

## THE 1963 CONSTITUTION OF NIGERIA

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**JUSTICEMEDIA  
INSTITUTE**

## THE 1963 CONSTITUTION OF NIGERIA

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1963, No. 20

**AN ACT TO MAKE PROVISION FOR THE CONSTITUTION OF THE FEDERAL  
REPUBLIC OF NIGERIA**

**Commencement**

*[1<sup>st</sup> October,*

1963]

*Having firmly resolved to establish the Federal Republic of Nigeria,*

*With a view to ensuring the unity of our people and faith in our fatherland,*

*For the purpose of promoting inter-African co-operation and solidarity,*

*In order to assure world peace and international understanding, and*

*So as to further the ends of liberty, equality and justice both in our country and in the world at large,*

*We the people of Nigeria, by our representatives here in Parliament assembled, do hereby declare, enact and give to ourselves the following Constitution-*

## **CHAPTER 1: THE FEDERATION AND ITS TERRITORIES**

### **Effect of this Constitution**

1. This Constitution shall have the force of law throughout Nigeria and, subject to the provisions of section 4 of this Constitution, if any other law (including the constitution of a Region) is inconsistent with this Constitution, this Constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.

### **Establishment of the Federal Republic**

2. Nigeria shall be a Federation comprising of Regions and a Federal territory and shall be a Republic by the name of the Federal Republic of Nigeria.

### **Territories of the Federation**

3. (1) There shall be four Regions, that is to say, Northern Nigeria, Eastern Nigeria, Western Nigeria and Mid-Western Nigeria.
- (2) The Regions and Federal territory shall consist of the areas comprised in those territories respectively on the thirtieth day of September, 1963.

### **Alteration of this Constitution**

4. (1) Parliament may alter any of the provisions of this Constitution:

Provided that, in so far as it alters any of the provisions of this section, sections 1, 2, 5, 6, 17 to 36, 38, 41, 42, 43, 50, 51, 52, 62, 67 to 94, 104, 113, 115, 117, 119, 120, 122 to 125, 127, 129, 130, 133 to 147, 150, 152, 154 to 161, 166 and the Schedule to this Constitution or (in so far as they apply to any of those provisions) sections 66 and 165 of this Constitution, an Act of Parliament shall not come into operation unless each legislative house of at least two Regions has passed a resolution signifying consent to it having effect.

- (2) A bill for an Act of Parliament under this section, not being an Act to which subsection (3) of this section applies, shall not be passed in either House of Parliament unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that House.
- (3) Alterations to section 3 of this Constitution for the purpose of establishing new Regions out of other territories shall be effected only in accordance with the following procedure-
  - (a) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and
  - (b) if the proposal is approved-
    - (i) by a resolution of each legislative house of a majority of all the Regions; or
    - (ii) by a resolution of each legislative house of at least two Regions, including any Region comprising any part of Nigeria that would be transferred to the new Region under the proposal,

Parliament may provide for the alteration.

- (4) Alterations to section 3 of this Constitution for the purpose of altering the boundaries of territories by the transfer of any part of one territory to another territory shall be effected only in accordance with the following procedure-
- (a) a proposal for the alteration shall be submitted to each House of Parliament and, if that proposal is approved by a resolution of each of those Houses supported by the votes of at least two-thirds of all the members of that House, the proposal shall then be submitted to the legislative houses of all the Regions; and
- (b) if the proposal is approved-
- (i) by a resolution of each legislative house of a majority of all the Regions, including any Region to which any part of Nigeria comprised in another territory would be transferred under the proposal; or
- (ii) by a resolution of each legislative house of each Region comprising any part of Nigeria that would be transferred either to or from that Region under the proposal,

Parliament may provide for the alteration:

Provided that the procedure described in paragraphs (a) and (b) of this subsection need not be followed if the alteration is for the purpose of transferring an area of not more than one thousand square miles inhabited by not more than one hundred thousand persons from one Region to another Region or Regions.

- (5) An Act of Parliament passed for the purposes of subsection (3) of this section or an Act of Parliament passed for the purposes of subsection (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (a) and (b) thereof is required to be followed, shall not come into operation unless -
- (a) a resolution has been passed by each legislative house of at least two Regions signifying consent to its having effect; and
- (b) a referendum upon the question whether the Act should have effect has been held in pursuance of provision made in that behalf by Parliament in every part of Nigeria that would be comprised in a new Region or transferred from one territory to another, as the case may be, at which the persons entitled to vote were the persons who at the date of the referendum were entitled to vote in any constituency in that part of Nigeria established under section 51 of this Constitution and at which at least three-fifties of all the persons who were entitled to vote at the referendum voted in favour of the Act.
- (6) An Act of Parliament passed for the purposes of subsection (4) of this section, being an Act to effect an alteration in respect of which the procedure described in paragraphs (a) and (b) thereof is not required to be followed, shall not come into operation unless a resolution has been passed by each legislative house of each Region whose boundaries are affected by the Act signifying consent to its having effect.
- (?) An Act of Parliament altering section 42 of this Constitution in relation to any Region in such a manner that that Region would be represented in the Senate by less than the appropriate proportion of Senators shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.
- (8) An Act of Parliament altering section 43, 51 or 52 of this Constitution in relation to any Region in such a manner that the number of members of the House of Representatives to be elected in that Region would be less than the appropriate proportion for that Region shall not come into operation unless a resolution has been passed by each legislative house of that Region signifying consent to its having effect.
- (9) An Act of Parliament altering section 43, 51 or 52 of this Constitution in relation to the Federal territory in such a manner that the number of members of the House of Representatives to be elected in that territory would be less than the appropriate proportion for that territory shall not come into operation unless a resolution supported by a majority of the members of that House who represent that territory has been passed by each House of Parliament signifying consent to its having effect.

- (10) The provisions of this Constitution shall not be altered except in accordance with the provisions of this section.
- (11) For the purposes of subsection (7) of this section, the expression "the appropriate proportion" means the number obtained by dividing the total number of Senators representing the Regions by the total number of Regions; and for the purposes of subsections (8) and (9) of this section, that expression means, in relation to a territory, such proportion of the total number of members of the House of Representatives as corresponds most nearly to the proportion borne by the number of inhabitants of that territory to the total number of inhabitants of Nigeria.
- (12) For the purposes of this section the number of inhabitants of Nigeria or a territory shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.

#### **Provisions relating to Regional Constitutions**

5. (1) Subject to the provisions of this Constitution and the Nigeria Independence Act, 1960, the constitution of each Region shall have the force of law throughout that Region and if any other law is inconsistent with that constitution, the provisions of that constitution shall prevail and the other law shall, to the extent of the inconsistency, be void.
- (2) Subject to the provisions of this Constitution, the constitution of a Region may be altered only by a law enacted by the legislature of that Region.
- (3) A bill for a law to be enacted by the legislature of a Region altering any of the provisions of the constitution of that Region shall not be passed in any legislative house of that Region unless it has been supported on second and third readings by the votes of not less than two-thirds of all the members of that legislative house and shall not be presented to the Governor of the Region for assent unless it has been passed by each legislative house of the Region.
- (4) No law enacted by the legislature of a Region, to the extent that it alters any provision of the constitution of that Region to which this subsection applies, shall have effect unless a resolution supported by the votes of at least two-thirds of all the members of that House is passed by each House of Parliament signifying consent to its having effect.
- (5) Where a new Region is established out of other territories or parts of other territories, Parliament may make laws for the peace, order and good government of that Region with respect to matters not included in the Legislative Lists (including provision for the constitution of that Region) for a period of six months after the establishment of that Region but thereafter Parliament shall have only such powers to make laws for that Region as it has in relation to the other Regions:
- Provided that nothing in this section shall preclude the legislature of that Region from making laws in accordance with the provisions of this Constitution and the constitution of the Region.
- (6) Subsection (4) of this section applies to any provision of the constitution of a Region relating to-
- (a) the establishment of any of the following, that is to say, the office of Governor, a legislative house, a legislature, an executive council, the office of any Minister of the Government, a High Court, an electoral commission, a public service commission, a judicial service commission, the office of a Director of Audit and the office of a Director of Public Prosecutions;
- (b) the manner in which the Governor's functions are to be exercised;
- (c) the appointment, tenure of office and the terms of service of any of the following, that is to say, the Governor, the judges of the High Court, the members of the commissions referred to in paragraph (a) of this subsection, and the Director of Audit;
- (d) the functions of any of the following, that is to say, the executive council, the commissions referred to in paragraph (a) of this subsection, and the Director of Audit;
- (e) the appointment and tenure of office of Ministers of the Government and the allocation of portfolios;



- (f) the summoning, sessions, prorogation and dissolution of the legislative houses;
- (g) the establishment of a Consolidated Revenue Fund and other public funds, the authorisation of expenditure therefrom and the imposition of charges upon any public fund or upon the revenues and assets of the Region;
- (h) appeals to the High Court from subordinate courts and appeals from the High Court; and
- (i) the procedure of the commissions referred to in paragraph (a) of this subsection.

#### **Interpretation of Chapter I**

- 6. Without prejudice to the generality of section 165 of this Constitution, in this Chapter--
  - (a) references to any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to any law, or instrument made under a law, that amends, modifies, re-enacts with or without amendment or modification or makes different provision in lieu of, that provision; and
  - (b) references to the alteration of any of the provisions of this Constitution, the Nigeria Independence Act, 1960, or the constitution of a Region include references to the amendment, modification or re-enactment, with or without amendment or modification, of that provision, the suspension or repeal of that provision and the making of different provision in lieu of that provision.

#### **CHAPTER II: CITIZENSHIP**

##### **Persons who become citizens on October 1, 1960**

- 7. (1) Every person who, having been born in the former Colony or Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall become a citizen of Nigeria on the first day of October, 1960:

Provided that a person shall not become a citizen of Nigeria by virtue of this subsection if neither of his parents nor any of his grandparents was born in the former Colony or Protectorate of Nigeria.

- (2) Every person who, having been born outside the former Colony and Protectorate of Nigeria, was on the thirtieth day of September, 1960, a citizen of the United Kingdom and Colonies or a British protected person shall, if his father was born in the former Colony or Protectorate and was a citizen of the United Kingdom and Colonies or a British protected person on the thirtieth day of September, 1960, (or, if he died before that date, was such a citizen or person at the date of his death or would have become such a citizen or person but for his death) become a citizen of Nigeria on the first day of October, 1960.

##### **Persons entitled to be registered as citizens**

- 8. (1) Any person who, but for the proviso to subsection (1) of section 7 of this Constitution, would be a citizen of Nigeria by virtue of that subsection shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

- (2) Any woman, who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who is or has been married to a person--
  - (a) who becomes a citizen of Nigeria by virtue of section 7 of this Constitution; or
  - (b) who, having died before the first day of October, 1960, would, but for his death, have become a citizen of Nigeria by virtue of that section,

shall be entitled, upon making application in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.

- (3) Any woman who is or has been married to a person who becomes a citizen of Nigeria by registration under subsection (1) of this section and is at the date of such registration a citizen of the United Kingdom and Colonies or a British protected person shall be entitled, upon making application within such time and in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.
- (4) Any woman who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies or a British protected person and who has been married to a person who, having died before the first day of October, 1960, would, but for his death, be entitled to be registered as a citizen of Nigeria under subsection (1) of this section, shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria.
- (5) The provisions of subsections (2), (3) and (4) of this section shall be without prejudice to the provisions of section 7 of this Constitution.

#### **Persons naturalised or registered before October 1, 1960**

9. Any person who on the thirtieth day of September, 1960, was a citizen of the United Kingdom and Colonies -
  - (a) having become such a citizen under the British Nationality Act by virtue of his having been naturalised in the former Colony or Protectorate of Nigeria as a British subject before that Act came into force; or
  - (b) having become such a citizen by virtue of his having been naturalised or registered in the former Colony or Protectorate of Nigeria under that Act,

shall be entitled, upon making application before the first day of October, 1962, in such manner as may be prescribed by Parliament, to be registered as a citizen of Nigeria:

Provided that a person who has not attained the age of twenty-one years (other than a woman who is or has been married) may not make an application under this subsection himself but an application may be made on his behalf by his parent or guardian.

#### **Special Provisions as to Northern Cameroons**

10. (1) For the purpose of determining the status of persons connected with the part of Northern Nigeria which was not included in the Federation on the thirty-first day of May, 1961, the foregoing provisions of this Chapter and subsection (3) of section 17 of this Constitution shall have effect as if -
  - (a) for any reference to a particular date where there were substituted a reference to the last day of the period of eight months beginning with the day next following that date; and
  - (b) for any reference to the former Colony or Protectorate of Nigeria (other than the second reference in section 7) there were substituted a reference to the part aforesaid; and
  - (c) that other reference included a reference to the part aforesaid.
- (2) Nothing in subsection (1) of this section shall prejudice the status of any person who is or may become a citizen of Nigeria apart from that subsection.

#### **Persons born in Nigeria after September 30, 1960**

11. Every person born in Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth:

Provided that a person shall not become a citizen of Nigeria by virtue of this section if at the time of his birth -

- (a) neither of his parents was a citizen of Nigeria and his father possessed such immunity from suit and legal process as is accorded to an envoy, of a foreign sovereign power accredited to the Federation; or
- (b) his father was an enemy alien and the birth occurred in a place then under occupation by the enemy.

**Persons born outside Nigeria after September 30, 1960**

12. A person born outside Nigeria after the thirtieth day of September, 1960, shall become a citizen of Nigeria at the date of his birth if at that date his father is a citizen of Nigeria otherwise than by virtue of this section or subsection (2) of section 7 of this Constitution.

**Dual Citizenship**

13. Any person who, upon his attainment of the age of twenty-one years, was a citizen of Nigeria and also a citizen of some country other than Nigeria shall cease to be a citizen of Nigeria upon his attainment of the age of twenty-two years (or, in the case of a person of unsound mind, at such later date as may be prescribed by Parliament) unless he has renounced his citizenship of that other country, taken the oath of allegiance and, in the case of a person who is a citizen of Nigeria by virtue of subsection (2) of section 7 of this Constitution, has made such declaration of his intentions concerning residence or employment as may be prescribed by Parliament:

Provided that where a person cannot renounce his citizenship of the other country under the law of that country he may instead make such declaration concerning that citizenship as may be, prescribed by Parliament.

**Commonwealth citizens**

14. (1) Every person who under this Constitution or any Act of Parliament is a citizen of Nigeria or under any enactment for the time being in force in any country to which this section applies is a citizen of that country shall, by virtue of that citizenship, have the status of a Commonwealth citizen.
- (2) Every person who is a British subject without citizenship under the British Nationality Act, 1948, or who continues to be a British subject under section 2 of that Act shall by virtue of that status have the status of a Commonwealth citizen.
- (3) The countries to which this section applies are the United Kingdom and Colonies, Canada, Australia, New Zealand, the Union of South Africa, India, Pakistan, the Federation of Rhodesia and Nyasaland, Ceylon, Ghana, the Federation of Malaya, the State of Singapore, the Republic of Cyprus, Sierra Leone, Tanganyika, Jamaica, Trinidad and Tobago, Uganda and such other countries as may be prescribed by Parliament.

**Criminal liability of Commonwealth citizens**

15. (1) A Commonwealth citizen who is not a citizen of Nigeria or a citizen of the Republic of Ireland who is not a citizen of Nigeria shall not be guilty of an offence against any law in force in Nigeria by reason of anything done or omitted in any part of the Commonwealth other than Nigeria or in the Republic of Ireland or in any foreign country unless-
- (a) the act or omission would be an offence if he were an alien; and
- (b) in the case of an act or omission in any part of the Commonwealth or in the Republic of Ireland, it would be an offence if the country in which the act was done or the omission made were a foreign country.
- (2) In this section "foreign country" means a country (other than the Republic of Ireland) that is not part of the Commonwealth.

**Powers of Parliament**

16. Parliament may make provision—
- (a) for the acquisition of citizenship of Nigeria by persons who do not become citizens of Nigeria by virtue of the provisions of this Chapter;
- (b) for depriving of his citizenship of Nigeria any person who is a citizen of Nigeria otherwise than by virtue of subsection (1) of section 7 or section 10 of this Constitution; or
- (c) for the renunciation by any person of his citizenship of Nigeria.

**Interpretation of Chapter II**

17. (1) Without prejudice to the generality of section 165 of this Constitution, in this Chapter-

**" alien" means a person who is not a citizen of Nigeria, a Commonwealth citizen other than a citizen of Nigeria, a British protected person or a citizen of the Republic of Ireland;**

**"the British Nationality Act" means the Act of the Parliament of the Parliament of the United Kingdom entitled the British Nationality Act, 1948; and**

**"British protected person" means a person who is a British protected person for the purposes of the British Nationality Act.**

- (2) For the purposes of this Chapter a person born in a ship or aircraft registered in Nigeria or belonging to the Government of the Federation shall be deemed to have been born in Nigeria.**
- (3) Any reference in this Chapter to the national status of the father of a person at the time of that person's birth shall, in relation to a person born after the death of his father, be construed as a reference to the national status of the father at the time of his father's death; and where that death occurred before the first day of October, 1960, and the birth occurred after the thirtieth day of September, 1960, the national status that the father would have had if he had died on the first day of October, 1960, shall be deemed to be his national status at the time of his death.**

### **CHAPTER III: FUNDAMENTAL RIGHTS**

#### **Deprivation of life**

- 18. (1) No person shall be deprived intentionally of his life, save in execution of the sentence of a court in respect of a criminal offence of which he has been found guilty.**
- (2) A person shall not be regarded as having been deprived of his life in contravention of this section if he dies as the result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably justifiable -**
  - (a) for the defence of any person from violence or for the defence of property;**
  - (b) in order to effect an arrest or to prevent the escape of a person detained;**
  - (c) for the purpose of suppressing a riot, insurrection or mutiny; or**
  - (d) in order to prevent the commission by that person of a criminal offence.**
- (3) The use of force in any part of Nigeria in circumstances in which and to the extent to which it would have been authorised in that part on the first day of November, 1959, by the Code of Criminal Law established by the Criminal Code Ordinance, as amended, shall be regarded as reasonably justifiable for the purposes of this section.**

#### **Inhuman treatment**

- 19. (1) No person shall be subjected to torture, or to inhuman or degrading punishment or other treatment.**
- (2) Nothing in this section shall invalidate any law by reason only that it authorises the infliction in any part of Nigeria of any punishment that was lawful and customary in that part on the first day of November, 1959.**

#### **Slavery and forced labour**

- 20. (1) No person shall be held in slavery or servitude.**
- (2) No person shall be required to perform forced labour.**
- (3) For the purposes of this section "forced labour" does not include-**
  - (a) any labour required in consequence of the sentence or order of a court;**
  - (b) any labour required of members of the armed forces of the State in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces, any labour required instead of such service;**
  - (c) any labour required in the event of an emergency or calamity**

threatening the life or well-being of the community; or

- (d) any labour that forms part of normal communal or other civil obligations.
21. (1) No person shall be deprived of his personal liberty save in the following cases and in accordance with a procedure permitted by law-
- (a) in consequence of his unfitness to plead to a criminal charge, in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty or in the execution of the order of a court of record punishing him for contempt of itself;
  - (b) by reason of his failure to comply with the order of a court or in order to secure the fulfilment of any obligation imposed upon him by law;
  - (c) for the purpose of bringing him before a court in execution of the order of a court or upon reasonable suspicion of his having committed a criminal offence or to such extent as may be reasonably necessary to prevent his committing a criminal offence;
  - (d) in the case of a person who has not attained the age of twenty-one years, for the purpose of his education or welfare;
  - (e) in the case of persons suffering from infectious or contagious disease, persons of unsound mind, persons addicted to drugs or alcohol or vagrants, for the purpose of their care or treatment or the protection of the community; or
  - (f) for the purpose of preventing the unlawful entry of any person into Nigeria or for the purpose of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto.
- (2) Any person who is arrested or detained shall be promptly informed, in language that he understands, of the reasons for his arrest or detention.
- (3) Any person who is arrested or detained in accordance with paragraph (c) of subsection (1) of this section shall be brought before a court without undue delay and if he is not tried within a reasonable time he shall (without prejudice to any further proceedings that may be brought against him) be released either unconditionally or upon such conditions as are reasonably necessary to ensure that he appears for trial at a later date
- (4) Any person who is unlawfully arrested or detained shall be entitled to compensation.
- (5) Nothing in this section shall invalidate any law by reason only that it authorises the detention for a period not exceeding three months of a member of the armed forces of the State or a member of a police force in execution of a sentence imposed by an officer of the armed forces of the State or a police force, as the case may be, in respect of an offence punishable by such detention of which he has been found guilty.
22. (1) In the determination of his civil rights and obligations a person shall be entitled to a fair hearing within a reasonable time by a court or other tribunal established by law and constituted in such manner as to secure its independence and impartiality:
- Provided that nothing in this subsection shall invalidate any law by reason only that it confers on any person or authority power to determine questions arising in the administration of a law that affect or may affect the civil rights and obligations of any person.
- (2) Whenever any person is charged with a criminal offence, he shall, unless the charge is withdrawn, be entitled to a fair hearing within a reasonable time by a court.
  - (3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public:
- Provided that -
- (a) a court or such a tribunal may exclude from its proceedings persons other than the parties thereto in the interests of defence, public safety, public order, public morality, the welfare of persons

who have not attained the age of twenty one years, the protection of the private lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice; and

(b) if in any proceedings before a court or such a tribunal a Minister of the Government of the Federation or a Minister of the Government of a Region certifies that it would not be in the public interest for any matter to be publicly disclosed, the court or tribunal shall make arrangements for evidence relating to that matter to be heard in camera and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty:

Provided that nothing in this section shall invalidate any law by reason only that the law imposes upon any such person the burden of proving particular facts.

