



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

**CONSTITUTION OF THE FEDERAL REPUBLIC OF
NIGERIA, 1999
(FIFTH ALTERATION) BILL, NO. 53, 2022**

A BILL
FOR
AN ACT TO ESTABLISH THE OFFICE OF THE ATTORNEY-GENERAL
OF THE FEDERATION AND OF THE STATE SEPARATE FROM THE
OFFICE OF THE MINISTER OF JUSTICE, OR COMMISSIONER FOR,
JUSTICE OF THE STATE IN ORDER TO MAKE THE OFFICES OF THE
ATTORNEYS-GENERAL INDEPENDENT AND INSULATED FROM
PARTISANSHIP; AND FOR RELATED MATTERS.

FIRST READING

TUESDAY, 15TH OCTOBER, 2019

SECOND READING

TUESDAY, 15TH OCTOBER, 2019

THIRD READING AND PASSAGE

TUESDAY, 1ST MARCH, 2022

CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999
(FIFTH ALTERATION) BILL, NO. 53, 2022



Arrangement of Clauses

Clause

1. Alteration of Constitution.
2. Substitution for section 150
3. Substitution for section 174
4. Insertion of new sections 174A – 174G
5. Substitution for section 195
6. Insertion of sections 211A – 211H
7. Alteration of Section 318
8. Alteration of the Third Schedule
9. Citation

A BILL
FOR
AN ACT TO ESTABLISH THE OFFICE OF THE ATTORNEY-GENERAL OF THE
FEDERATION AND OF THE STATE SEPARATE FROM THE OFFICE OF THE MINISTER OF
JUSTICE, OR COMMISSIONER FOR, JUSTICE OF THE STATE IN ORDER TO MAKE THE
OFFICES OF THE ATTORNEYS-GENERAL INDEPENDENT AND INSULATED FROM
PARTISANSHIP; AND FOR RELATED MATTERS.

{ } Commencement.

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

1. The Constitution of the Federal Republic of Nigeria 1999 (in this Bill referred to as "the Principal Act") is altered as set out in this Bill. Alteration of Constitution.

2. Substitute for section 150, a new section "150" – Substitution for section 150

"Appointment of Minister of Justice

150 (1) There shall be a Minister of Justice who shall be a Minister and the Chief Law Officer of the Government of the Federation.

(2) A person shall not be qualified to hold or perform the functions of the office of Minister of Justice of the Government of the Federation unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than fifteen years".

3. Substitute for section 174 of the Principal Act, a new section "174" – Substitution for section 174

"Appointment of Attorney-General of the Federation

174A. The President shall appoint the Attorney-General of the Federation upon recommendation by the National Judicial Council and subject to confirmation by the Senate

(2) A person shall not be qualified to hold or perform the functions and powers of the office of the Attorney-General of the Federation unless he is –

(a) qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than fifteen years; and

a person of integrity and is not a member of any political party".

4. Insert, after section 174 of the Principal Act, new sections "174A-174G" – Insertion of new sections 174A – 174G

"Independence of Attorney-General of the Federation

174A. The Attorney-General of the Federation shall, in the discharge of his functions under this

Constitution, be independent and not be subject to the direction or control of any other person or authority.

Powers of Attorney-General of the Federation

174B (1) Subject to the provisions of this Constitution, the Attorney-General of the Federation shall have power to –

- (a) institute and undertake criminal proceedings against any person before any court of law in Nigeria, other than a court-martial, in respect of any offence created by or under an Act of the National Assembly;
- (b) take over and continue any such criminal proceedings that may have been instituted by any other person or authority;
- (c) discontinue, at any stage before judgment is delivered, any such criminal proceedings instituted or undertaken by him or any other person or authority;
- (d) supervise, monitor, control and ensure that all government agencies with investigative and prosecutorial powers carry out their functions in accordance with the law establishing them; and
- (e) perform such other functions as may be conferred upon him by an Act of the National Assembly.

(2) The powers conferred upon the Attorney-General of the Federation under subsection (1) of this section may be exercised by him in person or through officers of his department or any other person or persons authorised by him.

(3) In exercising his powers under this section, the Attorney-General of the Federation shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

(4) The question whether the Attorney-General of the Federation has exercised his powers in accordance with subsection (3) of this section shall be subject to the determination of the court.

Tenure of office

174C The Attorney-General of the Federation shall hold office for a term of five years and may be reappointed for a further term of five years and no more, or he attains the age of sixty-five years, whichever is earlier.

Declaration of assets and oaths of office

174D (1) A person appointed to the office of the Attorney-General of the Federation shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this

Constitution and has been sworn in.

(2) The oath referred to under subsection (1) of this section shall be administered by the Chief Justice of Nigeria or the person for the time being appointed to perform the functions of that office.

Removal

174E The Attorney-General of the Federation shall be removed from office by the President acting on a resolution supported by two-thirds majority of the Senate praying that he be so removed for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct, negligence of duty or incompetence.

Records of accounts and audit

174F The Attorney-General of the Federation shall cause to be kept proper records of the accounts of his office in respect of each year and shall cause the accounts of his office to be audited within six months from the end of each financial year by auditors appointed from the list approved from time to time by the Auditor-General for the Federation.

