

# A BILL

## FOR

AN ACT TO ALTER THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, CAP.C23, LAWS OF THE FEDERATION OF NIGERIA, 2004 TO PROVIDE FOR THE ESTABLISHMENT OF THE ECCLESIASTICAL COURT OF APPEAL OF THE FEDERAL CAPITAL TERRITORY ABUJA AND THE ECCLESIASTICAL COURT OF APPEAL OF THE STATES; AND FOR RELATED MATTERS

*Sponsored by Hon. Francis Ejiroghene Waive*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of

Nigeria:

1           1. The Constitution of the Federal Republic of Nigeria, Cap. C23,  
2 LFN, 2004 (in this bill referred to as " the Principal Act") is altered as set out  
3 in this Bill.

Alteration of  
Constitution of  
the Federal  
Republic of Nigeria,  
Cap. C23, LFN,  
2004

4           2. Section 6(5) of the Principal Act is altered by inserting two new  
5 subparagraphs (h) and

Alteration of  
Section 6(5)

6           (i) while the existing paragraph h, i, j, k, is re arrange to be j, k,l, m  
7 respectively,:

8           "(h) the Ecclesiastical Court of Appeal of the Federal Capital  
9 Territory, Abuja;

10          (i) an Ecclesiastical Court of Appeal of a State;"

11          3. Section 84 of the Principal Act is altered in sub-section 4 by:

Alteration of  
Section 84

12          Inserting immediately after the word "GRAND KADI OF THE  
13 SHARIA COURT OF APPEAL OF THE FEDERAL CAPITAL  
14 TERRITORY, ABUJA," in lines 7 and 8, the words "Grand Cardinal of the  
15 Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja; and  
16 High Cardinal and Cardinal of the Ecclesiastical Court of Appeal of a State."

Alteration of  
Section 240

1 4. Section 240 of the Principal Act is altered by:  
2 inserting immediately after the words, "Sharia Court of Appeal of the  
3 Federal Capital Territory, Abuja," in lines 5, the words, "Ecclesiastical Court of  
4 Appeal of the Federal Capital Territory, Abuja", and inserting immediately  
5 after the words Sharia Court of Appeal of a State, "in line 6, the words,  
6 "Ecclesiastical Court of Appeal of a State".

Alteration of  
Section 247(1)

7 5. Section 247(1) of the Principal Act is altered by inserting a new  
8 paragraph (b), while the existing paragraph b in the Principal Act is re-arrange  
9 as paragraph c:

10 "(b) an Ecclesiastical Court of Appeal, if it consists of not more than 3  
11 Justices learned in Ecclesiastical law or Christian personal law."

Alteration of  
Section 280

12 6. Section 280 of the Principal Act is altered by inserting a new section  
13 280;

14 280 - (1) there shall be an Ecclesiastical Court of Appeal of the  
15 Federal Capital Territory, Abuja.

16 (2) the Ecclesiastical Court of Appeal of the Federal Capital territory  
17 shall consist of:

18 (a) a Grand Cardinal of the Ecclesiastical Court of Appeal;

19 (b) such number of Cardinals of the Ecclesiastical Court of Appeal as  
20 may be prescribed by an Act of the National Assembly.

21 281 - (1) the appointment of a person to the office of the Grand  
22 Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital Territory,  
23 Abuja shall be made by the President on recommendation of the National  
24 Judicial Council, subject to the confirmation of such appointment by the  
25 House.

26 (2) the appointment of a person to the office of a Cardinal of the  
27 Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja shall be  
28 made by the President on the recommendation of the National Judicial  
29 Council.

30 (3) apart from such other qualification as may be prescribed by an Act

1 of the National Assembly, a person shall not be qualified to hold the office of  
2 Grand Cardinal of an Ecclesiastical Court of Appeal of the Federal Capital  
3 Territory, Abuja unless:

4 (a) he is a legal practitioner in Nigeria and has been so qualified for  
5 a period of not less than ten years and has been obtained a recognized  
6 qualification in Ecclesiastical Law or Christian personal law from an  
7 institution acceptable to the National Judicial Council;

8 (b) he has attended and has obtained a recognized qualification in  
9 Ecclesiastical Law or Christian Personal Law from an institution approved  
10 by the National Judicial Council and has the qualification for a period of not  
11 less than twelve years;

12 (c) he has either considerable experience in the practice of  
13 Ecclesiastical Law or Christian Personal Law; or

14 (d) he is a distinguished scholar of Ecclesiastical Law or Christian  
15 Personal Law.