(5) Every person who is charged with a criminal offence shall be entitled -

(a) to be informed promptly, in language that he understands and in detail, of the nature of the offence:

(b) to be given adequate time and facilities for the preparation of his defence;

(c) to defend himself in person or by legal representatives of his own choice;

(d) to examine in person or by his legal representatives the witnesses called by the prosecution before any court and to obtain the attendance and carry out the examination of witnesses to testify on his behalf before the court on the same conditions as those applying to the witnesses called by the prosecution; and

(e) to have without payment the assistance of an interpreter if he cannot understand the language used at the trial of the offence:

Provided that nothing in this subsection shall invalidate any law by reason only that the law prohibits legal representation in a court established by or under the Native Courts Law, 1956, the Sharia Court of Appeal Law, 1960, or the Court of Resolution Law, 1960, of Northern Nigeria, the Customary Courts Law, 1957, of Western Nigeria, or the Customary Courts Law, 1956, of Eastern Nigeria, as amended, or any law replacing any of those laws.

(6) When any person is tried for any criminal offence, the court shall keep a record of the proceedings and the accused person or any person authorised by him in that behalf shall be entitled to obtain copies of the record within a reasonable time upon payment of such fee as may be prescribed by law.

(7) No person shall be held to be guilty of a criminal offence on account of any act or omission that did not, at the time it took place, constitute such an offence and no penalty shall be imposed for any criminal offence heavier than the penalty in force at the time the offence was committed.

(8) No person who shows that he has been tried by any competent court for a criminal offence and either convicted or acquitted shall again be tried for that offence or for a criminal offence having the same ingredients as that offence save upon the order of a superior court; and no person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

(9) No person who is tried for a criminal offence shall be compelled to give evidence at the trial.

(10) No person shall be convicted of a criminal offence unless that offence is defined and the penalty therefor is prescribed in a written law:

Provided that nothing in this subsection shall prevent a court of record from punishing any person for contempt of itself notwithstanding that the act or omission constituting the contempt is not defined in a written law and the penalty therefor is not so prescribed.

Private and family life

**23. (1) Every person shall be entitled to respect for 'his private and family life, his home and his correspondence.**

**(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society -**

**(a) in the interest of defence, public safety, public order, public morality, public health or the economic well-being of the community; or**

**(b) for the purpose of protecting the rights and freedom of other persons.**

#### **Freedom of conscience**

**24. (1) Every person shall be entitled to freedom of thought, conscience and religion, including freedom to change his religion or belief and freedom, either alone or in community with others, and in public or in private to manifest and propagate his religion or belief in worship, teaching, practice and observance.**

**(2) No person attending any place of education shall be required to receive religious instruction or to take part in or attend any religious ceremony or observances if such instruction, ceremony or observances relate to a religion other than his own.**

**(3) No religious community or denomination shall be prevented from providing religious instruction for pupils of that community or denomination in any place of education maintained wholly by that community or denomination.**

**(4) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-**

**(a) in the interest of defence, public safety, public order, public morality or public health; or**

**(b) for the purpose of protecting the rights and freedom of other persons, including their rights and freedom to observe and practise their religions without the unsolicited intervention of members of other religions.**

#### **Freedom of expression**

**25. (1) Every person shall be entitled to freedom of expression, including freedom to hold opinions and to receive and impart ideas and information without interference.**

**(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-**

**(a) in the interest of defence, public safety, public order, public morality or public health;**

**(b) for the purpose of protecting the rights, reputations and freedom of other persons, preventing the disclosure of information received in confidence, maintaining the authority and independence of the courts or regulating telephony, wireless broadcasting, television, or the exhibition of cinematograph films; or**

**(c) imposing restrictions upon persons holding office under the State, members of the armed forces of the State or members of a police force.**

#### **Peaceful assembly and association**

**26. (1) Every person shall be entitled to assemble freely and associate with other persons and in particular he may form or belong to trade unions and other associations for the protection of his interests.**

**(2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-**

**(a) in the interest of defence, public safety, public order, public morality or public health;**

**(b) for the purpose of protecting the rights and freedoms of other persons; or**

**(c) imposing restrictions upon persons holding office under the State, members of the armed forces of the State or members of a police force.**

#### **Freedom of movement**

- 27. (1) Every citizen of Nigeria is entitled to move freely throughout Nigeria and to reside in any part thereof; and no citizen of Nigeria shall be expelled from Nigeria or refused entry thereto.**
- (2) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society-**
- (a) restricting the movement or residence of any person within Nigeria in the interest of defence, public safety, public order, public morality or public health;**
  - (b) for the removal of persons from Nigeria to be tried outside Nigeria for criminal offences or to undergo imprisonment outside Nigeria in execution of the sentences of courts in respect of criminal offences of which they have been found guilty;**
  - (c) imposing restrictions upon the movement or residence within Nigeria of members of the public service of the Federation or the public service of a Region, members of the armed forces of the State or members of a police force.**
- (3) Nothing in this section shall invalidate any law by reason only that the law imposes restrictions with respect to the acquisition or use by any person of land or other property in Nigeria or any part thereof.**
- (4) Nothing in this section shall invalidate any law by reason only that the law provides for the removal or exclusion of a person who is or was a chief by reference to a territory or a part of a territory from a particular area within that territory.**

#### **Freedom from discrimination**

- 28. (1) A citizen of Nigeria of a particular community, tribe, place of origin, religion or political opinion shall not, by reason only that he is such a person-**
- (a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government of the Federation or the Government of a Region to disabilities or restrictions to which citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions are not made subject; or**
  - (b) be accorded either expressly by, or in the practical application of, any law in force in Nigeria or any such executive or administrative action any privilege or advantage that is not conferred on citizens of Nigeria of other communities, tribes, places of origin, religions or political opinions.**
- (2) Nothing in this section shall invalidate any law by reason only that the law-**
- (a) prescribes qualifications for service in an office under the State or as a member of the armed forces of the State or a member of a police force or for the service of a body corporate established directly by any law in force in Nigeria;**
  - (b) imposes restrictions with respect to the appointment of any person to an office under the State or as a member of the armed forces of the State or a member of a police force or to an office in the service of a body corporate established directly by any law in force in Nigeria;**
  - (c) imposes restrictions with respect to the acquisition or use by any person of land or other property; or**
  - (d) imposes any disability or restriction or accords any privilege or advantage that, having regard to its nature and to special circumstances pertaining to the persons to whom it applies, is reasonably justifiable in a democratic society.**

#### **Derogations from fundamental rights**

- 29. (1) An Act of Parliament shall not be invalid by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 18, 21, 22 or 28 of this Constitution but no such measures shall be taken in pursuance of any such Act during any period of emergency save to the extent that those measures are reasonably justifiable for the purpose of dealing with the situation that exists during that period of emergency:**



Provided that nothing in this section shall authorise any derogation from the provisions of section 18 of this Constitution except in respect of deaths resulting from acts of war or any or any derogation from the provisions of subsection (7) of section 22 of this Constitution.

- (2) In this section "period of emergency" means a period of emergency for the purposes of section 70 of this Constitution.

#### Reference to tribunal in certain cases

#### 30. (1) Where -

- (a) any person is detained in pursuance of an Act of Parliament derogating from the provisions of section 21 of this Constitution; or
- (b) the movement or residence of any person within Nigeria who is a citizen of Nigeria is lawfully restricted (otherwise than by order of a court) in the interest of defence, public safety, public order, public morality or public health,

that person shall be entitled to require that his case should be referred within one month of the beginning of the period of detention or restriction and thereafter during that period at intervals of not more than six months to a tribunal established by law and that tribunal may make recommendations concerning the necessity or expediency of continuing the detention or restriction to the authority that has ordered it:

Provided that such authority, unless it is otherwise provided by law, shall not be obliged to act in accordance with any such recommendation.

- (2) A tribunal established for the purposes of this section shall be constituted in such manner as to ensure its independence and impartiality and its chairman shall be a legal practitioner appointed by the Chief Justice of the Nigeria.

#### Compulsory acquisition of property

#### 31. (1) No property, movable or immovable, shall be taken possession of compulsorily and no right over or interest in any such property shall be acquired compulsorily in any part of Nigeria except by or under the provisions of a law that-

- (a) requires the payment of adequate compensation therefor; and
- (b) gives to any person claiming such compensation a right of access, for the determination of his interest in the property and the amount of compensation, to the High Court having jurisdiction in that part of Nigeria.

#### (2) Nothing in this section shall affect the operation of any law in force on the thirty-first day of March, 1958, or any law made after that date that amends or replaces any such law and does not-

- (a) add to the kinds of property that may be taken possession of or the rights over and interests in property that may be acquired;
- (b) add to the purposes for which or circumstances in which such property may be taken possession of or acquired;
- (c) make the conditions governing entitlement to any compensation or the amount thereof less favourable to any person owning or interested in the property; or
- (d) deprive any person of any such right as is mentioned in paragraph (b) of subsection (1) of this section.

#### (3) Nothing in this section shall be construed as affecting any general law-

- (a) for the imposition or enforcement of any tax, rate or due;
- (b) for the imposition of penalties or forfeitures for breach of the law, whether under civil process or after conviction of an offence;
- (c) relating to leases, tenancies, mortgages, charges, bills of sale or any other rights or obligations arising out of contracts;
- (d) relating to the vesting and administration of the property of persons adjudged or otherwise declared bankrupt or insolvent, of persons of unsound mind, of deceased persons and of companies,

other bodies corporate and unincorporate societies in the course of being wound up;

- (e) relating to the execution of judgments or orders of courts;
  - (f) providing for the taking of possession of property that is in a dangerous state or is injurious to the health of human beings, plants or animals;
  - (g) relating to enemy property;
  - (h) relating to trusts and trustees;
  - (i) relating to the limitation of actions;
  - (j) relating to property vested in bodies corporate directly established by any law in force in Nigeria;
  - (k) relating to the temporary taking of possession of property for the purposes of any examination, investigation or enquiry; or
  - (/) providing for the carrying out of work on land for the purpose of soil-conservation.
- (4) The provisions of this section shall apply in relation to the compulsory taking of possession of property, movable or immovable, and the compulsory acquisition of rights over and interests in such property by or on behalf of the State.

#### **Special jurisdiction of High Courts in relation to this Chapter**

32. (1) Any person who alleges that any of the provisions of this Chapter has been contravened in any territory in relation to him may apply to the High Court of that territory for redress.
- (2) Subject to the provisions of section 115 of this Constitution, the High Court of a territory shall have original jurisdiction to hear and determine any application made to it in pursuance of this section and may make such orders, issue such writs and give such directions as it may consider appropriate for the purpose of enforcing, or securing the enforcement, within that territory of any rights to which the person who makes the application may be entitled under this Chapter.
- (3) Parliament may make provision with respect to the practice and procedure of the High Courts of the territories for the purposes of this section and may confer upon those courts such powers in addition to those conferred by this section as may appear to be necessary or desirable for the purpose of enabling those courts more effectively to exercise the jurisdiction conferred upon them by this section.

#### **Interpretation of Chapter III**

33. In this Chapter, unless it is otherwise expressly provided or required by the context -

"court" means any court of law in Nigeria but, except in relation to a member of the armed forces of the Federation, does not include a court martial;

"Court" means any court of law in Nigeria but, except in relation to a member of the armed forces of Nigeria does not include a court martial;

"law" includes an unwritten rule of law;

"member of the armed forces of the State" includes any person who is subject to naval, military or air-force law;

"member of a police force" includes a person who is subject to any law relating to the discipline of a police force.

### **CHAPTER IV: THE PRESIDENT OF THE REPUBLIC**

#### **Establishment of office of President**

34. (1) There shall be a President of the Republic who shall be elected to office in accordance with section 35 of this Constitution and shall be the Head of State of the Federation and the Commander-in-Chief of the armed forces of the Federation.

#### **Election of the President**

**35. A person shall be eligible for election as President if –**

- (a) he is a citizen of Nigeria who has attained the age of forty years; and**
- (b) he is not disqualified by virtue of paragraphs (a) to (d) or (f) of subsection (1), subsection (2) or subsection (3) of section 45 of this Constitution for election as a member of the House of Representatives.**

**(2) The President shall be elected by secret ballot at a joint meeting of both Houses of Parliament held for the purpose of electing the President (hereinafter in this section referred to as an "election meeting"); and each member of Parliament shall be entitled to a single vote in each ballot for the election of the President taken at such a meeting (hereinafter in this section referred to as a "presidential ballot").**

**(3) An election meeting shall be held so as to begin -**

**(a) if the President continues in office after the beginning of the period of four months ending with the date when his term of office would expire by the effluxion of time, during the first three months of that period;**

**(b) in any other case, during the period of three months beginning with the date when the office of the President becomes vacant,**

**And shall be held at such a place and shall begin on such a date as the President or the person performing the functions of the President shall specify by order published in the Gazette of the Federation.**

**(4) A person shall not be a candidate in a presidential ballot unless he is nominated for election or re-election as the President by a document which –**

**(a) is signed by him and by three or more members of Parliament; and**

**(b) is served before the ballot is ordered on the person presiding at the election meeting at which the ballot is taken.**

**(5) if in a presidential ballot there is only one candidate, he shall be declared elected if the number of votes which he receives is greater than half of the number of all the members of the Parliament.**

**(6) if in a presidential election there are two or more candidates and the number of votes which one candidate receives is not less than two-thirds of the number of all the members of Parliament, that candidate shall be declared elected.**

**(7) If in a presidential ballot –**

**(a) there are three or more candidates; and**

**(b) none of the candidates is declared elected; and**

**(c) one of the candidates receives a smaller number of votes than each of the others,**

**that one of the candidates shall not be a candidate in any subsequent presidential ballot ordered at the same election meeting.**

**(8) If in a presidential ballot –**

**(a) the conditions specified by paragraphs (a) and (b) of subsection (7) of this section are satisfied, but the condition specified by paragraph (c) of that subsection is not; and**

**(b) two of the candidates each receives the same number of votes and that number is smaller than the number of votes received by the other candidates or each of the other candidates, as the case may be,**

**a ballot shall forthwith be taken for the purpose of determining which of the two shall be treated for the purposes of the said subsection (7) as the candidate mentioned in paragraph (c) of that subsection; and the candidate who receives the smaller number of the votes cast in that ballot shall be so treated, and that subsection shall apply accordingly.**

**(9) Where in a ballot taken in pursuance of subsection (8) of this section each candidate would apart from this subsection, be**

treated as receiving the same number of votes, the person presiding at the election meeting when the ballot is ordered shall have a second or casting vote.

(10) If in a presidential ballot no candidate is declared elected, a further ballot shall be taken at the same election meeting; and an election meeting shall continue until a candidate is declared elected in a presidential ballot taken at that meeting but may be adjourned from time to time for no more than two days exclusive of the days on which and to which it is adjourned.

(11) An instrument which –

(a) is executed under the hand and seal of the person who was or is purported to act as the person presiding at an election meeting at the time of the presidential ballot; and

(b) states that a person named in the instrument was declared elected at that meeting as the President of the Republic in consequence of that ballot,

Shall be conclusive evidence that the person so named was so elected; and no question as to the validity of the election as the President of the person so named shall be entertained by any court.

36. (1) A person shall hold office as President for the period of five years beginning with the day on which he is elected as the President or where he or another person holds office as the President on that day, beginning with the day following the date on which that office next becomes vacant.

(2) The office of President shall become vacant –

(a) on the expiration of the period mentioned in subsection (1) of this section; or

(b) if the incumbent dies or resigns the office or ceases to hold office in pursuance of section 38 of this Constitution.

(3) When a person takes office as the President any other public office held by him shall become vacant; and while a person continues in office as the President he shall be disqualified for any other public office.

In this subsection, 'public office' means office as a president, speaker or member of a legislative house of the Federation or a Region, any office of emolument under the state and any paid appointment as a member or employee of a body corporate established directly by any law in force in Nigeria.

37 (1) A person elected as the President shall not begin to perform the functions of that office until he has taken and subscribed the oath of allegiance and such oath for the due performance of those functions as may be prescribed by Parliament.

(2) The oaths aforesaid shall be administered by the Chief Justice of Nigeria or the person for the time being appointed to exercise the functions of the Chief Justice.

38. (1) The President shall cease to hold office if a motion for his removal from office is declared to be passed in accordance with the provisions of this sections.

(2) If –

(a) notice in writing is given to the President of the Senate of a motion that the conduct of the President of the Republic be investigated so as to ascertain whether he is guilty of misconduct in the performance of the functions of his office or is unable to perform those functions; and

(b) the notice is signed by not less than one quarter of all the members of the Senate or one quarter of all the members of the members of the House of Representatives,

the President of the Senate shall, by order published in the Gazette of the Federation, forthwith convene a joint meeting of both Houses of Parliament to consider the motion.

(3) A meeting convened in pursuance of subsection (2) of this section shall be held at such a place as may be specified by the order convening the meeting and shall begin on such a date as may be so specified, not being before the expiration of the period of seven days or after the expiration of the period of fourteen days

beginning with the date of publication of the order.