Annual returns

174G The Attorney-General of the Federation shall prepare and submit to the National Assembly, not later than six months after the end of each financial year, a report on the activities of his office for the preceding year and shall include therein the audited account of his office for the year under review with the auditor's report thereon".

5. Substitute for section 195 of the Principal Act, a new section "195" –

Substitution for
section 195

"Commissioner for Justice

195 (1) There shall be a Commissioner for Justice of the Government of a State."

(2) A person shall not be qualified to hold or perform the functions of the office of Commissioner for Justice of the Government of a State unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than fifteen years".

6. Insert, after section 211 of the Principal Act, new sections "211A – 211H" –

Insertion of
sections 211A –
211H

"Appointment of Attorney-General of a State

211A. The Governor shall appoint the Attorney-General of the State upon recommendation by the State Judicial Service Commission, and subject to confirmation by the State House of Assembly.

Independence of Attorney-General of a State

211B. The Attorney-General of a State shall, in the performance of his functions under this Constitution, be independent and not be subject to the direction or control of any other person or authority.

Qualification

211C. A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of a State unless he is-

- (a) qualified to practise as a legal practitioner in Nigeria and has been so qualified for not less than ten years; and
- (b) a person of integrity and is not a member of any political party.

Powers of the Attorney-General of a State

211D. (1) Subject to the provisions of this Constitution, the Attorney-General of a State shall have power to -

- (a) institute and undertake criminal proceedings against any person before any court of law in the State, other than a court-martial, in respect of any offence created by or under a Law of the House of Assembly;
- (b) take over and continue any such criminal proceeding that may have been instituted by any other person or authority;
- (c) discontinue, at any stage before judgment is delivered, any such criminal proceeding instituted or undertaken by him or any other person or authority; and
- (d) supervise, monitor, control and ensure that all State government agencies with investigative and prosecutorial powers perform their functions in accordance with the law establishing them; and
- (e) perform such other functions as may be conferred upon him by a Law of the House of Assembly.

(2) The powers conferred upon the Attorney-General of the State under subsection (1) of this section may be exercised by him in person or through officers of his department or any person or persons authorised by him.

(3) In exercising his powers under this section, the Attorney-General of a State shall have regard to the public interest, the interest of justice and the need to prevent abuse of legal process.

(4) The question whether the Attorney-General of the Federation has exercised his powers in accordance with subsection (3) of this section shall be subject to the determination of the court.

Tenure of office

211E. The Attorney-General of the State shall hold office for a term of five years and it may be renewed for a further term of five years and no more, or he attains the age of sixty-five years, whichever is earlier

Declaration of assets and liabilities and oath of office

211F. (1) A person appointed to the office of the Attorney-General of a State shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this Constitution and has been sworn in.

(2) The oaths referred to under subsection (1) of this section shall be administered by the Chief Judge of a State or the person for the time being appointed to exercise the functions of that office.

Removal

211G. The Attorney-General of a State shall be removed or suspended from office by the Governor acting on a resolution supported by two-thirds majority of Members of the State House of Assembly praying that he be so removed for inability to perform the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct, negligence of duty or incompetence.

Records of accounts and audit

211H. The Attorney-General of a State shall cause to be kept proper records of the accounts of his office in respect of each year and shall cause the accounts of his office to be audited within six months from the end of each financial year by auditors appointed from the list approved from time to time by the Auditor-General of the State.

Annual returns

211I. The Attorney-General of a State shall prepare and submit to the House of Assembly of the State, not later than six months after the end of each financial year, a report on the activities of his office for the preceding year and shall include therein the audited account of his office for the year under review with the auditor's report thereon".

7. Section 318 of the Principal Act is altered by inserting, in alphabetical order, the following Alteration of

“Chief Law Officer of the Federation” means a person appointed as the Minister of Justice under section 150(1) of this Constitution who shall be the chief legal adviser in all legal matters of the Federal Government other than the duties assigned to the Attorney-General under section 174(b) of this Constitution.

“Chief Law Officer of the State” means a person appointed as the Commissioner for Justice under section 211D of this Constitution who shall be the chief legal adviser in all legal matters of the State other than the duties assigned to the Attorney-General of the State under section 211A of this Constitution.”

8. The Third Schedule to the Principal Act is altered –

Alteration of the Third Schedule

(a) in Part 1, paragraph 12, by substituting for subparagraph (c), a new subparagraph “(c) –

“(c) the Minister of Justice”;

(b) in Part II, paragraph 5, by substituting for subparagraph (b), a new subparagraph “(b) –

“(b) the Commissioner for Justice”; and

(c) in Part III, paragraph 1, by substituting for subparagraph (b), a new subparagraph “(b) –

“(b) the Minister of Justice”.

9. This Bill may be cited as the Constitution of the Federal Republic of Nigeria, 1999 (Fifth Alteration) Bill No. 53, 2022

Citation

EXPLANATORY MEMORANDUM

This Bill seeks to establish the office of the Attorney-General of the Federation and of the State separate from the office of the Minister of Justice, or Commissioner for, Justice in order to make the office of the Attorney-General independent and insulated from partisanship.

THIS BILL WAS ALTERED BY THE SENATE ON TUESDAY, 1ST MARCH, 2022

President,

Senate of the Federal Republic of Nigeria

Clerk,

Senate of the Federal Republic of Nigeria