16 (4) if the office of the Grand Cardinal of the Ecclesiastical Court of  
17 Appeal is vacant or if the person holding the office is for any reason unable  
18 to perform the functions of the office, then, until a person has been so  
19 appointed and has assumed those functions, the President shall appoint the  
20 most senior Cardinal from amongst the Cardinals of the Ecclesiastical Court  
21 to perform those functions.

22 (5) except on the recommendation of the National Judicial  
23 Council, an appointment pursuant to the provisions of subsection(4) of this  
24 section shall cease to have after the expiration of three months from the date  
25 of such appointment and the President shall not re-appoint a person whose  
26 appointment has elapsed.

27 282 - (1) the Ecclesiastical Court of Appeal shall, in addition to  
28 such other jurisdiction as may be conferred upon it by an Act of the National  
29 Assembly exercise such appellate and supervisory jurisdiction in civil  
30 proceedings involving questions of Ecclesiastical Law, Christian Personal

1 Law or Ecclesiastical Law.

2 (2) for the purposes of subsection (1) of this section, the Ecclesiastical  
3 Court of Appeal shall be competent to decide:

4 (a) any question of Christian personal law regarding marriage  
5 concluded in accordance with that law; including a question relating to the  
6 validity or dissolution of such marriage or a question that depends on such a  
7 marriage and relating to family relationship or the guardianship of an infant;

8 (b) where all parties to the proceedings are Christians, any question or  
9 Christian personal law regarding a marriage where no prior or subsequent  
10 customary or statutory marriage is contracted, including the validity or  
11 dissolution of that marriage, or regarding family relationship, a foundling or  
12 guardianship of an infant;

13 (c) any question of Christian personal law regarding a will or  
14 succession where the endower, donor, testator or deceased person is a  
15 Christian;

16 (d) any question of Christian personal law regarding an infant,  
17 prodigal or person of unsound mind who is a Christian or the maintenance or  
18 the guardianship of a Christian who is physically or mentally infirm; or

19 (e) where all parties to the proceedings, being Christians, have  
20 requested the court that hears the case in the first instance to determine, that  
21 case in accordance with Christian personal law, or any question.

22 283. for the purpose of exercising any jurisdiction conferred upon it  
23 by this constitution or any Act of the National Assembly, the Ecclesiastical  
24 Court of Appeal shall be duly constituted if it consists of at least three Cardinals  
25 of that court.

26 284. Subject to the provisions of any Act of the National Assembly,  
27 the Grand Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital  
28 Territory, Abuja may make rules for regulating the practice and procedures of  
29 the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja."

1                   7. Section 288 (1) of the Principal Act is altered: Alteration of  
Section 288 (1)

2                   In subsection 1 by inserting after the word, "Islamic Personal law"  
3 in line 5, the words "persons learned in Christian personal law", and

4                   SECTION 288 (2) is altered by inserting a new paragraph (c):

5                   (c) A person shall be deemed to be learned in Christian personal  
6 law if he is a legal practitioner in Nigeria and has been so qualified for a  
7 period of not less than twelve years in the case of a Justice of a Court of  
8 Appeal and has in either case and in the opinion of the National Judicial  
9 Council considerable knowledge and experience in Christian personal law.

10                  8. Section 289 of the Principal Act is altered: Alteration of  
Section 289

11                  Inserting after the word, "Sharia Court of Appeal" in line 3, the  
12 words, "or Cardinal of the Ecclesiastical Court of Appeal".

13                  9. Section 292 sub section I paragraph (a) i and ii of the Principal Alteration of  
Section 292  
14 Act is altered:

15                  (i) By inserting after the word, "Grand Kadi of the Sharia Court of  
16 Appeal, Abuja" in line 5, the words, and Grand Cardinal of the Ecclesiastical  
17 Court of Appeal of the Federal Capital Territory Abuja";

18                  (ii) inserting after the word, "Sharia Court of Appeal" in line 1, the  
19 words, "or Grand Cardinal of the Ecclesiastical Court of Appeal of a State".

20                  10. Section 318 of the Principal Act is altered: Alteration of  
Section 318

21                  In the interpretation of the words "judicial office":

22                  By inserting after the word, "Kadi of the Sharia Court of Appeal" in line 7,  
23 the words, "the Grand Cardinal of the Ecclesiastical Court of Appeal of the  
24 Federal Capital Territory, Abuja";

25                  By inserting after the word, "State" in line 10, the words, "or Grand Cardinal  
26 of the Ecclesiastical Court of Appeal of a State",

27                  (a) In the interpretation of the words, "public service of the  
28 Federation" by inserting after the word, "Sharia Court of Appeal, Abuja" in  
29 line 3, the words, "or the Ecclesiastical Court of Appeal of the Federal  
30 Capital Territory, Abuja";

1 (b) In the interpretation of the words, "Public Service of a State "by  
2 inserting after the word, "Sharia Court of Appeal" in paragraph (b), line 1, the  
3 words, "the Ecclesiastical Court of Appeal".