- (4) A meeting convened as foresaid shall not without the leave of the person presiding at the meeting consider any matter other than the motion for which the meeting is convened and shall not debate the motion; and the person presiding at the meeting shall, after declaring the meeting to be open, forthwith direct a vote to be taken on the motion and shall –
- (a) if two-thirds or more of the votes cast on the on the motion are cast in favour of the motion, declare the motion to be passed; and
- (b) in any other case, declare the motion to be defeated.
- (5) Where a motion is declared to be passed in pursuance of subsection (4) of this section, a committee consisting of members of each House of Parliament shall be set up to investigate the conduct of the President and to report on it to the Parliament within the period of three months beginning with the date on which date on which the motion was passed, and the President shall be entitled to appear in person to be represented before the Committee; and the constitution, powers and procedure of the committee (including the mode of reporting to Parliament) shall be in accordance with provision in that behalf made by an Act of Parliament and, notwithstanding any other provisions of this Constitution, no appeal shall lie from any determination of the committee and provision may be made by Act of Parliament for prohibiting or restricting the issue out of any court of any process touching the committee or its proceedings.
- (6) The report made to Parliament by the committee aforesaid shall state whether the committee finds the President guilty of misconduct in performing the functions of his office or finds him unable to perform those functions; and where the report includes a statement that the committee finds the President guilty as aforesaid or unable to perform those functions, the President of the Senate shall, by order published in the Gazette of the Federation, forthwith convene a joint meeting of the both Houses of Parliament to consider a motion for the removal of the President from office, and the provisions of subsection (3) of this section shall apply in relation to the meeting as they apply in relation to such a meeting as is mentioned in that subsection.
- (7) A meeting convened in pursuance of subsection (6) of this section shall not without the leave of the person presiding at the meeting consider any business other than the motion mentioned in that subsection; and the person presiding at the meeting shall, after permitting the motion to be debated during such period as he thinks fit, direct a vote to be taken on the motion, and shall –
- (a) if the number of the votes cast in favour of the motion is not less than two-thirds of the number of all members of Parliament, declare the motion passed;
- (b) in any other case, declare the motion to be defeated.
- (8) Where a motion is declared to be passed in pursuance of subsection (4) of this section, the President shall not exercise any of the functions of his office during the period beginning with the time of the declaration and ending –
- (a) where the report mentioned in subsection (6) of this section does not include such a statement as is in that subsection, with the time of the presentation of the report to Parliament;
- (b) where the report includes such statement, with the time of the subsequent declaration made in pursuance of subsection (7) of this section,

But nothing in this subsection shall affect the entitlement of the President to the emoluments of his office during that period.

39. (1) During any period while –

- (a) the office of President is vacant; or
- (b) the President is absent from Nigeria or is, in the opinion of the Prime Minister, unable to perform the functions of his office by reason of his illness; or
- (c) the President is prohibited by subsection (8) of section of this Constitution from exercising those functions,

the functions of that office shall, subject to the following

provisions of this section, be performed by the President of the Senate.

- (2) During any period while the President of the Senate is, in the opinion of the Prime Minister, unable to perform the functions conferred on him by subsection (1) of this section, be performed by the Speaker of the House of Representatives.
  - (3) During any period while the Speaker of the House of Representatives is, in the opinion of the Prime Minister, unable to perform the functions conferred on him by subsection (2) of this section, those functions shall be performed by such person as the Council of Ministers may appoint by order published in the Gazette of the Federation; and an order under this subsection may be revoked by a subsequent order thereunder.
  - (4) The President shall not be absent from Nigeria except with the agreement of the Council of Ministers.
40. Subject to the foregoing provisions of this Chapter, the procedure of any joint meeting of both Houses of Parliament held in pursuance of those provisions (including the procedure for counting votes and for declaring that individuals votes are void) shall be in accordance with provision in that behalf made by Act of Parliament.

## **CHAPTER V: PARLIAMENT**

### **Part 1: Composition of Parliament**

#### **Establishment of Parliament**

41. There shall be a Parliament of the Federation, which shall consist of Her Majesty, a Senate and a House of Representatives.

#### **Composition of Senate**

42. (1) Without prejudice to the provisions of section 46 of this Constitution, the Senate shall consist of –
- (a) twelve Senators representing each Region, who shall be selected at a joint sitting of the legislative houses of that Region from among persons nominated by the Governor;
  - (b) four Senators representing the Federal territory; and
  - (c) four Senators selected by the President, acting in accordance with the advice of the Prime Minister.
- (2) The Senators representing the Federal territory shall be-
- (a) the Oba of Lagos, who shall be an ex-officio member of the Senate;
  - (b) a Chief selected in such manner as may be prescribed by Parliament by the White-Cap Chiefs and War Chiefs of Lagos from among their own number; and
  - (c) two other persons selected for that purpose in such manner as may be prescribed by Parliament.
- (3) A joint sitting of the legislative houses of a Region may regulate its own procedure for the purposes of this section.

#### **Composition of the House of Representatives**

43. Without prejudice to the provisions of sections 47 and 88 of this Constitution, the House of Representatives shall consist of three hundred and twelve members.

#### **Qualifications for membership of Parliament**

44. Subject to the provisions of section 45 of this Constitution-
- (a) a person shall be qualified for selection as a Senator representing a territory if he is a citizen of Nigeria and has attained the age of forty years; and
  - (b) a person shall be qualified for election as a member of the House of Representatives if he is a citizen of Nigeria and has attained the age of twenty-one years and, in the case of a person who stands for election in Northern Nigeria, is a male person.

#### **Disqualifications of membership of Parliament, etc.**

**45. (1) No person shall be qualified for selection as a Senator or election to the House of Representatives-**

- (a) save for the purposes of selection as a Senator by the President, if he has voluntarily acquired citizenship of a country other than Nigeria or has made a declaration of allegiance to such a country;**
  - (b) if under any law in force in any part of Nigeria he is adjudged to be a lunatic or otherwise declared to be of unsound mind;**
  - (c) if he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment (by whatever name called) exceeding six months imposed on him by such a court or substituted by competent authority for some other sentence imposed on him by such a court;**
  - (d) if he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;**
  - (e) save as otherwise provided by Parliament, if he is a member of the public service of the Federation or the public service of a Region, a member of the armed forces of the State or the holder of any other office or emolument under the State; or**
  - (f) if he is an ex-officio member of the Senate or a legislative house of a Region.**
- (2) Parliament may provide that a person shall not be qualified for selection as a Senator or election to the House of Representatives for such period (not exceeding five years) as may be prescribed if he is convicted by any court of law in Nigeria of such offences connected with the selection or election of members of a House of Parliament or a legislative house of a Region as may be prescribed.**
- (3) Parliament may provide that a person disqualified under paragraph (c) of subsection (1) of this section by reason of his being under a sentence of imprisonment exceeding six months for any such offence (being an offence that appears to Parliament to involve dishonesty) as may be prescribed or by reason of his being under sentences of imprisonment that include such a sentence for any such offence shall not be qualified for selection as a Senator or election to the House of Representatives for such period from the date on which he ceases to be disqualified under that paragraph (not exceeding five years) as may be prescribed.**
- (4) Parliament may provide that a person who is the holder of any office the functions of which involve responsibility for, or in connection with, the conduct of any election to the House of Representatives or the compilation of any register of voters for the purposes of such an election shall not be qualified for election to that House.**
- (5) Parliament may, in order to permit any person who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of subsection (1) of this section until such time as may be prescribed.**
- (6) For the purposes of paragraph (c) of subsection (1) of this section two or more sentences of imprisonment that are required to be served consecutively shall be regarded as separate sentences if none of those sentences exceeds six months but if any one of those sentences exceeds that term they shall be regarded as one sentence.**
- (7) For the purposes of paragraph (e) of subsection (1) of this section, the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister, a member of the Council of Ministers, the President, the Speaker, the Deputy President or the Deputy Speaker of a legislative house of a Region, a member of such a legislative house, a Minister of the Government of a Region, a Parliamentary Secretary to such a Minister, a member of the Executive Council of a Region, a member of the Council of Chiefs of Northern Nigeria, or a member of any such body corporate as is referred to in the proviso to subsection (10) of this section shall not be regarded as an office of emolument under the State.**

- (8) Save as otherwise provided by Parliament, a person shall not be regarded as disqualified for selection as a Senator or election as a member of the House of Representatives under paragraph (e) of subsection (1) of this section by reason only that he holds office as a member of a statutory corporation.
- (9) If any person who holds the office of a member of any statutory corporation is selected as a Senator or elected as a member of the House of Representatives he shall, unless it is otherwise provided by Parliament, thereupon cease to hold office as a member of that corporation.
- (10) In this section "statutory corporation" means any body corporate established directly by any law in force in Nigeria:
- Provided that it does not include any body corporate established by or under the Native Authority Law, 1954, of Northern Nigeria, the Eastern Region Local Government Law, 1960, of Eastern Nigeria or the Western Region Local Government Law, 1952, or the Local Government Law of Western Nigeria or any law replacing any of those laws.

#### **President of Senate**

46. (1) There shall be a President of the Senate, who shall be elected by the members of the Senate.
- (2) No person shall be elected as President of the Senate unless he is a Senator or a person who is qualified for selection as a Senator.
- (3) The President of the Senate shall vacate his office-
- (a) if, having been elected from among the Senators, he ceases to be a Senator otherwise than by reason of a dissolution of Parliament;
- (b) if, having been elected from outside the Senate, any circumstances arise (other than a dissolution of Parliament) that if he were a Senator would cause him to vacate his seat as such;
- (c) when the Senate first sits after any dissolution of Parliament;
- (d) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or
- (e) if he is removed from office by a resolution of the Senate supported by the votes of two-thirds of all the members of that House.
- (4) No business shall be transacted in the Senate (other than an election to the office of President) at any time when the office of President is vacant.
- (5) Subject to the provision of the section 49 of this Constitution, the President of the Senate shall be a member of the Senate by virtue of this subsection if he is not such a member apart from this subsection.

#### **Speaker of House of Representatives**

47. (1) There shall be a Speaker of the House of Representatives, who shall be elected by the members of that House.
- (2) No person shall be elected as Speaker of the House of Representatives unless he is a member of the House or a person who is qualified for election in some part of Nigeria as a member of the House.
- (3) The Speaker of the House of Representatives shall vacate his office-
- (a) if, having been elected from among the members of the House, he ceases to be a member otherwise than by reason of a dissolution of Parliament;
- (b) if, having been elected from outside the House, any circumstances arise (other than a dissolution of Parliament) that if he were a member of the House would cause him to vacate his seat as such;
- (c) when the House first sits after any dissolution of Parliament;
- (d) if he becomes a Minister of the Government of the Federation or a Parliamentary Secretary to such a Minister; or
- (e) if he is removed from office by a resolution of the House



supported by the votes of two-thirds of all the members of the House.

- (4) No business shall be transacted in the House of Representatives (other than an election to the office of Speaker) at any time when the office of Speaker is vacant.
- (5) Subject to the provision of the section 49 of this Constitution, the Speaker of the House of Representatives shall be a member of the House of Representatives by virtue of this subsection if he is not such a member apart from this subsection.

#### **Right of Attendance of Ministers**

48. (1) A Minister of the Government of the Federation may attend and take part in the proceedings of either House of Parliament notwithstanding that he is not a member of that House.
- (2) Nothing in this section shall entitle any person who is not a member of a House of Parliament to vote in that House or any of its committees.

#### **Tenure of seats of members of Parliament**

49. (1) A Senator (other than the Oba of Lagos) or of the House of Representatives shall vacate his seat in of which he is a member-
  - (a) if he becomes a member of the other House of Parliament or a legislative house of a Region;
  - (b) if any other circumstances arise that, if he were not a member of that House, would come him to be disqualified for selection or election as such under subsection (1) or (2) of section 40 of this Constitution;
  - (c) if he ceases to be a citizen of Nigeria;
  - (d) if he becomes a Minister of the Government of a Region;
  - (e) save as otherwise provided by Parliament, if he becomes a member of any statutory corporation; or
  - (f) if he is absent from two consecutive meetings of the House and the President or Speaker of the House does not, by writing under his hand, excuse his absence within one month after the end of the second meeting.
- (2) Parliament may, in order to permit any Senator or member of the House of Representatives who has been adjudged to be a lunatic, declared to be of unsound mind, sentenced to death or imprisonment or adjudged or declared bankrupt to appeal against the decision in accordance with any law in force in Nigeria, provide that, subject to such conditions as may be prescribed, the decision shall not have effect for the purposes of this section until such time as may be prescribed.
- (3) In this section the expression "statutory corporation" has the meaning assigned to it for the purposes of section 45 of this Constitution.

#### **Establishment of Electoral Commission**

50. (1) There shall be an Electoral Commission for the Federation.
- (2) The members of the Electoral Commission of the Federation shall be-
  - (a) a Chief Electoral Commissioner, who shall be chairman; and
  - (b) a member representing each territory.
- (3) The members of the Electoral Commission of the Federation shall be appointed by the President, acting in accordance with the advice of the Prime Minister.
- (4) Before tendering any advice for the purposes of this section in relation to the appointment of the member of the Electoral Commission of the Federation representing a Region, the Prime Minister shall consult the Premier of that Region.
- (5) A person shall not be qualified to hold the office of a member of the Electoral Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public

service of the Federation or the public service of a Region.

- (6) Subject to the provisions of this section, a member of the Electoral Commission of the Federation shall vacate his office
  - (a) at the expiration of five years from the date of his appointment; or
  - (b) if any circumstances arise that, if he were not a member of the Commission, would come to him to be disqualified for appointment as such.
- (7) A member of the Electoral Commission of the Federation may be removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.
- (8) A member of the Electoral Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.
- (9) In the exercise of its functions under this Constitution the Electoral Commission of the Federation shall not be subject to the direction or control of any other person or authority.

#### **Constituencies**

51. (1) Nigeria shall be divided into as many constituencies as there are members of the House of Representatives in such manner as the competent authority, acting with the approval of each House of Parliament signified by resolution, may prescribe.
  - (2) No constituency shall form part of more than one territory and the boundaries of each constituency shall be such that the number of inhabitants thereof is as nearly equal to the Population quota as is reasonably practicable:

Provided that the number of inhabitants of a constituency may be greater or less than the population quota in order to take account of means of communication, geographical features, the distribution of different communities and the boundaries of the territories.
  - (3) The competent authority shall review the division of Nigeria into constituencies 'at intervals of not less than eight and not more than ten years and may alter the constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review:

Provided that that authority may at any time carry out such a review and alter the constituencies in accordance with the provisions of this section to such extent as it considers necessary in consequence of any amendment to section 3 or 38 of this Constitution or any provision replacing either of those sections or by reason of the holding of a census of the population of Nigeria in pursuance of an Act of Parliament.
  - (4) Where the boundaries of any constituency established under this section are altered in accordance with the provisions of this section, that alteration shall come into effect upon the next dissolution of Parliament after the alteration has been approved by both Houses of Parliament.
  - (5) In this section "population quota" means the number obtained by dividing the number of the inhabitants of Nigeria by the number of constituencies into which Nigeria is divided under this section.
  - (6) For the purposes of this section the number of inhabitants of Nigeria or any part thereof shall be ascertained by reference to the latest census of the population of Nigeria held in pursuance of an Act of Parliament.
  - (7) In this section "the competent authority" means the Electoral Commission of the Federation or such other authority consisting of a chairman appointed by the President, acting in accordance with the advice of the Prime Minister, and of members appointed in like manner to represent the territories (each territory being equally represented) as may be established in that behalf by Parliament.

#### **Elections**

52. (1) Every constituency established under section 46 of this Constitution shall return to the House of Representatives one member who shall be directly elected in such manner as may be

prescribed by Parliament.

- (2) The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Electoral Commission of the Federation.

#### **Determination of questions respecting membership of Parliament**

53. (1) Subject to the provisions of section 115 of this Constitution, the competent High Court shall have original jurisdiction to hear and determine any question whether-
  - (a) any person has been validly selected as a Senator or elected as a member of the House of Representatives; or
  - (b) the seat in the Senate of a Senator or the seat in the House of Representatives of a member of that House has become vacant.
- (2) Parliament may make provision with respect to-
  - (a) the persons who may apply to the competent High Court for the determination of any question under this section;
  - (b) the circumstances and manner in which, and the conditions upon which, any such application may be made; and
  - (c) the powers, practice and procedure of the competent High Court in relation to any such application.
- (3) In this section "the competent High Court" means, in relation to a person who has been selected as a Senator to represent a Region or elected a member of the House of Representatives in a Region, the High Court of that Region and, in relation to any other person, the High Court of the Federal territory.

#### **Clerks to Houses of Parliament and their staffs**

54. (1) There shall be a Clerk to the Senate and a Clerk to the House of Representatives:

Provided that the offices of Clerk to the Senate and Clerk to the House of Representatives may be held by the same person.
- (2) Subject to the provisions of any Act of Parliament, the office of the Clerk of each House of Parliament and the members of his staff shall be offices in the public service of the Federation.

### **Part 2: Procedure in Parliament**

#### **Oaths to be taken by members of Parliament**

55. Every member of either House of Parliament shall, before taking his seat in that House, take and subscribe before the House the oath of allegiance but a member may before taking that oath take part in the election of a President of the Senate or a Speaker of the House of Representatives, as the case may be:

Provided that if a House of Parliament is not sitting a member of that House may take and subscribe the oath of allegiance before a judge of the High Court of a territory.

#### **Presiding in Senate**

56. (1) There shall preside at any sitting of the Senate-
  - (a) the President; or
  - (b) in the absence of the President, the Deputy President; or
  - (c) in the absence of the President and the Deputy President, such Senator as the Senate may elect for that purpose.
- (2) The Senate may from time to time elect a Senator to be Deputy President and any person so elected shall hold office as such until he ceases to be a Senator or is removed from office by the Senate.

#### **Presiding in House of Representatives**

57. (1) There shall preside at any sitting of the House of Representatives
  - (a) the Speaker; or
  - (b) in the absence of the Speaker, the Deputy Speaker; or

(c) in the absence of the Speaker and the Deputy Speaker, such member of the House 'as the House may elect for that purpose.

(2) The House of Representatives may from time to time elect a member of the House to be Deputy Speaker and any person so elected shall hold office as such until he ceases to be a member of the House or is removed from office by the House.

#### **Quorum in Houses of Parliament**

58. If objection is taken by any member of a House of Parliament present that there are present in that House (besides the person presiding) fewer than one-sixth of all the members of that House and, after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-sixth of all the members of the House, he shall thereupon adjourn the House.

#### **Use of English in Parliament**

59. The business of Parliament shall be conducted in English.

#### **Voting in Parliament**

60. (1) Any question proposed for decision in a House of Parliament shall be determined by the required majority of the members present and voting; and the person presiding shall cast a vote whenever necessary to avoid an equality of votes but shall not vote in any other case.

(2) Save as otherwise provided in this Constitution, the required majority for the purposes of determining any question shall be a simple majority.

(3) The rules of procedure of a House of Parliament may provide that the vote of a member upon a question in which he has a direct pecuniary interest shall be disallowed.

#### **Unqualified persons sitting or voting**

56. Any person who sits or votes in either House of Parliament knowing or having reasonable ground for knowing that he is not entitled to do so shall be liable to a penalty not exceeding twenty pounds or such other sum as may be prescribed by Parliament for each day on which he sits or votes in that House, which shall be recoverable by action in the High Court of Lagos at the suit of the Attorney-General of the Federation.

#### **Mode of exercising legislative power**

57. (1) The power of Parliament to make laws shall be exercised by bills passed by both Houses (or in the cases mentioned in section 64 of this Constitution the House of Representatives) and assented to by the President on behalf of Her Majesty.

(2) A bill other than a money bill may originate in either House of Parliament but a money bill may originate only in the House of Representatives.

(3) When a bill has been passed by the House of Parliament in which it originated, it shall be sent to the other House; and it shall be presented to the President for assent-

(a) when it has been passed by the other House and agreement has been reached between the two Houses on any amendments made in it; or

(b) when it is required to be so presented under section 64 of this Constitution.

(4) When a bill is presented to the President for assent, he shall signify that he assents or that he withholds assent.

(5) A bill shall not become law unless it has been duly passed and assented to in accordance with this Constitution.

