

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 than
8 one hundred and fifty days and not later than thirty days before the expiration of
9 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 deemed
21 to have been duly elected where, being the only candidate nominated for
22 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 Chairman shall apply in relation to the Office of
19 Vice-Chairman as if references to Chairman were references to Vice-
20 Chairman.

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

Removal of
Chairman or
Vice-Chairman

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

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

28 (b) stating that the holder of such Office is guilty of gross
29 misconduct in the performance of the functions of his Office, detailed
30 particulars of which shall be specified, the Leader of the Local Government

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

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

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

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

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

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

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

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

30 (8) Where the panel reports to the Local Government Legislative

1 Council that the allegation has not been proved, no further proceedings shall
2 be taken in respect of the matter.

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

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

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

Permanent
incapacity of
Chairman and
Vice-Chairman

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

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

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

30 (3) The Chairman or Vice-Chairman shall cease to hold Office

1 from the date of publication of the notice of the medical report pursuant to
2 subsection (2) of this section.

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

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

8 (b) two other medical practitioners.

Discharge of
functions of
Chairman

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

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

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

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

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

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

Establishment
of Local
Government
Executive
Council

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

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

1 Local Government Legislative Council, be exercised by him either directly
2 or through the Vice-Chairman or Supervisors of the Local Government
3 Council or officers in the service of the Local Government Council; and

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

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

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

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

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

23 (b) coordinating the activities of the Local Government Council;
24 and

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

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

1 Government Legislative Council a written declaration to the contrary, the Vice
2 Chairman shall perform the functions of the Chairman as Acting 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) (l). 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.

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| 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) (o). (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 Councilors

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 Recall
24 may be recalled as such a member if-

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

| | | |
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| | 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 shall |
| | 16 | 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 2. This Bill may be cited as Constitution of the Federal Republic of
24 Nigeria 1999 (Alteration) Bill, 2019.

Citation

EXPLANATORY MEMORANDUM

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