

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 CHIEF JUSTICE OF NIGERIA THE HEAD OF THE JUDICIARY AND RAISE THE NUMBER OF YEARS OF QUALIFICATION FOR APPOINTMENT AS JUSTICE OF THE SUPREME COURT; AND FOR RELATED MATTERS

Sponsored by Hon. Onofiok Luke

Hon. Dederi Isa	Hon. Shaba Ibrahim
Hon. Gbande Richard	Hon. Mohammed Bio
Hon. Hassan Nalaraba	Hon. Egbona Alex
Hon. Olarewaju Kunle	Hon. Nsikak Ekong
Hon. Patrick Ifon	

[] 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 (in
2 this Bill referred to as "the Principal Act"), the Constitution of the Federal
3 Republic of Nigeria (First Alteration) Act No. 1, 2010 (in this Bill referred to
4 as "the First Alteration Ad' 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 Constitution, 1999, the Constitution (First Alteration) Act No. 1, 2010 and the Constitution (Second Alteration) Act No. 2, 2010

7 2. Section 230 of the Principal Act is altered by substituting for
8 subsection (2)(a), a new subsection "(2)(a)":

Alteration of Section 230

9 "(2)(a) The Chief Justice of Nigeria who shall be the Head of the
10 Judiciary of the Federation."

Alteration of
Section 231

1 3. Section 231 (3) of the Principal Act is altered by substituting for the
2 word "not less than fifteen years", in lines 3 and 4, the words "not less than
3 twenty years".

Alteration of
Section 233 of
the Constitution,
Section 24 of the
(First Alteration)
Act and Section
6 of the (Second
Alteration) Act

4 4. Section 233 of the Principal Act, Section 24 of the First Alteration
5 Act and Section 6 of the Second Alteration Act are substituted for a new section
6 "233":

7 "233 (1) The Supreme Court shall have jurisdiction, to the exclusion
8 of any court, to hear and determine appeals from the Court of Appeal.

9 (2) All appeals from the Court of Appeal to the Supreme Court shall be
10 by leave of the Supreme Court except decisions on any question:

11 (a) whether any person has been validly elected to the office of
12 President or Vice President under this Constitution;

13 (b) whether the term of office of President or Vice President has
14 ceased;

15 (c) whether the office of President or Vice President has become
16 vacant;

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

19 (e) whether the term of office of a Governor or Deputy Governor has
20 ceased;

21 (f) whether the office of Governor or Deputy Governor has become
22 vacant; and

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

24 (3) In considering application for leave to appeal, the Supreme shall,
25 among other things, have regard to:

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

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

30 (c) miscarriage of justice; or

1 (d) interest of justice.

2 (4) Nothing in this section shall confer any right of appeal from a
3 decision made by the Court of Appeal granting or refusing leave to appeal to
4 the Court of Appeal from any decision of the High Court.

5 (5) Three Justices of the Supreme Court sitting in chambers may
6 dispose of any application for leave to appeal from any decision after
7 consideration of the Record of Proceedings if the Justices are of the opinion
8 that the interest of justice does not require an oral hearing of the application.

9 (6) In subsection (4) of this section, "High Court" includes the
10 Federal High Court, the National Industrial Court, the High Court of the
11 Federal Capital Territory, Abuja, the High Court of a State and any other
12 Court or Tribunal, howsoever called, which decision is appealable to the
13 Court of Appeal."

14 5. Section 234 of the Principal Act is altered by substituting for a
15 new section "234":

Alteration of
Section 234

16 "234 (1) For the purpose of exercising any jurisdiction conferred
17 upon it by this Constitution or any Law, the Supreme Court shall be duly
18 constituted if it consists of not less than five Justices of the Supreme Court:

19 Provided that where the Supreme Court is sitting to exercise its
20 original jurisdiction in accordance with section 232 of this Constitution, the
21 Court shall sit as a full Court.

22 (2) A single Justice of the Supreme Court sitting in Chambers may
23 exercise a power vested in the Supreme Court not involving the decision of
24 the cause or matter before the Supreme Court, except that:

25 (a) in criminal matters, where that Justice refuses or grants an
26 application in the exercise of any such power, a person affected thereby shall
27 be entitled to have the application determined by the Supreme Court
28 constituted by five Justices thereof; and

29 (b) in civil matters, any order, direction, or decision made or given
30 in pursuance of the powers conferred by this subsection may be varied,

1 discharged or reversed by the Supreme Court constituted by five Justices
2 thereof.

3 (3) In subsection (1) of this section, "full court" means all the Justices
4 of the Supreme Court available at the time so however that the number shall not
5 be less than seven."

Citation

6 6. This Bill may be cited as the Constitution of the Federal Republic of
7 Nigeria (Fifth Alteration) Bill, 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to alter the provisions of 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 Chief Justice of Nigeria the Head of the Judiciary and raise the number of years of qualification for appointment as Justice of the Supreme Court.