#### **Restrictions with regard to certain financial measures**

63. (1) The Senate shall not-

(a) proceed upon any bill, other than a bill sent from the House of Representatives, that, in the opinion of the person presiding, makes provision for any of the following purposes-

(i) for the imposition, repeal or alteration of taxation;

- (ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation;
  - (iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any alteration in the amount of such a payment, issue or withdrawal; or
  - (iv) for the composition or remission of any debt due to the Federation;
- (b) proceed upon any amendment to any bill that in the opinion of the person presiding makes provision for any of those purposes;
  - (c) proceed upon any motion (including any amendment to a motion), the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
  - (d) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.
- (2) Except upon the recommendation of the President signified by a Minister of the Government of the Federation, the House of Representatives shall not-
- (a) proceed upon any bill (including any amendment to a bill) that, in the opinion of the person presiding, makes provision for any of the following purposes--
    - (i) for the imposition of taxation or the alteration of taxation otherwise than by reduction;
    - (ii) for the imposition of any charge upon the Consolidated Revenue Fund or any other public fund of the Federation or the alteration of any such charge otherwise than by reduction;
    - (iii) for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any moneys not charged thereon or any increase in the amount of such a payment, issue or withdrawal; or
    - (iv) for the composition or remission of any debt due to the Federation;
  - (b) proceed upon any motion (including any amendment to a motion) the effect of which, in the opinion of the person presiding, would be to make provision for any of those purposes; or
  - (c) receive any petition that, in the opinion of the person presiding, requests that provision be made for any of those purposes.

#### **Limitation of powers of Senate**

64. (1) Where a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate without amendment within one month after it is so sent, the bill shall, unless the House of Representatives otherwise resolves, be presented to the President for his assent.
- (2) Where-
- (a) a bill that is not a money bill is passed by the House of Representatives and, having been sent to the Senate at least one month before the end of the session, is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree; and
  - (b) in the following session (whether of the same Parliament or not) but not earlier than six months after it was first passed by the House of Representatives the same bill, with no other alterations than those mentioned in subsection (4) of this section, is passed again by the House of Representatives and sent to the Senate at least one month before the end of the session and is not passed by the Senate before the end of the session or is passed by the Senate with amendments to which the House of Representatives does not before the end of the session agree, the bill shall, unless the House of Representatives otherwise resolves, be presented to the President for his assent with such amendments, if any, as may have been agreed to by both Houses.
- (3) The House of Representatives may, on the passage of a bill for the purposes of paragraph (b) of subsection (2) of this section, suggest any amendments without inserting the amendments in

the bill and any such suggested amendments shall be considered by the Senate and, if agreed to by the Senate, shall be treated as amendments agreed to by both Houses; but the exercise of this power by the House of Representatives shall not affect the operation of this section if the bill is not passed by the Senate or is passed by the Senate with amendments to which the House of Representatives does not agree.

- (4) The alterations referred to in subsection (2) of this section are alterations certified by the Speaker of the House of Representatives to be necessary owing to the time that has elapsed since the bill was passed in the earlier session or to represent amendments made in that session by the Senate.
- (5) When a money bill is sent to the Senate from the House of Representatives it shall bear a certificate of the Speaker of the House of Representatives that it is a money bill.
- (6) When a bill is presented to the President in pursuance of this section it shall bear a certificate of the Speaker of the House of Representatives that this section has been complied with and that certificate shall be conclusive for all purposes and shall not be questioned in any court of law.
- (7) This section does not apply to any bill for the purposes of section 4 of this Constitution.

#### **Regulation of procedure in Houses of Parliament**

65. (1) Subject to the provisions of this Constitution, each House of Parliament may regulate its own procedure.
- (2) Each House of Parliament may act notwithstanding any vacancy in its membership (including any vacancy not filled when the House first meets after any dissolution of Parliament) and the presence or participation of any person not entitled to be present at or to participate in the proceedings of the House shall not invalidate those proceedings.

#### **Interpretation of Part 2**

66. Without prejudice to the generality of section 165 of this In this Part of this Chapter "money bill" means a bill that in the opinion of the Speaker of the House of Representatives contains only provisions dealing with
  - (a) the imposition, repeal, remission, alteration or regulation of taxation;
  - (b) the imposition for the payment of debt or other financial purposes of charges on the Consolidated Revenue Fund or any other public fund of the Federation or the variation or repeal of any such charges;
  - (c) the grant of money to the State or to any other person or authority or the variation or revocation of any such grant;
  - (d) the appropriation, receipt, custody, investment, issue or audit of accounts of public money;
  - (e) the raising or guarantee of any loan or the repayment thereof; or
  - (f) subordinate matters incidental to any of those matters:

Provided that the expressions "taxation," "public money" and "loan" do not include any taxation, money or loan raised by local authorities or bodies for public purposes.

#### **Part 3: Summoning, prorogation and dissolution**

##### **Sessions of Parliament**

67. Each session of Parliament shall be held at such place within Nigeria and shall begin at such time (not being later than twelve months from the end of the preceding session if Parliament has been prorogued or three months from the end of that session if Parliament has been dissolved) as the President shall appoint.

##### **Prorogation and dissolution of Parliament**

68. (1) The President may at any time prorogue or dissolve Parliament.
- (2) Subject to the provisions of subsection (3) of this section, Parliament, unless sooner dissolved, shall continue for five years from the date of its first sitting after any dissolution and shall

then stand dissolved.

- (3) At any time when the Federation is at war, Parliament may from time to time extend the period of five years specified in subsection (2) of this section for not more than twelve months at a time:

Provided that the life of Parliament shall not be extended under this subsection for more than five years.

- (4) In the exercise of his powers to dissolve Parliament, the President shall act in accordance with the advice of the Prime Minister, so however that if the Prime Minister recommends a dissolution in a case not falling within subsection (5) of this section and the President considers that the government of the Federation can be carried on without a dissolution and that a dissolution would not be in the interests of the Federation he may refuse to dissolve Parliament.
- (5) The President shall dissolve Parliament -
- (b) if the House of Representatives passes a resolution that it has no confidence in the Government of the Federation and within the period of three days beginning with the day on which the resolution is passed the Prime Minister does not resign or recommend a dissolution or does recommend a resolution;
- (c) if the office of Prime Minister is vacant and the President considers that there is no prospect of his being able, within a reasonable time, to appoint to that office a person who can command the support of the majority of the members of the House of Representatives.

#### Part 4: Legislative powers

##### Powers of Parliament to make laws

#### 69. (1) Parliament shall have power to make laws-

- (a) for the peace, order and good government of Nigeria (other than the Federal territory) or any part thereof with respect to any matter included in the Legislative Lists; and
- (b) for the peace, order and good government of the Federal territory with respect to any matter, whether or not it is included in the Legislative Lists.

- (2) The power of Parliament to make laws for the peace, order and good government of the Regions with respect to any matter included in the Exclusive Legislative List shall (save as provided in section 78 of this Constitution) be to the exclusion of the legislatures of the Regions:

Provided that nothing in this subsection shall preclude the legislature of a Region from making provision for grants or loans from or the imposition of charges upon any of the public funds of that Region or the imposition of charges upon the revenues and assets of that Region for any purpose notwithstanding that it relates to a matter included in the Exclusive Legislative List.

- (3) In addition and without prejudice to the powers conferred by subsection (1) of this section, Parliament shall have the powers to make laws conferred by sections 5, 70 to 74, 80 to 83 and 126 of this Constitution (which relate to matters not included in the Legislative Lists).
- (4) If any law enacted by the legislature of a Region is inconsistent with any law validly made by Parliament, the law made by Parliament shall prevail and the Regional law shall, to the extent of the inconsistency, be void.
- (5) Subject to the provisions of subsection (4) of this section, nothing in this section shall preclude the legislature of a Region from making laws with respect to any matter that is not included in the Exclusive Legislative List.

##### Special powers of Parliament in relation to emergencies

70. (1) Parliament may at any time make such laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists as may appear to Parliament to be necessary or expedient for the purpose of maintaining or securing peace, order and good government during any period of emergency.

- (2) Any provision of law enacted in pursuance of this section shall

have effect only during a period of emergency:

Provided that the termination of a period of emergency shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

(3) In this section "period of emergency" means any period during which-

- (a) the Federation is at war;
- (b) there is in force a resolution passed by each House of Parliament declaring that a state of public emergency exists; or
- (c) there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of the House declaring that democratic institutions in Nigeria are threatened by subversion.

(4) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months By resolution passed in like manner.

**Special powers of Parliament when section 80 of this Constitution Has been contravened**

70. (1) During any period in which there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all the members of that House declaring that the executive authority of a Region is being exercised in contravention of section 80 of this Constitution, Parliament may make laws for that Region with respect to matters not included in the Legislative Lists to such extent as may appear to Parliament to be necessary for securing compliance with the provisions of that section.

(2) A resolution passed by a House of Parliament for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by resolution passed in like manner.

(3) Upon the expiration of any period during which there were in force resolutions of both Houses of Parliament passed for the purposes of this section, any provision of law enacted in pursuance of this section shall cease to have effect:

Provided that the termination of any such period shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of any contravention thereof or failure to comply therewith during that period or any proceeding or remedy in respect of any such penalty or punishment.

**Special Powers of Parliament when s. 86 of this Constitution has been contravened**

71. (1) During any period during which there is in force a resolution of each House of Parliament supported by the votes of not less than two-thirds of all members of that House declaring that the executive authority of a Region is being exercised in contravention of section 86 of this Constitution, Parliament may make laws for that Region with respect to matters not included in the Legislative Lists to such extent as may appear to Parliament to be necessary for securing compliance with the provisions of that section.

(2) A resolution passed by a House of parliament for the purposes of this section shall remain in force for twelve months or such shorter period as may be specified therein:

Provided that any such resolution may be revoked at any time or may be extended from time to time for a further period not exceeding twelve months by resolution passed in like manner.



**(3) Upon the expiration of any period during which there were in force resolutions of both Houses of Parliament passed for the purposes of this section, any provision of law enacted in pursuance of this section shall cease to have effect:**

**Provided that the termination of any such period shall not affect the operation of such a provision of law during that period, the validity of any action taken thereunder during that period, any penalty or punishment incurred in respect of contravention thereof or failure to comply therewith during that period or any proceedings or remedy in respect of any such penalty or punishment.**

#### **Powers of Parliament conferred by Regional law**

**72. (1) Parliament may at any time when there is in force a law enacted by the legislature of a Region conferring authority upon Parliament to do so make laws for that Region with respect to a matter not included in the Legislative Lists.**

**(2) If any law enacted by the legislature of a Region conferring authority upon Parliament for the purposes of this section ceases to have effect, then any provision of law enacted by Parliament, to the extent to which it was enacted in pursuance of that authority, shall thereafter have effect as if it had been enacted by the legislature of that Region and may be amended or repealed accordingly.**

#### **Power to make grants of money, etc., for any purpose**

**73. Parliament may make provision for grants and loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public fund of the Federation or for the imposition of charges upon the revenues and assets of the Federation for any purpose, notwithstanding that it relates to a matter not included in the Legislative Lists.**

#### **Implementation of treaties, etc.**

**74. Parliament may make laws for Nigeria or any part thereof with respect to matters not included in the Legislative Lists for the purpose of implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organisation of which the Federation is a member:**

**Provided that any provision of law enacted in pursuance of this section shall not come into operation in a Region unless the Governor of that Region has consented to its having effect.**

#### **Titles of Honour etc.**

**75. (1) Subject to provisions of this section, Parliament may make laws for Nigeria or any part thereof with respect to titles of honour, decoration and other dignities.**

**(2) Any such law providing for the award of title, decoration or other dignity shall confer the power to make the award upon the President; and in the exercise of any such power the President shall act in accordance with the advice –**

**(a) in the case of an award in respect of services to a Region, of the Premier of the Region;**

**(b) in any other case, of the Prime Minister.**

**(3) The powers conferred on Parliament by subsection (1) of this section shall not extend to the dignity of a chief.**

**(4) Except with the prior consent of the President –**

**(a) a person who is a citizen of Nigeria; and**

**(b) any other person who is a member of the public service of the Federation of a Region or the armed forces of the Federation,**

**shall not accept a title of honour, decoration or other dignity (other than a distinction conferred by, or attaching to an award or appointment made by, an educational, professional or scientific body) from an authority of a country other than Nigeria.**

#### **Income tax and estate duty**

**75. (1) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the income and profits of companies.**

- (2) Parliament may make laws for Nigeria or any part thereof with respect to taxes on income and profits other than the income and profits of companies for the purpose of-**
- (a) implementing any treaty, convention or agreement between the Federation and any other country or any arrangement with or decision of an international organisation of which the Federation is a member with respect to taxes on income and profits;**
  - (b) securing uniform principles for the taxation of income and profits accruing to persons in Nigeria from countries other than Nigeria and of income and profits derived from Nigeria by persons outside Nigeria;**
  - (c) securing uniform principles for the computation of income and income and profits of all persons (including members of partnerships) for purposes of assessment of tax and for the treatment of losses, depreciations of assets and contributions to pension or provident funds or schemes;**
  - (d) regulating the liability to tax of persons within Nigeria by reference to their places of residence or otherwise for the purpose of ensuring that any income or profit does not bear tax under the laws of more than one territory;**
  - (e) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the exemption from liability to tax in respect of all or part of the income or profits of any person or class of persons;**
  - (f) obtaining information with respect to income or profits from any source and providing for the exchange of information between different tax authorities; and**
  - (g) providing, in pursuance of any arrangement in that behalf subsisting between the Government of the Federation and the Government of a Region, for the establishment and regulation of authorities empowered to promote uniformity of taxation and to discharge such other functions relating to the taxation of income and profits as may be conferred upon them in pursuance of any such agreement.**
- (3) Parliament may make laws for Nigeria or any part thereof with respect to taxes on the estates of deceased persons and the succession to their property for the purpose of ensuring that any estate or part thereof does not bear tax under the laws of more than one territory.**
- (4) the powers conferred upon Parliament by subsections (2) and (3) of this section shall not extend to the imposition of any tax or penalty or the prescribing of rates of tax or personal allowances and reliefs.**
- (5) Nothing in subsections (2) and (3) of this section shall preclude the Legislature of a Region from making laws with respect to the matters referred to in those subsections.**
- (6) In this section, references to the income and profits of companies are references to the income and profits of any company or other corporation (other than a corporation sole) established by or under any law in force in Nigeria or elsewhere but do not include references -**
- (a) to the income and profits of any purchasing authority established by or under the Native Authority Law, 1954, of Northern Nigeria, the Eastern Nigeria Local Government Law, 1960, of Eastern Nigeria, or the Western Region Local Government Law, 1952, or the Local Government Law of Western Nigeria, as amended, or any law replacing any of those laws;**
  - (b) to the income and profits of any purchasing authority established by the legislature of a Region and empowered to acquire any commodity in that Region for export from Nigeria derived from the purchase and sale (whether for purposes of export or otherwise) of that commodity; or**
  - (c) to the income or profits of any corporation established by the legislature of a Region for the purpose of fostering the economic development of that Region, not being income or profits derived from a trade or business carried on by that corporation or from any share or other interest possessed by that corporation in a trade or business in Nigeria carried on by some other person or authority.**

## **Trade and commerce**

- 76. (1) Parliament may make laws for Nigeria or any part thereof with respect to trade and commerce between Nigeria and other countries and trade and commerce among the territories, including (without prejudice to the generality of the foregoing power) the export of commodities from Nigeria, the import of commodities into Nigeria, the establishment and enforcement of grades and standards of quality for commodities to be exported from Nigeria and the preservation of freedom of trade and commerce among the territories.**
- (2) For the purposes of this section, Parliament may-**
- (a) confer on any person or authority exclusive power to acquire from a purchasing authority established for a Region by the legislature of that Region any commodity for export from Nigeria, to export any commodity from Nigeria or to sell any commodity outside Nigeria; or**
- (b) make provision for the inspection of commodities to be exported from Nigeria at the port of shipment from Nigeria and for the enforcement of grades and standards of quality in respect of commodities so inspected.**
- (3) The powers conferred upon Parliament by this section shall not include powers-**
- (a) to establish a purchasing authority for a Region;**
- (b) to confer on any person or authority power to acquire in a Region any commodity for export from Nigeria from any person or authority in that Region other than a purchasing authority established for that Region by the legislature of a Region;**
- (c) to regulate the prices to be paid by a purchasing authority established by the legislature of a Region for commodities for export;**
- (d) to regulate or prohibit in a Region any processing of a commodity to be exported or any dealing with such a commodity other than its export from Nigeria; or**
- (e) to make provision for the enforcement in a Region of any grades or standards of quality for commodities to be exported from Nigeria that may be established by Parliament.**
- (4) Nothing in this section shall be construed as precluding the legislature of a Region-**
- (a) from making provision for any of the matters referred to in subsection (3) of this section; or**
- (b) from conferring upon any purchasing authority of the Region power to acquire any commodity in the Region for purposes other than export from Nigeria.**
- (5) In this section 'purchasing authority' means, in relation to a Region, any person or authority empowered to purchase commodities for export in that Region.**

## **Banks and banking**

- 78. (1) Parliament may make laws for Nigeria or any part thereof with respect to banks and banking.**
- (2) Nothing in this section shall preclude the legislature of a Region from establishing an authority for the purpose of carrying on (subject to and in compliance with any Act of Parliament for the time being in force and in particular any Act relating to banks and banking) the business of banking in Nigeria or elsewhere or from making such provision for the constitution of that authority and regulating the performance by that authority of its functions as is consistent with any Act of Parliament.**

## **Electricity and gas**

- 79. (1) Parliament may make laws for Nigeria or any part thereof with respect to electricity or gas:**
- Provided that nothing in this subsection shall preclude the legislature of a Region from making laws for that Region with respect to those matters.**
- (2) The powers conferred on Parliament by this section shall not**

include powers -

- (a) to prohibit or restrict the establishment by or on behalf of the Government of a Region of an agency for the manufacture, distribution or supply of electricity or gas in that Region; or
  - (b) to regulate the production, distribution or supply of electricity or gas by the Government of a Region or any such agency.
- (3) In this section "gas" does not include natural gas.

