ACT, 2010 TO MAKE ALL APPEALS TO THE SUPREME COURT TO BE BY LEAVE IN ORDER TO REDUCE WORKLOAD ON THE COURT, EXPEDITE HEARING AND DETERMINATION OF APPEALS, AND ENCOURAGE EFFICIENCY AND QUALITY; AND FOR RELATED MATTERS

Sponsored by Hon. Onofiok Luke

[] Commencement

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

1 1. The Constitution of the Federal Republic of Nigeria, 1999 (in
2 this Bill referred to as "the Constitution"), the Constitution of the Federal
3 Republic of Nigeria (First Alteration) Act No.5, 2010 (in this Bill referred to
4 as "the First Alteration Act" and the Constitution of the Federal Republic of
5 Nigeria (Second Alteration) Act No.2, 2010 (in this Bill referred to as "the
6 Second Alteration Act) are altered as set out in this Bill.

Alteration of the 1999 Constitution, the Constitution (First Alteration) Act No. 5, 2010 and the Constitution (Second Alteration) Act No. 2, 2010

7 2. Section 233 of the Constitution, section 24 of the First
8 Alteration Act and section 6 of the Second Alteration Act are substituted for
9 the following new section-

Substitution for section 233 of the 1999 Constitution, section 24 of the Constitution (First Alteration) Act and section 6 of the Constitution (Second Alteration) Act

10 “(1) The Supreme Court shall have jurisdiction, to the exclusion of
11 any other court of law in Nigeria, to hear and determine appeals from the
12 Court of Appeal.

13 (2) All appeals from the Court of Appeal to the Supreme Court shall
14 be with the leave of the Supreme Court except decisions on any question-

15 (a) whether any person has been validly elected to the office of

1 President or Vice President under this Constitution;

2 (b) whether the term of office of President or Vice President has
3 ceased;

4 (c) whether the office of President or Vice President has become
5 vacant;

6 (d) whether any person has been validly elected to the office of
7 Governor or Deputy Governor under this Constitution;

8 (e) whether the term of office of a Governor or Deputy Governor has
9 ceased;

10 (f) whether the office of Governor or Deputy Governor has become
11 vacant; and

12 (g) any pre-election matter as provided under this Constitution.

13 (3) The Supreme Court may dispose of any application for leave to
14 appeal from any decision of the Court of Appeal in respect of any civil or
15 criminal proceedings in which leave to appeal is necessary after consideration
16 of the record of the proceedings if the Supreme Court is of the opinion that the
17 interest of justice do not require an oral hearing of the application.

18 (4) In considering application for leave to appeal, the Supreme shall
19 have regard to:

20 (a) the novelty or reconditeness of the decision sought to be appealed;

21 (b) the fact that the decision sought to be appealed against relates to
22 interpretation or application of this Constitution, Chapter IV of this
23 Constitution or is on sentence of death; or

24 (c) interest of justice.

25 (5) An application for leave to appeal shall be heard and determined
26 expeditiously by the Supreme Court and for the purpose of hearing and
27 determining of an application for leave, the Supreme Court shall be duly
28 constituted if it consists of not less than three Justices of the Supreme Court.

29 (6) Any right or leave of appeal to the Supreme Court from the
30 decisions of the Court of Appeal conferred by this section shall be exercisable

1 in the case of civil proceedings, at the instance of a party thereto, or with the
2 leave of the Supreme Court at the instance of any other person having an
3 interest in the matter, and in the case of criminal proceedings, at the instance
4 of an accused person, or with the leave of the Supreme Court at the instance
5 of any other person having an interest in the matter, or subject to the
6 provisions of this Constitution and any powers conferred upon the Attorney-
7 General of the Federation or the Attorney-General of a State to take over and
8 continue or to discontinue such proceedings, at the instance of such other
9 authorities or persons: may be prescribed.

10 (7) Any right or leave of appeal to the Supreme Court from the
11 decisions of the Court of Appeal conferred by this section shall, subject to
12 section 236 of this Constitution, be exercised in accordance with any Act of
13 the National Assembly and rules of court for the time being in force
14 regulating the powers, practice and procedure of the Supreme Court."

15 3. Section 234 of the Constitution is substituted for a new section
16 "234"-

Substitution to
section 234 of the
Constitution

17 "234 For the purpose of exercising any jurisdiction conferred upon
18 it by this Constitution or any law, subject to section 233 (5) of this
19 Constitution, the Supreme Court shall be duly constituted if it consists of not
20 less than five Justices of the Supreme Court;

21 Provided that where the Supreme Court is sitting to consider an
22 appeal arising from the interpretation or application of this Constitution,
23 Chapter IV of this Constitution, or to exercise its original jurisdiction in
24 accordance with section 232 of this Constitution, the Court shall be
25 constituted by seven Justices."

26 4. This Bill may be cited as the Constitution of the Federal
27 Republic of Nigeria (Fifth Alteration) Bill, 2020. Citation

EXPLANATORY MEMORANDUM

This Bill seeks to alter the Constitution of the Federal Republic of Nigeria, 1999, the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010 and the Constitution of the Federal Republic of Nigeria (Second Alteration) Act, 2010 to make all appeals to the Supreme Court to be by leave in order to reduce workload on the Court, expedite hearing and determination of appeals, and encourage efficiency and quality.