

Supplement to Official Gazette Extraordinary No. 20, Vol. 49, 20th March,
1962—Part C

The following Bill, which will in due course be presented to Parliament for enactment, is published for general information.

THE NIGERIAN CONSTITUTION SECOND AMENDMENT BILL

EXPLANATORY MEMORANDUM

The object of this Bill is to ensure that the Director of Public Prosecutions acts subject to the directions of the Attorney-General of the Federation.

T. O. ELIAS,
*Attorney-General of the Federation
and Minister of Justice*

A BILL

FOR

AN ACT TO MAKE CERTAIN POWERS OF THE DIRECTOR OF PUBLIC PROSECUTIONS OF THE FEDERATION EXERCISABLE SUBJECT TO THE DIRECTIONS OF THE ATTORNEY-GENERAL OF THE FEDERATION ; AND FOR PURPOSES CONNECTED THEREWITH.

[]

Commence-
ment.

BE IT ENACTED by the Legislature of the Federation of Nigeria in this present Parliament assembled and by the authority of the same as follows :—

5 1.—(1) The powers conferred on the Director of Public Prosecutions of the Federation by section ninety-seven of the Constitution of the Federation (which among other things authorises him to begin and prosecute criminal proceedings, to take over the conduct of criminal proceedings begun otherwise than by him, and to discontinue any criminal proceedings before judgment is given) shall be exercised in accordance with any general or special directions given by the Attorney-General of the Federation acting in his discretion ; but except at the instance of the Attorney-General the question whether any such directions have been given, or what the directions were, shall not be enquired into by any court.

Control of
Director of
Public
Prosecu-
tions by
Attorney-
General.

15 (2) Accordingly, the Constitution of the Federation shall have effect subject to the following amendments, that is to say—

(a) for subsection (5) of section ninety-seven there shall be substituted the following subsection—

20 “(5) The powers conferred on the Director of Public Prosecutions of the Federation by this section shall be exercised in accordance with any general or special directions given by the Attorney-General of the Federation acting in his discretion ; but except at the instance of the Attorney-General the question whether any such directions have been given, or what the directions were, shall not be enquired into by any court.” ;

25 (b) subsection (6) of that section shall be omitted ; and

(c) at the end of subsection (2) of section eighty-three (which specifies the cases in which the Council of Ministers is not collectively responsible for things done by a member of the Council) there shall be added the following words—

30 “ ; or

(d) directions given by the Attorney-General of the Federation in pursuance of section 97 of this Constitution.”

Cap. 100.

(3) For the removal of doubt it is hereby declared that section four of the Law Officers Act (which authorised the Solicitor-General of the Federation to perform the functions of the Attorney-General of the Federation in his absence) ceased to have effect on the coming into operation of the Nigeria (Constitution) Order in Council, 1960.

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Short title,
extent and
commence-
ment.

2.—(1) This Act may be cited as the Nigerian Constitution Second Amendment Act, 1962, and shall apply throughout the Federation.

(2) This Act shall come into force on such date as the Governor-General may by order appoint.

(807)