#### **Authorities empowered to administer trusts and estates**

**80. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power -**

- (a) to administer trusts; or
- (b) to apply for grants of representation in respect of the estates of deceased persons and to administer such estates:

**Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.**

#### **Exhibition of cinematograph films**

**81. Parliament may make laws for Nigeria or any part thereof establishing and regulating authorities for the Federation with power to carry out censorship of cinematograph films and to prohibit or restrict the exhibition of such films:**

**Provided that nothing in this section shall preclude the legislature of a Region from making provision for similar authorities for that Region.**

#### **Exemption from Regional taxes with respect to mining**

**82. Parliament may, for the purpose of implementing any agreement between the Government of the Federation and any person relating to mining or matters connected therewith, provide for exempting that person in whole or in part from liability for any tax or rate imposed by or under a law enacted by the legislature of a Region with respect to any matter not included in the Legislative Lists:**

**Provided that no person shall be granted any exemption in pursuance of this section without prior consultation between the Government of the Federation and the Government of the Region concerned.**

#### **Evidence**

**83. Parliament may make laws for Nigeria or any part thereof with respect to evidence in regard to matters not included in the Legislative Lists:**

**Provided that an Act of Parliament enacted in pursuance of this section shall have effect in relation to any Region only to the extent that provision in that behalf is not made by the legislature of that Region.**

### **CHAPTER VI: EXECUTIVE POWERS**

#### **Exercise of executive authority of Federation**

**84. (1) The executive authority of the Federation shall be vested in the President and subject to the provisions of this Constitution, may be exercised by him either directly or through officers subordinate to him.**

**(2) Nothing in this section shall prevent Parliament from conferring functions on persons or authorities other than the President.**

#### **Extent of executive authority of Federation**

**85. The executive authority of the Federation shall extend to the execution and maintenance of this Constitution and to all matters with respect to which Parliament has for the time being power to make laws.**

#### **Executive authority of Regions**

**86. The executive authority of a Region shall extend to the execution and maintenance of the constitution of the Region and to all matters with respect to which the legislature of the Region has for the time being power to make laws but shall be so exercised as not to impede or prejudice the exercise of the executive authority of the Federation or to endanger the continuance of federal government in Nigeria.**

#### **Ministers of Government of Federation**

- 87. (1) There shall be a Prime Minister of the Federation, who shall be appointed by the President.**
- (2) Whenever the President has occasion to appoint a Prime Minister he shall appoint a member of the House of Representatives who appears to him likely to command the support of the majority of the members of the House.**
- (3) There shall be, in addition to the office of Prime Minister, such other offices of Minister of the Government of the Federation as may be established by Parliament or, subject to the provisions of any Act of Parliament, by the President, acting in accordance with the advice of the Prime Minister.**
- (4) Appointments to the office of Minister of the Government of the Federation other than the office of Prime Minister shall be made by the President, acting in accordance with the advice of the Prime Minister.**
- (5) A person shall not hold office at the same time both as a Minister of the Government of the Federation and as a Minister of the Government of a Region.**
- (6) A person who holds office as a Minister of the Government of the Federation for any period of four consecutive months without also being a Senator or a member of the House of Representatives shall cease to be a Minister at the expiration of that period or, if that period expires at a time when Parliament is dissolved and he does not in the meantime become a Senator or a member of the House of Representatives, at the date on which Parliament first meets after that dissolution.**
- (7) A person who holds office as a Minister of the Government of the Federation and who is at no time while holding that office also a Senator or a member of the House of Representatives shall not be qualified for reappointment as such a Minister before Parliament is next dissolved after he ceases to hold that office, unless in the meantime he has become a Senator or a member of the House of Representatives.**
- (8) The office of the Prime Minister shall become vacant -**
- (a) when, after any dissolution of the House of Representatives, the Prime Minister is informed by the President that the President is about to reappoint him as Prime Minister or to appoint another person as Prime Minister; or**
- (b) if he ceases to be a member of the House of Representatives otherwise than by reason of a dissolution of Parliament.**
- (9) The office of a Minister of the Government of the Federation other than the Prime Minister shall become vacant if the office of Prime Minister becomes vacant.**
- (10) Subject to the provisions of subsections (8) and (9) of this section, the Ministers of the Government of the Federation shall hold office during the President's pleasure but the President shall not remove such a Minister from office except in accordance with the advice of the Prime Minister.**
- (11) If on any occasion the office of the Prime Minister vacant at a time when Parliament is dissolved, then -**
- (a) subsections (2) and (9) of this section and paragraph (b) of subsection (2) of section 95 of this Constitution shall not apply as respects that occasion; and**
- (b) the President shall appoint a member of the Council of Ministers as the Prime Minister;**

**and if a dissolution of Parliament takes place when the office of Prime Minister is vacant, the President shall, without regard to the provisions of subsection (2) of this section, appoint as Prime Minister a person who was a member of this Council of Minister immediately before the vacancy occurred.**

#### **Attorney-General of the Federation**

- 88. (1) There shall be an Attorney-General of the Federation who shall be a Minister of the Government of the Federation.**
- (2) Subject to the provisions of section 49 of this Constitution, the Attorney-General of the Federation shall be a member of the House of Representatives by virtue of this subsection if he is not a Senator and is not such a member apart from this subsection.**
- (3) If the person holding that office is for any reason unable to perform the functions conferred upon him by this Constitution or any other law, those functions (other than functions as a member of the House of Representatives) may be performed by such other person, whether or not that person is a minister, as may from time to time be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister.**
- (4) A person shall not be qualified to hold or perform the functions of the office of Attorney-General of the Federation unless he is qualified for admission as an advocate in Nigeria and has been so qualified for not less than ten years.**

#### **Establishment of Council of Ministers**

- 89. (1) There shall be a Council of Ministers for the Federation, whose function shall be to advise the President in the government of the Federation and which shall consist of the Prime Minister and such other persons, being Ministers of the Government of the Federation, as the President, acting in accordance with the advice of the Prime Minister, may from time to time appoint.**
- (2) A person appointed as a member of the Council of Ministers shall vacate his seat in the Council if he ceases to be a Minister of the Government of the Federation or if the President, acting in accordance with the advice of the Prime Minister, so directs.**

#### **Collective responsibility**

- 90. (1) The Council of Ministers shall be collectively responsible to Parliament for any advice given to the President by or under the general authority of the Council and for all things done by or under the authority of any Minister of the Government of the Federation in the execution of his office.**
- (2) The provisions of this section shall not apply in relation to –**
- (a) the appointment and removal from office of Ministers of the Government of the Federation members of the Council of Ministers and Parliamentary Secretaries to Ministers, the assignment of portfolios to Ministers of the authorization of another member of the Council of Ministers to perform the functions of the Prime Minister during absence or illness;**
- (b) the dissolution of Parliament; or**
- (c) the matters referred to in section 101 of this Constitution; or**
- (d) the exercise of the powers conferred on the Attorney General of the Federation by section 104 of this Constitution.**
- 91. The President, acting in accordance with the advice of the Prime Minister, may assign to the Prime Minister or any other Minister of the Government of the Federation responsibility for any business of the Government of the Federation, including the administration of any department of government.**

#### **Performance of functions of Prime Minister during absence or illness**

- 92. (1) Whenever the Prime Minister is absent from Nigeria or is by reason of illness unable to perform the functions conferred upon him by his Constitution, the President may authorize some other member of the Council of Ministers of the Federation to perform those functions (other than the functions conferred by this section) and that member may perform those functions until his authority is revoked by the President.**
- (2) The powers of the President under this section shall be exercised by him in accordance with the advice of the Prime Minister:**
- Provided that if the President considers that it is impracticable to obtain the advice of the Prime Minister owing to his absence or illness he may exercise those powers without that advice.**

#### **Exercise of President's powers**

**93. (1) Subject to subsection (2) of this section, in the exercise of his functions under this Constitution or any other law the President shall act in accordance with the advice of the Council of Ministers or a Minister of the Government of the Federation acting under the general authority of the Council of Ministers except in cases where by this Constitution he is required to act in accordance with the advice of any person or authority other than the Council of Ministers:**

**Provided that the President shall act in accordance with his own deliberate judgment in the performance of the following**

- (a) in the exercise of the power to refuse to dissolve Parliament conferred upon him by subsection (4) of section 68 of this Constitution;**
  - (b) in the exercise of the powers to appoint the Prime Minister conferred upon him by subsections (2) and (11) of section 87 of this Constitution and of the power conferred upon him by subsection 8 of that section to inform the Prime Minister of his re-appointment or replacement**
  - (c) in the exercise of the powers conferred upon him by section 92 of this Constitution in the circumstances described in the proviso to subsection (2) of that section; and**
  - (d) in signifying his approval for the purposes of section 147 of this Constitution of an appointment to an office on his personal staff.**
- (2) Nothing in subsection (1) of this section shall apply to functions conferred upon the President by any of the following provisions of this Constitution, that is to say, subsection (5) of section 68, section 94, subsection (2) of section 113, subsection 2 of section 124, and subsection (3) of section 150.**
- (3) Where by this Constitution the President is required to act in accordance with the advice of any person or authority, the question whether he has in any case received, or acted in accordance with, such advice shall not be enquired into in any court of law.**

**President to be informed concerning matters of government**

**94. The Prime Minister shall keep the President fully informed concerning the general conduct of the government of the Federation and shall furnish the President with such information as he may request with respect to any particular matter relating to the government of the Federation.**

**Parliamentary Secretaries**

**95. (1) The President, acting in accordance with the advice of the Prime Minister, may appoint Parliamentary Secretaries from among the Senators and the members of the House of Representatives to assist Ministers of the Government of the Federation in the performance of their duties.**

**(2) The office of a Parliamentary Secretary shall become vacant-**

- (a) if he ceases to be a member of one or other House of Parliament otherwise than by reason of a dissolution of Parliament;**
- (b) if the office of Prime Minister becomes vacant; or**
- (c) if the President, acting in accordance with the advice of the Prime Minister, so directs.**

**Oaths to be taken by Ministers, etc.**

**96. A member of the Council of Ministers, Minister of the Government of the Federation or Parliamentary Secretary to such a Minister shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.**

**Permanent Secretaries**

**97. Where any Minister of the Government of the Federation has been charged with responsibility for any department of government, he shall exercise general direction and control over that department; and, subject to such direction and control, the department shall be under the supervision of a permanent secretary, whose office shall be an office in the public service of the Federation:**

Provided that two or more government departments may be placed under the supervision of one permanent secretary.

#### **Constitution of offices for Federation, etc.**

- 98. Subject to the provisions of this Constitution and of any Act of Parliament, the President, in Her Majesty's name and on Her Majesty's behalf, may constitute offices for the Federation, make appointments to any such office and terminate any such appointment.**

#### **Delegation of executive authority of Federation**

- 99. (1) The President may, with the consent of the Governor of a Region, entrust either conditionally or unconditionally to the Governor or to any officer or authority of that Region functions in relation to any matter to which the executive authority of the Federation extends falling to be performed within that Region:**

**Provided that the consent of the Governor shall not be required during any such period as is referred to in section 70 or 71 of this Constitution.**

- (2) An Act of Parliament may include provision conferring powers or imposing duties, or authorising the conferring of powers or the imposition of duties, upon the Governor of a Region or any officer or authority of a Region:**

**Provided that, save during any such period as is referred to in section 70 or 71 of this Constitution, no provision made in pursuance of this section shall have effect in relation to any Region unless the Governor has consented to its having effect.**

#### **Delegation of executive authority of Region**

- 100. (1) The Governor of a Region may, with the consent of the President, entrust either conditionally or unconditionally to the President or to any officer or authority of the Federation functions in relation to any matter to which the executive authority of the Region extends.**

- (2) A law enacted by the legislature of a Region may include provision conferring powers or imposing duties, or authorising the conferring of powers or the imposition of duties, upon the President or any officer or authority of the Federation:**

**Provided that no provision made in pursuance of this subsection shall have effect unless the President has consented to its having effect.**

#### **Prerogative of mercy**

- 101. (1) The President may -**

- (a) grant to any person concerned in or convicted of any offence created by or under an Act of Parliament a pardon, either free or subject to lawful conditions;**
- (b) grant to any person a respite, either indefinite or for a specified period, of the execution of any punishment imposed on that person for such an offence;**
- (c) substitute a less severe form of punishment for any punishment imposed on that person for such an offence; or**
- (d) remit the whole or any part of any punishment imposed on that person for such an offence or of any penalty or forfeiture otherwise due to the State on account of such an offence.**

- (2) Subject to the provisions of subsection (3) of this section, the powers of the President under subsection (1) of this section shall be exercised by him in accordance with the advice of such member of the Council of Ministers as may from time to time be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister.**

- (3) In relation to persons concerned in offences against naval, military or air-force law or convicted or sentenced by courts-martial, the President, acting in accordance with the advice of the Prime Minister, may designate a member of the Council of Ministers other than the member designated for the purposes of subsection (2) of this section and at any time when there is another member so designated the powers of the President under subsection (1) of this section shall, in relation to such persons, be exercised in accordance with the advice of that other member.**



**(4) The provisions of this section shall apply -**

- (a) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament; and'**
- (b) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region, as they apply in relation to an offence created by or under an Act of Parliament.**

#### **Establishment of Advisory Council on Prerogative of Mercy**

**102. (1) There shall be for the Federation an Advisory Council on the Prerogative of Mercy, which shall consist of -**

- (a) such member of the Council of Ministers of the Federation as may for the time being be designated under subsection (2) of section 101 of this Constitution, who shall be chairman;**
  - (b) where the chairman is a Minister other than the Attorney-General of the Federation, the Attorney-General; and**
  - (c) not less than five and not more than seven other members, who shall be appointed by the President, acting in accordance with the advice of the Prime Minister, of whom at least one shall be a person who is qualified to practise as a medical practitioner in Nigeria.**
- (2) A person shall not be qualified for appointment by the President as a member of the Advisory Council if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation or a Minister of the Government of a Region.**
- (3) A member of the Advisory Council appointed by the President shall hold office for three years:**

**Provided that his seat on the Council shall become vacant--**

- (a) if any circumstances arise that, if he were not a member of the Council, would cause him to be disqualified for appointment as such; or**
- (b) if he is removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.**

#### **Functions of Advisory Council**

**103. (1) Where any person has been sentenced to death by any court of law in Nigeria other than a court-martial for any offence created by or under an Act of Parliament the member of the Council of Ministers designated under subsection (2) of section 101 of this Constitution shall cause a written report of the case from the trial judge, together with such other information derived from the record of the case or elsewhere as the member may require, to be taken into consideration at a meeting of the Advisory Council; and after obtaining the advice of the Council the member shall decide in his own deliberate judgment whether to recommend to the Governor- General that he should exercise any of his powers under that section in relation to that person.**

- (2) The member of the Council of Ministers designated under subsection (2) of section 101 of this Constitution may consult with the Advisory Council before making any recommendation to the President under that subsection in any case not falling within subsection (1) of this section but he shall not be obliged to act in accordance with the advice of the Council.**
- (3) The Advisory Council may regulate its own procedure.**

#### **Public prosecutions**

**104. (1) There shall be a Director of Public Prosecutions for the Federation, whose office shall be an office in the public service of the Federation.**

- (2) The Director of Public Prosecutions of the Federation shall have power in any case in which he considers it desirable so to do -**
  - (a) to 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 any Act of Parliament;

- (b) to take over and continue any such criminal proceedings that may have been instituted by any other person or authority; and
  - (c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by himself or any other person or authority.
- (3) The powers of the Attorney General of the Federation under subsection (2) of this section may be exercised by the Attorney General in person and through the Director of Public Prosecutions of the Federation acting under and in accordance with the general or special instructions of the Attorney-General, and through other officers of the department mentioned in subsection (1) of this section, acting under and in accordance with such instructions.
- (4) The Attorney-General of the Federation may confer a general or special authority upon the Attorney-General of a Region to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (2) of this section in relation to prosecutions in that Region and may vary or revoke any such authority.
- (5) The powers conferred upon the Attorney-General of the Federation by paragraphs (b) and (c) of subsection (2) of this section shall be vested in him to the exclusion of any other person or authority:

Provided that, where any other person or authority has instituted criminal proceedings, nothing in this subsection shall prevent the withdrawal of those proceedings by or at the instance of that person or authority at any stage before the person against whom the proceedings have been instituted has been charged before the court.

- (6) In the exercise of the powers conferred upon him by this section the Attorney-General of the Federation shall not be subject to the direction or control of any other person or authority.
- (7) For the purposes of this section any appeal from any determination in any criminal proceedings before any court of law or any case stated or question of law reserved for the purposes of any such proceedings to any other court or to Her Majesty in Council shall be deemed to be part of those proceedings.
- (8) The provisions of this section shall apply--
- (a) in relation to any offence created by or under any law in force in the Federal territory, not being an offence created by or under an Act of Parliament; and
  - (b) in relation to any offence created by or under any law in force in a Region relating to any matter included in the Exclusive Legislative List or the Concurrent Legislative List, not being an offence created by or under an Act of Parliament or a law made by the Legislature of that Region, as they apply in relation to an offence created by or under an Act of Parliament.

## **CHAPTER VII: POLICE**

### **Establishment of Nigeria Police Force**

105. (1) There shall be a police force for Nigeria, which shall be styled the Nigeria Police Force.
- (2) Subject to the provisions of this Constitution, the Nigeria Police Force shall be organised and administered in accordance with such provision as may be made in that behalf by Parliament.
  - (3) Subject to the provisions of this Constitution, the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by any law in force in Nigeria.
  - (4) Subject to the provisions of this section, no police forces other than the Nigeria Police Force shall be established for Nigeria or any part thereof.
  - (5) Parliament may make provision for police forces forming part of

the armed forces of the State or for the protection of harbours, waterways, railways and airfields.

- (6) Parliament may make provision for the maintenance by any local authority within the Federal territory of a police force for employment within the Federal territory.
- (7) Nothing in this section shall prevent the legislature of a Region from making provision for the maintenance by any native authority or local-government authority established for a province or any part of a province of a police force for employment within that province.
- (8) In this section "province" means any area that was a province on the thirtieth day of September, 1954.

#### **Control of Nigeria Police Force**

106. (1) There shall be an Inspector-General of the Nigeria Police and a Commissioner of Police for each Region, whose offices shall be offices in the public service of the Federation.
- (2) The Nigeria Police Force shall be under the command of the Inspector-General of the Nigeria Police and any contingents of the Nigeria Police Force stationed in a Region shall, subject to the authority of the Inspector-General of the Nigeria Police, be under the command of the Commissioner of Police of that Region.
  - (3) The Prime Minister or such other Minister of the Government of the Federation as may be authorised in that behalf by the Prime Minister may give to the Inspector-General of the Nigeria Police such directions with respect to the maintaining and securing of public safety and public order as he may consider necessary and the Inspector-General shall comply with those directions or cause them to be complied with.
  - (4) Subject to the provisions of subsection (3) of this section, the Commissioner of Police of a Region shall comply with the directions of the Premier of the Region or such other Minister of the Government of the Region as may be authorised in that behalf by the Premier with respect to the maintaining and securing of public safety and public order within the Region or cause them to be complied with:  
  
Provided that before carrying out any such directions the Commissioner may request that the matter should be referred to the Prime Minister or such other Minister of the Government of the Federation as may be authorised in that behalf by the Prime Minister for his directions.
  - (5) The question whether any, and if so what, directions have been given under subsection (3) of this section shall not be enquired into in any court.

#### **Establishment of Nigeria Police Council**

107. (1) There shall be a Nigeria Police Council, which shall consist of -
- (a) such Minister of the Government of the Federation, who shall be chairman, as may for the time being be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister;
  - (b) such Minister of the Government of each Region as may for the time being be designated in that behalf by the Governor of that Region; and
  - (c) the chairman of the Police Service Commission of the Federation.
- (2) The Inspector-General of the Nigeria Police or such other officer of the Nigeria Police Force as he may designate shall attend the meetings of the Nigeria Police Council and, save for the purpose of voting, may take part in the proceedings of the Council.

#### **Functions of Nigeria Police Council**

108. (1) The organisation and administration of the Nigeria Police Force and all other matters relating thereto (not being matters relating to the use and operational control of the force or the appointment, disciplinary control and dismissal of members of the force) shall be under the general supervision of the Nigeria Police Council.
- (2) The Prime Minister shall cause the Nigeria Police Council to be kept fully informed concerning the matters under its supervision

and shall cause the Council to be furnished with such information as the Council may require with respect to any particular matter under its supervision.

- (3) The Nigeria Police Council may make recommendations to the Government of the Federation with respect to any matter under its supervision; and if in any case the Government acts otherwise than in accordance with any such recommendation, it shall cause a statement containing that recommendation and its reasons for acting otherwise than in accordance with that recommendation to be laid before both Houses of Parliament.

#### **Establishment of Police Service Commission**

**109. (1) There shall be a Police Service Commission for the Federation, which shall consist of a chairman and not less than two and not more than four other members.**

- (2) The members of the Police Service Commission of the Federation shall be appointed by the President, acting in accordance with the advice of the Prime Minister.

- (3) A person shall not be qualified to hold the office of a member of the Police Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or a member of the public service of the Federation or the public service of a Region:

Provided that a judge of the High Court of a territory may be appointed as a member of the Commission.

- (4) Subject to the provisions of this section, a member of the Police Service Commission of the Federation shall vacate his office -

- (a) at the expiration of five years from the date of his appointment; or

- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.

- (5) A member of the Police Service Commission of the Federation may be removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.

- (6) A member of the Police Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.

#### **Appointments to Nigeria Police Force, etc.**

**110. (1) Power to appoint persons to hold or act in offices in the Nigeria Police Force (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and to exercise disciplinary control over persons holding or acting in such offices shall vest in the Police Service Commission of the Federation:**

Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to the Inspector-General of the Nigeria Police or any other member of the Nigeria Police Force.

- (2) Before making any appointment to the office of Inspector-General of the Nigeria Police or removing the Inspector-General from office, the Police Service Commission of the Federation shall consult the Prime Minister and before making any appointment to the office of Commissioner of Police of a Region or removing the Commissioner from office the Commission shall consult the Premier of that Region.