Alteration of  
Second Schedule  
of the Principal  
Act

4 11. The second schedule to the Principal Act is altered - Part I item 61  
5 by inserting after the words, "Customary law", in line 2, the words,  
6 "Ecclesiastical Law".

Alteration of  
Third Schedule  
of the Principal  
Act

7 12. The third schedule of the principal Act is altered in part I item 20, a  
8 new paragraph I is inserted as follows:

9 (i) one Grand Cardinal of the Ecclesiastical Court of Appeal to be  
10 appointed by the Chief Justice of Nigeria from among the Grand Cardinals of  
11 the Ecclesiastical Court of Appeal to serve in rotation of two years;"

12 Part I item 21 of the third schedule of the Principal Act is amended in  
13 paragraph (a) (ii), line 4, by inserting after the word, Sharia Court of Appeal  
14 Abuja, "Grand Cardinal and Cardinals of the Ecclesiastical Court of Appeal of  
15 the Federal Capital Territory, Abuja";

16 Paragraph (c), line 6, is altered after the word, Kadis of the Sharia  
17 Court of Appeal, " Grand Cardinal and Cardinals of the Ecclesiastical Court of  
18 Appeal of the States";

19 Part II paragraph C of the Third Schedule is altered, under - State  
20 Judicial Service Commission:

21 (i) By inserting a new paragraph (d):

22 (d) the Grand Cardinal of the Ecclesiastical Court of Appeal of the  
23 State, if any,"

24 Part IIC paragraph 6 of the Third Schedule is amended by inserting a  
25 new paragraph vii

26 (vii) the Grand Cardinal of the Ecclesiastical Court of Appeal of the  
27 State, if any;"

28 and paragraph (c) before the word, 'magistrates" in line 3, the word  
29 "Ecclesiastical Court of Appeal";

30 (a) By inserting in item 6 paragraph (c), by inserting immediately

1 after the words, "Customary Courts" in line 4, the words "Ecclesiastical  
2 Courts";

3 (b) In part III Item I-Judicial Service Committee of the Federal  
4 Capital Territory, Abuja by inserting a new paragraph (d)

5 (d) the Grand Cardinal of Ecclesiastical Court of Appeal of the  
6 Federal Capital Territory;"

7 (h) in Part III Item 2, Judicial Service Committee of the Federal  
8 Capital Territory, Abuja by inserting a new paragraph (a) sub paragraph  
9 (vii)":

10 "(vii) a Cardinal of the Ecclesiastical Court of Appeal of the  
11 Federal Capital Territory;"

12 (c) in Part III Item 2( c), judicial Service Committee of the Federal  
13 Capital Territory, Abuja by inserting immediately after the word " Abuja" in  
14 line 4, the word "Ecclesiastical Court of Appeal of the Federal Capital  
15 Territory".

16 13. The Sixth schedule is altered:

Alteration of  
Sixth Schedule

17 (a) In section 1 (2):

18 By inserting after the words, "Customary Court of Appeal" in line  
19 3, the words, Cardinals of the Ecclesiastical Court of Appeal";

20 (b) In section 1 (3), by the inserting after the words, "State" in line 3  
21 the word, "Grand Cardinal of the Ecclesiastical Court of Appeal of the State"

22 (c) In section 2(2) by inserting before the word, "or" in line 3, the  
23 words "Cardinals of the Ecclesiastical Court of Appeal"; and

24 (d) In section 2(3) by inserting after the word, "State" in line 4, the  
25 words, "Grand Cardinal of the Ecclesiastical Court of Appeal of the State".

26 14. The Seventh Schedule, Judicial Oath, is altered:

Alteration of  
Seventh Schedule

27 (a) By inserting after the word, "State" in line 10, the words " Grand  
28 Cardinal of the Ecclesiastical Court of Appeal of the Federal Capital  
29 Territory, Abuja, Cardinal of the Ecclesiastical Court of Appeal of the State".

1 15. This Bill may be cited as the Constitution of the Federal Republic  
2 of Nigeria (Alteration) Bill, 2021.

EXPLANATORY MEMORANDUM

This Bill seeks to alter the Constitution of the Federal Republic of Nigeria, Laws of the Federation Cap C23, 2004 to provide for the Ecclesiastical Court of Appeal of the Federal Capital Territory, Abuja and the Ecclesiastical Court of Appeal of the States to provide for the functions, jurisdiction, qualification, appointment and tenure of the Ecclesiastical Court of Appeal.

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