### **CHAPTER VIII: COURTS**

#### **Part 1: The Supreme Court of Nigeria**

##### **Establishment of Federal Supreme Court**

**111. (1) There shall be a Supreme Court of Nigeria.**

- (2) The judges of the Supreme Court shall be -
- (a) the Chief Justice of Nigeria; and
  - (b) such number of Justices of the Supreme Court (not being less than five) as may be prescribed by Parliament.
- (3) The Supreme Court shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.
- (4) The Supreme Court shall sit in the Federal territory and in such other places in Nigeria as the Chief Justice of Nigeria may appoint.

#### **Appointment of Chief Justice of Nigeria and Justice of the Supreme Court**

**112. (1) The Chief Justice of Nigeria and the Justices of the Supreme Court shall be appointed by the President, acting in accordance with the advice of the Prime Minister, so however that four of the Justices of the Supreme Court shall be appointed by the President acting on the advice, as respects each of those Justices severally, of the Premier of a different Region.**

- (2) A person shall not be qualified to hold the office of Chief Justice of Nigeria or a Justice of the Supreme Court unless--
- (a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or
  - (b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:

Provided that in computing the period during which any person has been qualified as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.

- (3) If the office of Chief Justice of Nigeria is vacant or if the person holding the office is for any reason unable to perform the functions of the office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other Justices of the Supreme Court as may from time to time be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister.
- (4) If the office of any Justice of the Supreme Court is vacant or if the person holding the office is acting as Chief Justice of Nigeria or is for any reason unable to perform the functions of his office, the President, acting in accordance with the advice of the Prime Minister, may appoint a person qualified to hold the office of a Justice of the Supreme Court to act in the office of a Justice of the Supreme Court and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the President, acting in accordance with the advice of the Prime Minister:

Provided that a person may act as a Justice of the Supreme Court notwithstanding that he has attained the age prescribed for the purposes of subsection (1) of section 113 of this Constitution.

#### **Tenure of office of Chief Justice of Nigeria and Justices of the Supreme Court**

**113. (1) Subject to the provisions of this section, a person holding the office of Chief Justice of Nigeria or a Justice of the Supreme Court shall vacate that office when he attains such age as may be prescribed by Parliament:**

Provided that the President, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.

- (2) A person holding the office of Chief Justice of Nigeria or a Justice of the Supreme Court may be removed from office or appointment by the President if -
- (a) there are presented to the President from both Houses of parliament praying that that person be so removed for inability to discharge the functions of the office in question (whether arising

from infirmity of body or mind or any other cause) or for misbehavior; and

- (b) the address from each House bears a certificate which is signed by the person who presided at the meeting of that House at which the motion for the address was passed and which states that not less than two-thirds of all the members of that House voted in favour of the motion;

and except on the revocation in pursuance of section 112 of this Constitution of an appointment to act as aforesaid, a person holding or appointed to act in a such an office shall not be removed from his office or appointment in any other circumstances.

#### **Original Jurisdiction of the Supreme Court**

**114. (1) The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a Region or between Regions if and in so far as that dispute involves any question (whether of law or fact) on which the existence or extent of a legal right depends.**

- (2) In addition to the jurisdiction conferred upon it by subsection (1) of this section, the Supreme Court of Nigeria shall have such original jurisdiction as may be conferred upon it by any Act of Parliament:

Provided that no original jurisdiction shall be conferred upon the Supreme Court of Nigeria with respect to any criminal matter.

#### **Questions as to interpretation of this Constitution**

**115. (1) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in any court of law in any part of Nigeria (other than the Supreme Court, the High Court of a territory or a court-martial ) and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the High Court having jurisdiction in that part of Nigeria and the High Court shall –**

- (a) if it is of opinion that the question involves a substantial question of law, refer the question to the Supreme Court; or
- (b) if it is of opinion that the question does not involve a substantial question of law, remit the question to the court that made the reference to be disposed of in accordance with such directions as the High Court may think fit to give.

(2) Where any question as to the interpretation of this Constitution or the constitution of a Region arises in any proceedings in the High Court of a territory and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court.

(3) Where any question is referred to the Supreme Court in pursuance of this section, the Supreme Court shall give its decision upon the question and the court in which the question arose shall dispose of the case in accordance with that decision.

#### **Advisory jurisdiction of the Supreme Court**

**116. Parliament may confer jurisdiction upon the Supreme Court -**

- (a) to consider and advise upon any question upon which the President desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by section 101 of this Constitution (which relates to the prerogative of mercy) should be exercised; or
- (b) to consider and advise upon any question upon which the Governor of a Region desires the assistance of the court for the purpose of deciding whether or not any of the powers vested in him by the constitution of that Region with respect to the exercise of the prerogative of mercy should be exercised.

#### **Appeals to the Supreme Court from High Courts**

**117. (1) The Supreme Court shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the High Court of a territory.**

(2) An appeal shall lie from decisions of the High Court of a territory

to the Supreme Court as of right in the following cases -

- (a) final decisions in any civil proceedings before the High Court sitting at first instance;
- (b) where the ground of appeal involves questions of law alone, decisions in any criminal proceedings before the High Court sitting at first instance;
- (c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region;
- (d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;
- (e) decisions in any criminal proceedings in which any person has been sentenced to death by the High Court or in which the High Court has affirmed a sentence of death imposed by some other court; and
- (f) such other cases as may be prescribed by any law in force in the territory:

Provided that nothing in paragraph (a) of this subsection shall confer any right of appeal -

- (i) from any order made ex parte;
- (ii) from any order relating only to costs;
- (iii) from any order made with the consent of the parties; or
- (iv) in the case of a party to proceedings for dissolution or nullity of marriage who, having had time and opportunity to appeal from any decree nisi in such proceedings, has not so appealed, from any decree absolute founded upon such a decree nisi.

(3) An appeal shall lie from decisions of the High Court of a territory to the Supreme Court as of right in the following cases -

- (a) decisions on any such question as is referred to in section 53 of this constitution or
- (b) decisions on any question whether any person has been validly selected or elected as a member of a legislative house of a Region of any member of that house has become vacant.
- (4) Subject to the provisions of subsections (2) and (3) of this section, an appeal shall lie from decisions of the High Court of a territory to the Supreme Court with the leave of the High Court or the Supreme Court in the following cases -
  - (a) where the ground of appeal involves questions of fact, mixed law and fact or quantum of sentence, decisions in any criminal proceedings before the High Court sitting at first instance;
  - (b) any case in which, but for the terms of the proviso to subsection (2) of this section, an appeal would lie as of right to Supreme Court of Nigeria by virtue of paragraph (a) of that subsection;
  - (c) decisions in any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court; and
  - (d) such other cases as may be prescribed by any law in force in the territory.

(5) The Supreme Court may dispose of any application for leave to appeal from any decision of the High Court of a territory in respect of any civil or criminal proceedings in which an appeal has been brought to the High Court from some other court of the territory upon consideration of the record of the proceedings if the Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.

(6) Any right of appeal to the Supreme Court from the decisions of the High Court of a territory conferred by this section-

- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court or the Supreme Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of an accused person or, subject to the provisions of

section 104 of this Constitution any powers conferred by the Constitution of a Region to take over and continue or discontinue such proceedings, at the instance of such other persons or authorities as may be prescribed by any law in force in the territory; and

- (b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force in the territory regulating the powers, practice and procedure of the Supreme Court.
- (7) In this section "decision" means, in relation to the High Court of a territory, any determination of that High Court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation.

**Appeals to the Supreme Court from other Federal courts, etc.**

- 118. Parliament may confer jurisdiction upon the Supreme Court to hear and determine appeals from any decision of any Court of law or tribunal established by Parliament.

**Appeals to the Supreme Court from Sharia Court of Appeal and Court of Resolution**

- 119. (1) An appeal shall lie from decisions of the Sharia Court of Appeal to Supreme Court as of right in the following cases -

- (a) decisions on questions as to the interpretation of this Constitution or the constitution of a Region;
- (b) decisions on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person; and
- (c) such other cases as may be prescribed by any law in force in Northern Nigeria:

Provided that nothing in paragraph (a) or (b) of this subsection (in so far as it applies to civil proceedings) shall confer any right of appeal with respect to any question relating to the respective jurisdiction of the High Court of Northern Nigeria, and the Sharia Court of Appeal that the Court of Resolution is competent to determine.

- (2) Subject to the provisions of subsection (1) of this section, an appeal shall lie from decisions of the Sharia Court of Appeal or the Court of Resolution to the Supreme Court with the leave of the Supreme Court in such cases as may be prescribed by any law in force in Northern Nigeria.
- (3) Any right of appeal to Supreme Court from the decisions of the Sharia Court of Appeal conferred by this section(a) shall be exercisable at the instance of a party thereto or, with the leave of the Sharia Court of Appeal or the Supreme Court, at the instance of any other person having an interest in the matter; and
- (b) shall be exercised in accordance with any Acts of Parliament and rules of court for the time being in force in Northern Nigeria regulating the powers, practice and procedure of the Supreme Court.
- (4) Supreme Court may dispose of any application for leave to appeal from any decision of the Sharia Court of Appeal or the Court of Resolution upon consideration of the record of the proceedings if the Supreme Court is of opinion that the interests of justice do not require an oral hearing of the application.
- (5) In this section-

" the Court of Resolution" means the Court of Resolution established by the Court of Resolution Law, 1960, of Northern Nigeria, as amended, or any law replacing that law;

"decision" means, in relation to the Sharia Court of Appeal or the Court of Resolution, any determination of that court in any civil proceedings and includes (without prejudice to the generality of the foregoing), a judgment, decree, order or recommendation;

"the Sharia Court of Appeal" means the Sharia Court of Appeal established by the Sharia Court of Appeal Law, 1960, of Northern Nigeria, as amended, or any law replacing that law.

**Determinations of the Supreme Court to be Final**



**120. Without prejudice to the provisions of section 101 of this Constitution, no appeal shall lie to any other body or person from any determination of the Supreme Court.**

#### **Powers, practice and procedure of the Supreme Court**

- 121. (1) The decisions of the Supreme Court shall be enforced in any part of Nigeria by the High Court having jurisdiction in that part of Nigeria and by all persons, authorities and other courts of law in that part as if they were decisions of that High Court.**
- (2) Subject to the provisions of any Act of Parliament, Supreme Court of Nigeria may make rules for regulating the practice and procedure of the court.**
- (3) Parliament may make provision with respect to the practice and procedure of the Supreme Court (including the service and execution of all civil and criminal processes of the court) and may confer upon the court' such powers additional to those conferred by this section as may appear to be necessary or desirable for enabling the court more effectively to exercise its jurisdiction.**
- (4) Rules made under this section may fix the minimum number of judges who may sit for any purpose, so however that no matter shall be finally determined by less than three judges:**

**Provided that nothing in this subsection shall preclude a judge who does not concur in the opinion of the other judges from delivering a dissenting opinion.**

#### **Part 2: The High Court of the Federal Territory**

##### **Establishment of High Court of Lagos**

- 122. (1) There shall be a High Court for the Federal territory, which shall be styled the High Court of Lagos.**
- (2) The judges of the High Court of Lagos shall be-**
- (a) the Chief Justice of Lagos; and**
- (b) such number of other judges (not being less than five) as may be prescribed by Parliament.**
- (3) The High Court of Lagos shall be a superior court of record and, save as otherwise provided by Parliament, shall have all the powers of such a court.**

##### **Appointment of judges of High Court of Lagos**

- 123.-(1) The Chief Justice of Lagos shall be appointed by the President, acting in accordance with the advice of the Prime Minister.**
- (2) The judges of the High Court of Lagos other than the Chief Justice shall be appointed by the President, acting in accordance with the advice of the Judicial Service Commission of the Federation.**
- (3) A person shall not be qualified to hold the office of a judge of the High Court of Lagos unless-**
- (a) he is or has been a judge of a court having unlimited jurisdiction in civil and criminal matters in some part of the Commonwealth or a court having jurisdiction in appeals from any such court; or**
- (b) he is qualified for admission as an advocate in Nigeria and he has been so qualified for not less than ten years:**

**Provided that in computing the period during which any person has been qualified to practise as an advocate any period during which he has held office as a judge or magistrate after becoming so qualified shall be included.**

- (4) If the office of Chief Justice of Lagos is vacant or if the person holding the office is for any reason unable to perform the functions of his office, then, until a person has been appointed to and has assumed the functions of that office or until the person holding the office has resumed those functions, as the case may be, those functions shall be performed by such one of the other judges of the High Court of Lagos as may from time to time be designated in that behalf by the President, acting in accordance with the advice of the Prime Minister.**
- (5) If the office of any judge of the High Court of Lagos other than the Chief Justice is vacant or if the person holding the office is acting as Chief Justice or is for any reason unable to perform the**

functions of his office, the President, acting in accordance with the advice of the Judicial Service Commission of the Federation, may appoint a person with such qualifications as may be prescribed by parliament to act in the office of a judge of the High Court and any person so appointed shall continue to act for the period of the appointment or if no period is specified until his appointment is revoked by the President, acting in accordance with the advice of the Commission.

#### **Tenure of office of judges of High Court of Lagos**

**124. (1) Subject to the provisions of this section, a person holding the office of Chief Justice of Lagos or any other judge of the High Court of Lagos shall vacate his office when he attains such age as may be prescribed by Parliament:**

**Provided that the President, acting in accordance with the advice of the Prime Minister, may permit a judge to continue in office for such period after attaining that age as may be necessary to enable him to deliver judgment or to do any other thing in relation to proceedings that were commenced before him before he attained that age.**

**(2) A person holding the office of a judge of the High Court of Lagos shall be removed from his office or appointment by the President if**

**(a) there are presented to the President addresses from both Houses of parliament praying that that person be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body or any other cause) or for misbehavior; and**

**(b) the address from each House bears a certificate which is signed by the person who presided at the meeting of that House at which at which the motion for the address was passed and which states that not less than two-thirds of all the members of that House voted in favour of the motion;**

**And except on the revocation in pursuance of section 123 of this Constitution of an appointment to act as aforesaid, a person holding or appointed to act in such an office shall not be removed from his office or appointment in any other circumstances.**

#### **Appeals to High Court of Lagos from subordinate courts**

**125. (1) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos as of right or, if it is provided by Parliament that an appeal as of right shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court as of right in the following cases-**

**(a) where the matter in dispute on the appeal to the High Court is of the value of fifty pounds or upwards or where the appeal involves directly or indirectly a claim to or question respecting property or a right of the value of fifty pounds or upwards, final decisions in any civil proceedings;**

**(b) where the ground of appeal to the High Court involves questions of law alone, decisions in any criminal proceedings in which any person has been sentenced to imprisonment for a term exceeding three months or corporal punishment exceeding six strokes or a fine or forfeiture exceeding twenty-five pounds by the subordinate court from which the appeal lies to the High Court or that subordinate court has affirmed or substituted such a sentence;**

**(c) decisions in any civil or criminal proceedings on questions as to the interpretation of this Constitution or the constitution of a Region;**

**(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter III of this Constitution has been contravened in relation to any person;**

**(e) decisions in any criminal proceedings in which any person has been sentenced to death by the subordinate court from which the appeal lies to the High Court or in which that subordinate court has affirmed a sentence of death;**

**(f) decisions in any other criminal proceedings before a subordinate court sitting at first instance from which no appeal lies as of right to another subordinate court; and**

**(g) such other cases as may be prescribed by Parliament:**

Provided that no appeal shall lie from decisions of a subordinate court established under section 119 of this Constitution to the High Court in any case in which an appeal lies as of right to Supreme Court of Nigeria by virtue of any Act of Parliament enacted in pursuance of section 111 of this Constitution.

- (2) An appeal shall lie from decisions of a subordinate court to the High Court of Lagos with the leave of the High Court or, if it is provided by Parliament that an appeal shall lie from that subordinate court to another subordinate court, an appeal shall thereafter lie to the High Court with the leave of the High Court in the following cases-
- (a) decisions in any criminal proceedings from which no appeal lies as of right to the High Court; and
- (b) such other cases in which no appeal lies as of right to the High Court as may be prescribed by Parliament:

Provided that no appeal shall lie under paragraph (a) of this subsection from decisions of a subordinate court established under section 126 of this Constitution to the High Court in any case in which an appeal lies to Supreme Court of Nigeria (whether as of right or with the leave of Supreme Court of Nigeria) by virtue of an Act of Parliament enacted under section 118 of this Constitution.

- (3) Any right of appeal from decisions of a subordinate court to the High Court of Lagos conferred by this section-
- (a) shall be exercisable in the case of civil proceedings at the instance of a party thereto or, with the leave of the High Court, at the instance of any other person having an interest in the matter and in the case of criminal proceedings at the instance of the accused person or, subject to the provisions of section 104 of this Constitution, at the instance of such other persons or authorities as may be prescribed by Parliament; and
- (b) shall be exercised in accordance with any laws and rules of court for the time being in force regulating the powers, practice and procedure of the High Court.
- (4) In this section-

"decision" means, in relation to a subordinate court, any determination of that court and includes (without prejudice to the generality of the foregoing) a judgment, decree, order, conviction, sentence (other than a sentence fixed by law) or recommendation;

"subordinate court" means any court of law in the Federal territory other than Supreme Court of Nigeria, the High Court of the territory or a court-martial.

#### **Part 4: General**

##### **Establishment of courts**

126. Parliament may establish courts of law for the Federation in addition to the Supreme Court:

Provided that nothing in this section shall -

- (a) preclude the legislature of a Region from establishing courts of law for that Region; or
- (b) confer upon Parliament powers to make provision with respect to the jurisdiction of any court established under this section additional to those conferred by the other provisions of this Constitution.

127. (1) If by the Constitution or the legislature of a Region there is established for the Region a court having jurisdiction to hear and determine appeals in any matter from the High Court of the Region, then -

- (a) sections 115 and 117 of this Constitution shall have effect, in relation to that matter, as if any reference in those sections to the High Court of the Region were a reference to the court having jurisdiction as aforesaid and if the words "sitting at first instance" whenever they occur in section 117 were omitted; and
- (b) a judge of the last mentioned court shall be included among the persons qualified for appointment as members of the Police Service Commission of the Federation.

- (2) Subsection (1) of this section shall come into force on such a date as the resident may by order appoint; but an order shall not be made under this subsection unless a draft of the order has been laid before both Houses of Parliament and approved by resolution of each House.

#### **Oaths to be taken by judges**

128. A judge of the Supreme Court or the High Court of Lagos shall not enter upon the duties of his office unless he has taken and subscribed the oath of allegiance and such oath for the due execution of his office as may be prescribed by Parliament.

### **CHAPTER IX: FINANCE**

#### **Part 1: Public funds of the Federation**

##### **Establishment of Consolidated Revenue Fund**

129. (1) All revenues or other moneys raised or received by the Federation (not being revenues or other moneys payable under this Constitution or any Act of Parliament into some other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund.
- (2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the Federation except to meet expenditure that is charged upon the Fund by this Constitution or any Act of Parliament or where the issue of those moneys has been authorised by an appropriation Act or an Act passed in pursuance of section 131 of this Constitution.
- (3) No moneys shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund unless the issue of those moneys has been authorised by an Act of Parliament.
- (4) No moneys shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation except in the manner prescribed by Parliament.

##### **Authorisation of expenditure from Consolidated Revenue Fund**

130. (1) The Minister of the Government of the Federation responsible for finance shall cause to be prepared and laid before both Houses of Parliament in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.
- (2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund by this Constitution or any Act of Parliament) shall be included in a bill, to be known as an appropriation bill, providing for the issue from the Consolidated Revenue Fund of the Federation of the sums necessary to meet that expenditure and the appropriation of those sums for the purposes specified therein.
- (3) If in respect of any financial year it is found--
- (a) that the amount appropriated by the appropriation Act for any purpose is insufficient or that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act; or
- (b) that any moneys have been expended for any purpose in excess of the amount appropriated for the purpose by the appropriation Act or for a purpose for which no amount has been appropriated by the Act,
- a supplementary estimate showing the sums required or spent shall be laid before both Houses of Parliament and the heads of any such expenditure shall be included in a supplementary appropriation bill.

##### **Authorisation of expenditure in advance of appropriation**

131. Parliament may make provision under which, if the appropriation Act in respect of any financial year has not come into operation by the beginning of that financial year, the Minister of the Government of the Federation responsible for finance may authorise the withdrawal of moneys from the Consolidated Revenue Fund of the Federation for the purpose of meeting expenditure necessary to carry on the services of the Government until the expiration of four months from the beginning of that financial year or the coming into operation of

the Act, whichever is the earlier.

#### **Contingencies Fund**

- 132. (1) Parliament may provide for the establishment of a Contingencies Fund for the Federation and for authorising the Minister of the Government of the Federation responsible for finance, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.**
- (2) Where any advance is made in accordance with subsection (1) of this section a supplementary estimate shall be presented and a supplementary appropriation bill shall be introduced as soon as possible for the purpose of replacing the amount so advanced.**

#### **Remuneration of President and certain other officers**

- 133. (1) There shall be paid to the holders of the offices to which this section applies such salary as may be prescribed by Parliament.**
- (2) The salary and allowances payable to the holders of the offices to which this section applies shall be a charge on the Consolidated Revenue Fund of the Federation.**
- (3) The salary payable to the holder of any office to which this section applies and his terms of office other than allowances shall not be altered to his disadvantage after his appointment.**
- (4) This section applies to the office of President, Chief Justice of Nigeria, Justice of the Supreme Court, Chief Justice or other judge of the High Court of Lagos, member of the Electoral commission of the Federation, appointed member of the Judicial Service Commission of the Federation, member of the public Service Commission of the Federation, member of the Police Service Commission of the Federation, and Director of Audit of the Federation.**

#### **Audit of public accounts**

- 134. (1) There shall be a Director of Audit for the Federation, whose office shall be an office in the public service of the Federation.**
- (2) The public accounts of the Federation and of all officers, courts and authorities of the Federation shall be audited and reported on by the Director of Audit of the Federation and for that purpose the Director or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.**
- (3) The Director of Audit of the Federation shall submit his reports to the Minister of the Government of the Federation responsible for finance, who shall cause them to be laid before both Houses of Parliament.**
- (4) In the exercise of his functions under this Constitution the Director of Audit of the Federation shall not be subject to the direction or control of any other person or authority.**

#### **Public debt**

- 135. (1) The public debt of the Federation shall be secured on the revenues and assets of the Federation.**
- (2) In this section references to the public debt of the Federation include references to the interest on that debt, sinking fund payments in respect of that debt and the costs, charges and expenses incidental to the management of that debt.**

#### **Part 2: Allocation of Revenue**

- 136. (1) Where under any Act of parliament a duty is levied in respect of the import into Nigeria of any commodity other than motor spirit, diesel oil, tobacco, wine, potable spirits or beer, the Federation shall, in respect of each quarter, credit to a special account, maintained by the Federation and referred to in this Constitution (to be called "the Distributable Pool Account") a sum equal to thirty per cent of the proceeds of that duty for that quarter.**
- (2) For the purposes of this section the proceeds of a duty for a quarter shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for.**

#### **Import duties on motor spirit and tobacco**

- 136. (1) Where under any Act of parliament a duty is levied in respect of the import into Nigeria of motor spirit, diesel oil, tobacco, wine, potable spirits or beer, the Federation shall, in respect of each quarter, credit to a special account maintained by the Federation (to be called "the Distributable Pool Account") a sum equal to thirty per cent of the proceeds of that duty for that quarter.**
- (2) For the purposes of this section, the proceeds of a duty for a quarter shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for.**
- 137. (1) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of motor spirit or diesel oil, or of any particular class, variety or description of motor spirit or diesel oil, there shall be paid by the Federation to the Regions in respect of each quarter such sum equal to the proceeds of that duty for that quarter.**
- (2) When under subsection (1) of this section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of motor spirit or diesel oil or of the motor spirit or diesel oil of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.**
- (3) Where under any Act of Parliament a duty is levied in respect of the import into Nigeria of tobacco, or of any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter such sum equal to the proceeds of that duty for that quarter.**
- (4) When under subsection (3) of this section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of tobacco or of the tobacco of the particular class, variety or description in question, as the case may be, that have been distributed for consumption in the several Regions in the immediately preceding quarter.**
- (5) For the purposes of this section the proceeds of a duty for a quarter levied on any commodity, or any particular class, variety or description of commodity, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for less the part of that amount that is attributable to quantities of that commodity or that class, variety or description of commodity distributed, or intended to be distributed, in the Federal territory.**

#### **Excise duties**

- 138. (1) Where under any Act of Parliament an excise duty is levied on tobacco, or on any particular class, variety or description of tobacco, there shall be paid by the Federation to the Regions in respect of each quarter a sum equal to the proceeds of that duty for that quarter.**
- (2) Where under subsection (1) of this section any sum is payable by the Federation to the Regions in respect of any quarter, payment of the said sum shall be made in such manner that the sum is divided among the Regions in shares proportionate to the respective amounts of the commodity in question that have been distributed for consumption in the several Regions in the immediately preceding quarter.**
- (3) For the purposes of this section the proceeds for a quarter of a duty levied on tobacco or any particular class, variety or description of tobacco, shall be the amount remaining from the receipts from that duty that are collected in that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for, less the part of that amount that is attributable to quantities of tobacco or that particular class, variety or description of tobacco, distributed, or intended to be distributed, for consumption in the Federal territory.**

#### **Export duties**

- 139. (1) Where under any Act of Parliament duty is levied in respect of the export from Nigeria of produce, hides or skins there, shall be paid by the Federation to each Region in respect of each quarter a sum equal to the appropriate percentage of the proceeds of that duty for that quarter.**
- (2) For the purposes of subsection (1) of this section--**
- (a) the proceeds for a quarter of a duty levied on a commodity shall be the amount remaining from such of the receipts from that duty as relate to exports of that commodity during that quarter after any drawbacks, refunds or other repayments relating to those receipts have been made or allowed for;**
- (b) the appropriate percentage of the proceeds for a quarter of a duty levied on a commodity shall, in relation to any Region, be whichever of the following percentages is prescribed by Parliament in that behalf, that is to say, either-**
- (i) the percentage of those proceeds that is attributable to exports of that commodity that were derived from that Region;**
- (ii) the percentage of those proceeds that is attributable to exports of that commodity that were purchased in that Region;**
- (iii) the percentage of those proceeds that bears the same proportion to the total amount of those proceeds as the amount of that commodity that was purchased for export in that Region during the quarter immediately preceding that quarter bears to that total amount of that commodity that was so purchased in all the Regions during that immediately preceding quarter; or**
- (iv) the percentage of those proceeds that bears the same proportion to the total amount of those proceeds as the amount of that commodity that was purchased for export in that Region during the period of twelve months commencing three months before the commencement of the financial year in which that quarter falls bears to the total amount of that commodity that was so purchased in all the Regions during the period of twelve months.**
- (3) Parliament may designate, or make provision for designating, any class, variety or description of any commodity as a separate commodity for the purposes of this section, and any such class, variety or description that is so designated shall be regarded as a separate commodity for those purposes.**
- (4) For the purposes of this section any amount of a commodity that is derived from the Federal territory shall be deemed to be derived from Western Nigeria and any amount of a commodity that is purchased in the Federal territory shall be deemed to be purchased in Western Nigeria.**

#### **Mining royalties and rents**

- 140. (1) There shall be paid by the Federation to each Region a sum equal to fifty per cent of -**
- (a) the proceeds of any royalty received by the Federation in respect of any minerals extracted in that Region; and**
- (b) any mining rents derived by the Federation during that year from within that Region.**
- (2) The Federation shall credit to the Distributable Pool Account a sum equal to thirty per cent.**
- (a) the proceeds of any royalty received by the Federation in respect of minerals extracted in any Region; and**
- (b) any mining rents derived by the Federation from within any Region.**
- (3) For the purposes of this section the proceeds of a royalty shall be the amount remaining from the receipts of that royalty after any refunds or other repayments relating to those receipts have been deducted therefrom or allowed for.**
- (4) Parliament may prescribe the periods in relation to which the proceeds of any royalty or mining rents shall be calculated for purposes of this section.**
- (5) In this section "minerals" includes mineral oil.**

- (6) For the purposes of this section the continental shelf of a Region shall be deemed to be part of that Region.

#### **Distribution of funds in Distributable Pool Account**

141. There shall be paid by the Federation to the Regions at the end of each quarter sums equal to the following fractions of the amount standing to the credit of the Distributable Pool Account at that date, that is to say--

- (a) to Northern Nigeria, forty ninety-fifths;
- (b) to Western Nigeria, twenty-four ninety-fifths;
- (c) to Eastern Nigeria, thirty-one ninety-fifths.

#### **Regions to contribute towards costs of administration**

142. Each Region shall in respect of each financial year pay to the Federation an amount equal to such part of the expenditure incurred by the Federation during that financial year in respect of the department of customs and excise of the Government of the Federation for the purpose of collecting the duties referred to in sections 136 to 139 of this Constitution as is proportionate to the share of the proceeds of those duties received by that Region under those sections in respect of that financial year.

143. (1) Any sum that is required by this Chapter to be paid by the Federation to a Region may be set off by the Federation in or towards the payment of any sum that is due from that Region to the Federation in respect of any loan made by the Federation to that Region.

(2) The right of set-off conferred by subsection (1) of this section shall be without prejudice to any other right of the Federation to obtain payment of any sum due to the Federation in respect of any loan.

#### **Sums charged on Consolidated Revenue Funds**

144. Any payments that are required by this Chapter to be made by the Federation to a Region shall be a charge on the Consolidated Revenue Fund of the Federation and any payments that are so required to be made by a Region to the Federation shall be a charge on the Consolidated Revenue Fund of that Region.

#### **Provisions with regard to payments**

145. (1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Director of Audit of the Federation:

Provided that a provisional payment may be made before the

Director has given his certificate.

(2) Parliament may make provision as to 'time' and manner in which any payment falling to be made under this Part of this Chapter shall be effected and for the making of adjustments and provisional payments.

### **CHAPTER X: THE PUBLIC SERVICE OF THE FEDERATION**

#### **Establishment of Public Service Commission**

146. (1) There shall be a Public Service Commission for the Federation, which shall consist of a chairman and not less than two or more than four other members.

(2) The members of the Public Service Commission of the Federation shall be appointed by the President, acting in accordance with the advice of the Prime Minister.

(3) A person shall not be qualified to hold the office of a member of the Public Service Commission of the Federation if he is a member of either House of Parliament, a member of a legislative house of a Region, a Minister of the Government of the Federation, a Minister of the Government of a Region or the holder of an office in the public service of the Federation or the public service of a Region.

(4) Subject to the provisions of this section, a member of the Public Service Commission of the Federation shall vacate his office -



- (a) at the expiration of five years from the date of his appointment; or
- (b) if any circumstances arise that, if he were not a member of the Commission, would cause him to be disqualified for appointment as such.
- (5) A member of the Public Service Commission of the Federation may be removed from office by the President, acting in accordance with the advice of the Prime Minister, for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour.
- (6) A member of the Public Service Commission of the Federation shall not be removed from office except in accordance with the provisions of this section.
- (7) A person who has been appointed to be a member of the Public Service Commission of the Federation shall not thereafter be eligible for appointment to any office in the public service of the Federation.

#### **Appointment, etc., of officers in public service**

**147. (1) Power to appoint persons to hold or act in offices in the public service of the Federation (including power to make appointments on promotion and transfer and to confirm appointments) and to dismiss and exercise disciplinary control over persons holding or acting in such offices shall vest in the Public Service Commission of the Federation:**

**Provided that the Commission may, with the approval of the Prime Minister and subject to such conditions as it may think fit, delegate any of its powers under this section to any of its members or to any officer in the public service of the Federation.**

- (2) This section shall not apply in relation to any of the following offices-
  - (a) the office of any judge of Supreme Court of Nigeria or the High Court of Lagos;
  - (b) except for the purposes of making appointments thereto, the office of the Director of Audit of the Federation;
  - (c) any office in the Nigeria Police Force; or
  - (d) any office to which section 148 of this Constitution applies.
- (3) The provisions of this section shall be subject to the provisions of section 149 of this Constitution.
- (4) No appointment shall be made under this section to any office on the personal staff of the President unless the President signifies his approval of the appointment.

#### **Appointment, etc., of principal representatives of Federation abroad**

- 148. (1) Power to appoint persons to hold or act in the offices to which this section applies (including power to make appointments on promotion and transfer) and to remove persons so appointed from any such office shall vest in the President, acting in accordance with the advice of the Prime Minister.**
- (2) Before tendering any advice for the purposes of this section in relation to any person who holds any office in the public service of the Federation other than an office to which this section applies, the Prime Minister shall consult the Public Service Commission of the Federation.
- (3) The offices to which this section applies are the offices of any Ambassador, High Commissioner or other principal representative of the Federation in countries other than Nigeria.

#### **Appointment, etc., of permanent secretaries**

- 149. (1) Power to appoint persons to hold or act in the office of permanent secretary to any department of government of the Federation and to remove persons so appointed from that office shall vest in the President, acting in accordance with the advice of the Prime Minister.**
- (2) Before tendering any advice for the purposes of this section the Prime Minister shall consult the Public Service Commission of the Federation.

## **Appointment and tenure of office of Director of Audit**

- 150. (1) Before appointing any person to hold the office of Director of Audit of the Federation the Public Service Commission of the Federation shall consult the Prime Minister.**
- (2) Subject to the provisions of this section, a person holding the office of Director of Audit of the Federation shall vacate that office when he attains such age as may be prescribed by Parliament.**
- (3) A person holding the office of Director of Audit of the Federation shall be removed from office by the President if a resolution is passed by each House of Parliament recommending his removal from office for inability to discharge the functions of his office (whether arising from infirmity of body or mind or any other cause) or for misbehaviour.**
- (4) A person holding the office of Director of Audit of the Federation shall not be removed from office except in accordance with the provisions of this section.**
- (5) If the office of Director of Audit of the Federation is vacant or the holder of the office is for any reason unable to perform the functions of the office, the Public Service Commission of the Federation, acting after consultation with the Prime Minister, may appoint a person to act in the office and any person so appointed shall continue to act until his appointment is revoked by the Commission acting after consultation with the Prime Minister.**

## **Powers relating to Clerks of Houses of Parliament**

- 151. Before exercising any of its powers in relation to the Clerk to the Senate the Public Service Commission of the Federation shall consult the President of the Senate and before exercising any of its powers in relation to the Clerk to the House of Representatives the Commission shall consult the Speaker of that House.**

## **Protection of pension rights**

- 152. (1) The law applicable to any benefits to which this section applies shall, in relation to any person who has been granted, or who is eligible for, such benefits, be that in force on the relevant date or any later law that is not less favourable to that person.**
- (2) In this section "the relevant date" means-**
- (a) in relation to any benefits granted before this Constitution came into operation, the date on which those benefits were granted;**
- (b) in relation to any benefits granted after this Constitution came into operation to or in respect of any person who was a member of the public service of the Federation, the former public service of Nigeria, or the public service of a Region before this Constitution came into operation or any benefits for which any such person may be eligible, the thirtieth day of September, 1960; and**
- (c) in relation to any benefits granted to or in respect of any person who first becomes a member of the public service of the Federation or the public service of a Region after this Constitution came into operation or any benefits for which any such person may be eligible, the date on which he first became such a member.**
- (3) Where a person is entitled to exercise an option whichever one of two or more laws shall apply in his case, the law specified by him in exercising the option shall, for the purposes of this section, be deemed to be more favorable to him than the other law or laws.**
- (4) Any benefit to which this section applies that is payable by the Federation (not being a benefit that is a charge upon some other public fund of the Federation) shall be a charge Upon the Consolidated Revenue Fund of the Federation and any such benefit at is payable by a Region (not being a benefit that is a charge upon some other public fund of that Region) shall be a charge upon the Consolidated Revenue Fund of that Region.**
- (5) This section applies to any benefits payable under any law in force in Nigeria or any part thereof providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation, the former public service of Nigeria or the public service of a Region in**

respect of their service in any of those public services or to the widows, children dependants or personal representatives of such persons in respect of such service.

#### **Powers of Commissions in relation to grant of pensions etc.**

- 153. (1) Where any benefits to which this section applies can be withheld, reduced in amount or suspended by any person or authority under any Act of Parliament, those benefits shall not be so withheld, reduced in amount or suspended -**
- (a) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Judicial Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission;**
  - (b) in the case of benefits that have been granted in respect of the service in the public service of the Federation of any person who at the time when he ceased to be a member of that public service was subject to the jurisdiction of the Police Service Commission of the Federation or for which any person may be eligible in respect of such service, without the approval of that Commission; or**
  - (c) in any other case, without the approval of the Public Service Commission of the Federation.**
- (2) No benefits to which this section applies that have been granted to any person who holds or has held the office of a judge of the Supreme Court or the High Court of Lagos or for which any such person may be eligible shall be withheld, reduced or suspended on the ground that that person has been guilty of misbehavior while holding that office unless that person has been removed from that office by reason of such misbehaviour.**
- (3) This section applies to any benefits payable under any Act of Parliament providing for the grant of pensions, gratuities or compensation to persons who are or have been members of the public service of the Federation or the former public service of Nigeria in respect of their service in that public service or to the widows, children, dependants or personal representatives of such persons in respect of such service.**

#### **CHAPTER XI: TRANSITIONAL PROVISIONS**

##### **Powers and procedure of Federal Commissions**

- 154. (1) Subject to the provisions of this section and section 155 of this Constitution, the Act of the Parliament of the United Kingdom entitled the Nigerian Independence Act, 1960, and the Nigeria (Constitution) Order in Council, 1960 (other than the Third, Fourth and Fifth Schedules to that Order) are hereby repealed.**
- (2) Nothing in subsection (1) of this section shall affect the operation of any provision of the Act or Order aforesaid (other than sections 14 and 17 of the Order) in so far as that provision has effect as part of, or in relation to the law of a Region; and the legislature of a Region shall have, and be deemed always to have had, power to alter or repeal any such provision in so far as it has effect as aforesaid, but no law enacted by the legislature of a Region by virtue of this subsection shall have effect unless, either before or after the commencement of this Constitution, a resolution supported by the votes of not less than two-thirds of all the members of that House is passed by each House of Parliament signifying consent to its having effect.**
- (3) References in subsection (2) of this section to the law of a Region are references to that law in so far as it is not either part of the law of the Federation as a whole or contained or deemed to be contained in an Act of Parliament enacted otherwise than in the exercise of powers conferred by provisions corresponding to section 72 of this Constitution.**

##### **Saving for things done, etc., under repealed constitutional instruments**

- 155. (1) Subject to the provisions of sections 157 and 158 of this Constitution, any court of law, authority or office which was established, any appointment, election or other selection which was made or held, and any other thing whatsoever which was done in pursuance of any provision repealed by section 154 of this Constitution or which was deemed by virtue of any such**

provision to be so established, made, held or done, shall be deemed –

- (a) to have been duly established, made, held or done in pursuance of the corresponding provision of this Constitution, whether or not the corresponding provision differs from the provision to which it corresponds; and
  - (b) so far as relevant in the case of an appointment, election, selection or other thing, to have been so made, held or done in pursuance of the corresponding provision on the date or for the period or for which it was actually made, held or done.
- (2) Without prejudice to the generality of subsection (1) of this section and subject to the provisions of subsection (3) of section 68 of this Constitution, Parliament shall, unless sooner dissolved, stand dissolved on the date on which it would apart from this Constitution have stood dissolved in pursuance of subsection (2) of section sixty-three of the Constitution repealed by subsection (1) of section 154 of this Constitution.
- (3) Except in so far as the contrary intention appears in this Constitution, any right, privilege, obligation or liability saved by the operation of the Interpretation Act on the repeal by this Constitution of any enactment shall be deemed to arise whether or not the corresponding provision differs from the enactment to which corresponds.

156. (1) All existing law, that is to say, all law which, whether being a rule of law or a provision of an Act of Parliament or of a Law made by the legislature of a Region or of any other enactment or instrument whatsoever, is in force immediately before the date of the commencement of this Constitution or has been passed or made before that date and comes into force on or after that date, shall, until that law is altered by an authority having power to do so, have effect with such modification (whether by way of addition, alteration or omission) as may be necessary to bring that law into conformity with this Constitution and the Constitution of each Region.

(2) The appropriate authority may, at any time during the period of three years beginning with the date aforesaid, by order make such changes in the text of any such provision as is mentioned in subsection (1) of this section as considers appropriate for the purpose of bringing that text into conformity with the provisions of that subsection; and the validity of an order made by the appropriate authority in the exercise or purported exercise of the powers conferred by this subsection shall not be impugned on the ground that any change made by the order is inconsistent with the provisions of subsections (1) of this section.

(3) In subsection (2) of this section the "appropriate authority" means, in relation to any provision –

(a) in so far as the provision forms part of the law of a Region, the Governor of the Region; and

(b) in so far as it does not form part of the law of a Region, the President;

And references in this subsection to the law of a Region shall be construed in accordance with subsection (3) of section 154 of this Constitution.

157 (1) Nnamdi Azikiwe shall be deemed to be the elected President of the Republic on the date of the commencement of this Constitution.

(2) Nothing in subsection (1) of section 155 of this Constitution shall be construed as applying to the election or period of office of the President or to the oaths required to be taken and subscribed by a person elected as President before he begins to perform the functions of that office.

158. (1) Without prejudice to the generality of section 156 of this Constitution, all property which immediately before the date of the commencement of this Constitution, was held by the Crown or by some other body or person (not being an authority of the Federation) on behalf of or in trust for the Crown shall on that date, by virtue of this subsection and without further assurance, vest in the President and be held by him on behalf of, or as the case may be on the like trusts for the benefit of the Government of the Federation; and all property which immediately before the date aforesaid, was held by an authority of the Federation on behalf or in trust for the Crown shall be held by that authority on

behalf of, or as the case may be on the like trusts for the benefit of the Government of the Federation.

- (2) References to the Crown in subsection (1) of this section are references to the Crown in right of the Government of the Federation; and that subsection shall, with the necessary modifications, apply in relation to rights, liabilities and obligations arising out of a contract or other arrangements as it applies in relation to property.
- (3) Subject to the provisions of subsection (4) of this section, any proceedings in appeal from a decision of the Federal Supreme Court which are pending immediately before the date of the commencement of this Constitution may be continued on or after that date as if this Constitution has not been passed and any decision given in pursuance of any such proceedings shall have effect accordingly, so however that any such proceedings which are still pending at the expiration of the period of one year beginning with that date shall abate on the expiration of that period.
- (4) Where immediately before the date of the commencement of this Constitution any proceedings on appeal from a decision of the Federal Supreme Court are pending or any right to bring such proceedings has accrued, the proceedings or rights shall abate on that date in so far as any question for determination in the relevant proceedings is -
  - (a) a chieftaincy question; or
  - (b) a question as to the interpretation of a Constitution or former constitution of the Federation or a Region or as to the validity of an enactment which amends or purports to amend such a Constitution;and where immediately before that date any proceedings are pending in any court in Nigeria or any right has accrued to bring proceedings on appeal to such a court, the proceedings or right shall abate on that date in so far as a question for determination in the relevant proceedings is a chieftaincy question.
- (5) Any debt of the Federation which immediately before the date of the commencement of this Constitution was, by virtue of any provision repealed by subsection (1) of section 154 of this Constitution, charged on the revenue and assets of the Regions as well as on the revenues and assets of the Federation shall, on and after that date, continue to be so charged.
- (6) For the avoidance of doubt it is hereby declared that, without prejudices to the generality of the provisions of section 155 of this Constitution, the period of six months referred to in subsection 5 of this Constitution began, in relation to Mid-Western Nigeria, on the ninth day of August 1963 (being the date on which the Region was established).

## **CHAPTER XII: MISCELLANEOUS**

### **The Niger Delta Development Board**

- 159. (1) There shall be a board for the Niger Delta which shall be styled the Niger Delta Development Board.**
- (2) The members of the Board shall be -
    - (a) a person appointed by the President, who shall be Chairman;
    - (b) a person appointed by the Governor of Eastern Nigeria;
    - (c) a person appointed by the Governor of Mid-Western Nigeria;
    - (d) such other person as may be appointed in such manner as may be prescribed by the Parliament to represent the inhabitants of the Niger Delta.
  - (3) A member of the Board shall vacate his office in such circumstances as may be prescribed by Parliament.
  - (4) The Board shall be responsible for advising the Government of the Federation and the Governments of Eastern Nigeria and Mid-Western Nigeria with respect to the physical development of the Niger Delta, and in order to discharge that responsibility the Board shall -

- (a) cause the Niger Delta to be surveyed in order to ascertain what measures are required to promote its physical development;
  - (b) prepare schemes designed to promote the physical development of the Niger Delta; together with estimates of the cost of putting the schemes into effect;
  - (c) submit to the Government of the Federation and the Government of Eastern Nigeria and Mid-Western Nigeria annual reports describing the work of the Board and the measures taken in pursuance of its advice.
- (5) Parliament may make such provision as it considers expedient for enabling the to discharge its functions under this section.
- (6) In this section, "the Niger Delta" means the area specified in the proclamation relating to the Board which was made on the twenty-six day of August, 1959.
- (7) This section shall cease to have effect on the first day of July, 1969 or such later date as may be prescribed by Parliament.

**160 (1)** Any Commission established by this Constitution may with the consent of the Prime Minister or such other Minister of the Government of the Federation as may be authorized in that behalf by the Prime Minister by regulation or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority of the Federation for the purpose of discharging its functions.

(2) Subject to its rules of procedure, any commission established by this Constitution may act notwithstanding any vacancy in its membership or absence of any member, but any decision of the Commission may require the concurrence of the majority of all the members thereof.

**161. (1)** Without prejudice to the generality of section 156 of this Constitution –

- (a) no criminal proceedings shall be instituted or continued during his period of office against a person to whom this subsection applies; and
- (b) such a person shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise;
- (c) no proceedings in which relief is claimed against such a person in his personal capacity shall be instituted or continued in any court during his period of office;

but in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this subsection applies, his period of office shall be left out of account.

(2) Subsection (1) of this section applies to a person holding or required to perform the functions of the office of the President or of the Governor of a Region and in that subsection "period of office" means, in relation to such a person, the period during which he holds or is required to perform the functions of the office in question.

(3) Notwithstanding anything in any other provision of this Constitution (including in particular sections 32 and 53 of this Constitution) but without prejudice to the proviso to subsection (1) of section 22 and subsection (4) of section 27 of this Constitution, no chieftaincy question shall be entertained by any court of law in Nigeria, and a certificate which is executed by an authority authorized in that behalf by a law coming into force in a territory on or after the date of commencement of this Constitution (including law passed before that date) and which states –

- (a) that a particular person is or was, by reference to that territory or a part of it, a chief of a specified grade at a specified time or during a specified period; or
- (b) that the provision of a law in force in that territory relating to the removal or exclusion of chiefs or former chiefs from areas within the territory have been complied with in the case of a particular person,

Shall be conclusive evidence as to matters set out in that statement.

## **Resignations**

**162. (1) Any person who is appointed, elected or otherwise selected to any office established by this Constitution may resign from that office by writing under his hand addressed to the person or authority by whom he was appointed, elected or selected:**

**Provided that –**

- (a) in the case of the President of the Republic, his resignation shall be addressed to the President of the Senate;**
  - (b) in the case of a member of a House of Parliament who holds office as President or Speaker, his resignation from the House or that office shall be addressed to the House; and**
  - (c) in the case of any other member of the House of Parliament, his resignation from the House shall be addressed to the President of the Senate or Speaker as the case may be.**
- (2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the person or authority to whom it is addressed or by any person authorised by that person or authority to receive it.**

## **Re-appointments, etc.**

**152. (1) Where any person has vacated any office constituted by this Constitution, he may, if qualified, again be appointed, elected or otherwise selected to hold that office in accordance with the provisions of this Constitution.**

**(2) Where by this Constitution a power is conferred upon any person or authority to make any appointment to any office in the public service of the Federation, a person may be appointed to that office notwithstanding that some other person may be holding that office, when that other person is on leave of absence pending relinquishment of the office; and where two or more persons are holding the same office by reason of an appointment made in pursuance of this subsection, then for the purposes of any function conferred upon the holder of that office the person last appointed shall be deemed to be the sole holder of the office.**

## **Review of sections 140 and 141 of this Constitution**

**153. The Government of the Federation, acting after consultation with the Governments of the Regions, shall from time to time appoint a Commission to review and make recommendations with respect to the provisions of sections 140 and 141 of this Constitution.**

## **Interpretation, etc.,- general**

**154. (1) In this Constitution, unless it is otherwise expressly provided or required by the context -**

**" Act of Parliament" means any law made by Parliament;**

**"the Advisory Council" means the Advisory Council on the Prerogative of Mercy of the Federation;**

**"the Commonwealth" means Nigeria, any country to which section 14 of this Constitution applies and any dependency of any such country;**

**"the Concurrent Legislative List" means the list in Part II of the Schedule to this Constitution;**

**"the Exclusive Legislative List" means the list in Part I of the Schedule to this Constitution;**

**"financial year" means any period of twelve months beginning on the first day of April in any year or such other date as Parliament may prescribe;**

**"the Legislative Lists" means the Exclusive Legislative List and the Concurrent Legislative List;**

**"oath" includes affirmation;**

**"the oath of allegiance" means such oath of allegiance as may be prescribed by Parliament;**

**"Parliament" means the Parliament of the Federation;**

**"the President" means the President of the Republic;**

**"produce" means such animal or vegetable products, whether processed or in a natural state (other than tobacco, hides or skins) as may with the consent of the Governments of the Regions be designated by the President by order;**

**"the public service of the Federation" means the service of the State in a civil capacity in respect of the government of the Federation;**

**"quarter" means a quarter of a financial year.**

**"the state" means the Government of the Federation or a Region, and**

**"office of emolument under the state" includes office as the Governor of a Region or as a member of the Government of the Federation or a Region, so however that a person shall not be treated as holding an office of emolument under the state by reason only of his receiving a pension or other like benefit in respect of such office; and**

**"territory" means a Region or the Federal Territory.**

- (2) In this Constitution, unless it is otherwise expressly provided or required by the context -**
- (a) references to persons holding offices in the public service of the Federation or the public service of a Region include references to persons acting in those offices; and**
- (b) references to offices in the public service of the Federation include references to the offices of the judges of the Supreme Court and the High Court of Lagos and references to the offices of members of all other courts of law established by Parliament (other than courts-martial), being offices the emoluments attaching to which are paid out of the Consolidated Revenue Fund or any other public fund of the Federation, and references to the offices of members of the Nigeria Police Force.**
- (3) For the purposes of this Constitution, the office of the President or the Deputy President of the Senate, a Senator, the Speaker or the Deputy Speaker of the House of Representatives, a member of the House of Representatives, a Minister of the Government of the Federation, a Parliamentary Secretary to such a Minister or a member of the Council of Ministers, the Nigeria Police Council, any Commission established by this Constitution or the Advisory Council shall not be regarded as an office in the public service of the Federation.**
- (4) Subject to the provisions of section 4 of this Constitution, no amendment made to the Interpretation Act, as in force on the date of commencement of this Constitution, shall have effect in relation to this Constitution.**
- (5) No provision of this Constitution that any person or authority shall not be subject to the direction or control of any other person or authority in exercising any functions under this Constitution shall be construed as precluding a court of law from exercising jurisdiction in relation to any question whether that person or authority has performed those functions in accordance with this Constitution or any other law.**
- (6) For the avoidance of doubt it is hereby declared that -**
- (a) any power to make laws conferred by this Constitution includes powers to make laws having extra-territorial operation;**
- (b) any reference to this Constitution to the functions of the President includes a reference to his functions as the Commander-in-Chief of the armed forces of the federation; and**
- (c) the functions of the Commander-in-Chief of the armed forces of the Federation are such as may be prescribed by Parliament.**
- 166 (1) This Act may be cited as the Constitution of the Federation and subject to the provisions of section 127 of this Constitution, shall come into force on the first day of October, 1963.**
- (2) on and after the date mentioned in subsection (1) of this section, Chapter II of this Constitution (except section 10) shall be deemed to have come into force on the first day of June, 1961.**



**THE LEGISLATIVE LISTS**

**Part I: The Exclusive Legislative List**

**Item**

- 1. Accounts of the Government of the Federation and officers, courts and authorities thereof, including audit of those accounts.**
- 2. Archives, other than the public records of the Governments of the Regions since the twenty-third day of January, 1952.**
- 3. Aviation, including airports, safety of aircraft and ancillary transport and other services.**
- 4. Bills of exchange and promissory notes.**
- 5. Borrowing of moneys outside Nigeria for the purposes of the Federation or of any Region other than borrowing by the Government of a Region for a period not exceeding twelve months on the security of any funds or assets of that government held outside Nigeria.**
- 6. Borrowing of moneys within Nigeria for the purposes of the Federation.**
- 7. Control of capital issues.**
- 8. Copyright.**
- 9. Currency, coinage and legal tender.**
- 10. Customs and excise duties, including export duties.**
- 11. Defence.**
- 12. Deportation; compulsory removal of persons from one territory to another.**
- 13. Designation of securities in which trust funds may be invested.**
- 14. Exchange control.**
- 15. External affairs.**
- 16. Extradition.**
- 17. The following higher educational institutions, that is to say –**
  - The University College at Ibadan.**
  - The University College Teaching Hospital.**
  - The University of Lagos**
  - The Lagos University Teaching Hospital.**
  - The Nigerian College of Arts, Science and Technology.**
  - The West African Institute of Social and Economic Research.**
  - The Pharmacy School at Yaba.**
  - The Forest School at Ibadan.**
  - The Veterinary School at Vom.**
- 18. Immigration into and emigration from Nigeria.**
- 19. Incorporation, regulation and winding-up of bodies corporate, other than co-operative societies, native authorities, local government authorities and bodies corporate established directly by any law enacted by the legislature of a Region.**
- 20. Insurance other than insurance undertaken by the Government of a Region but including any insurance undertaken by the Government of a Region that extends beyond the limits of that Region.**
- 21. Legal proceedings between the Government of the Federation and any other person or authority or between the Governments of Regions.**

22. **Maritime shipping and navigation, including-**
  - (a) **shipping and navigation on tidal waters;**
  - (b) **shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be declared by Parliament to be an international waterway or to be an inter-Regional waterway;**
  - (c) **lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation;**
  - (d) **such ports as may be declared by Parliament to be Federal ports (including the constitution and powers of port authorities for Federal ports).**
23. **Marriages other than marriages under Moslem law or other customary law; annulment and dissolution of, and other matrimonial causes relating to, marriages other than marriages under Moslem law or other customary law.**
24. **Meteorology.**
25. **Mines and minerals, including oilfields, oil mining, geological surveys and natural gas.**
26. **Museums of the Federation, that is to say--**
  - The Jos Museum.**
  - The Oron Museum.**
  - The House of Images at Esie.**
  - Any other museums established by the Government of the Federation.**
27. **Naval, military and air forces.**
28. **Nuclear energy.**
29. **Passports and visas.**
30. **Patents, trade marks, designs and merchandise marks.**
31. **Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public fund of the Federation.**
32. **Posts, telegraphs and telephones, including post office savings banks.**
33. **Powers, privileges and immunities of each House of Parliament and its members.**
34. **The public debt of the Federation.**
35. **Public relations of the Federation.**
36. **The public service of the Federation, including the settlement of disputes between the Federation and officers in the public service of the Federation.**
37. **Railways, including ancillary transport and other services.**
38. **Taxes on amounts paid or payable on the sale or purchase of commodities except-**
  - (a) **produce;**
  - (b) **hides and skins;**
  - (c) **motor spirit;**
  - (d) **diesel oil sold or purchased for use in road vehicles;**
  - (e) **diesel oil sold or purchased for other than industrial purposes.**
39. **Tribunals of inquiry with respect to all or any of the matters mentioned elsewhere in this list.**
40. **Trunk roads, that is to say, the construction, alteration and maintenance of such roads as may be declared by Parliament to be Federal trunk roads.**

41. Water from such sources as may be declared by Parliament to be sources affecting more than one territory.
42. Weights and measures.
43. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a Region; allocation of wavelengths for wireless, broadcasting and television transmission.
44. The matters with respect to which Parliament is empowered to make provision by sections 4, 8, 9, 13, 16, 32, 37, 38, 40, 42, 45, 49, 52, 68, 75 subsection (1) of section 76, sections 77, 78, 87, 96, subsections (2) and (5) of section 105 and sections 111, 113, 114, 116, 118, 121, 128, 131, 133, 139, 140, 145, 150, 159, and 165 of this Constitution.
45. Any matter that is incidental or supplementary-
  - (a) to any matter referred to elsewhere in this list; or
  - (b) to the discharge by the Government of the Federation or any officer, court or authority of the Federation of any function conferred by this Constitution.

#### **Part II: The Concurrent Legislative List**

1. Antiquities.
2. Arms and ammunition.
3. Bankruptcy and insolvency.
4. Census.
5. Chemical services, including analytical services.
6. Commercial and industrial monopolies, combines and trusts.
7. Control of the voluntary movement of persons between territories.
8. Such drugs and poisons as may with the consent of the governments of the Regions be designated by the President by order.
9. Fingerprints, identification and criminal records.
10. Higher education, that is to say, institutions and other bodies offering courses or conducting examinations of a university, technological or of a professional character, other than the institutions referred to in Item 17 of Part I of this Schedule.
11. Industrial development.
12. Labour, that is to say, conditions of labour, industrial relations, trade unions and welfare of labour.
13. The legal and medical professions and such other professional occupations as may with the consent of the governments of the Regions be designated by the President by order.
14. National monuments, that is to say, such monuments in a Region as may with the consent of the Government of that Region be designated by the President by order as national monuments.
15. National parks, that is to say, the control of such areas in a Region as may with the consent of the Government of that Region be designated by the President by order as national parks.
16. Prisons and other institutions for the treatment of offenders.
17. Promotion of tourist traffic.
18. The maintaining and securing of public safety and public order; the providing, maintaining and securing of such supplies and services as may be designated by the President by order as essential supplies and services.
19. Quarantine.
20. Registration of business names.
21. Scientific and industrial research.
22. Service and execution in a Region of the civil and criminal

processes, judgments, decrees, orders and other decisions of any court of law outside Nigeria or any court of law in Nigeria other than Supreme Court, the High Court of that Region or any court of law established by the legislature of that Region.

23. **Statistics.**
24. **Traffic on Federal trunk roads.**
25. **Tribunals of inquiry with respect to all or any of the matters mentioned elsewhere in this list.**
26. **Trigonometrical, cadastral and topographical surveys.**
27. **Water-power.**
28. **The matters with respect to which Parliament is empowered to make provision by subsections (2) and (3) of section 70 and section 73 of this Constitution.**
29. **Any matter that is incidental or supplementary to any matter referred to in this list.**

### **Part III: Interpretation**

1. **In this Schedule references to incidental and supplementary matters include, without prejudice to their generality -**
  - (a) **offences;**
  - (b) **the jurisdiction, powers, practice and procedure of courts of law; and**
  - (c) **the acquisition and tenure of land.**
2. **Where by this Schedule Parliament is empowered to make any declaration that declaration may be made by resolutions passed by both Houses of Parliament instead of by Act of Parliament.**

**THE END**

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Law No. 4 of 1954

Law No. 17 of 1960

Law No. 1 of 1953 an Laws of Western Nigeria, 1959, Chapter 68