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1989—Part A

# CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (PROMULGATION) DECREE 1989



## Decree No. 12

[1st October 1992]

Commence-  
ment.

WHEREAS the Federal Military Government of the Federal Republic of Nigeria in compliance with the Transition to Civil Rule (Political Programme) Decree 1987, set up the Constitution Review Committee to review the Constitution of the Federal Republic of Nigeria 1979 in line with the accepted recommendations of the Political Bureau inaugurated by the Federal Military Government on 13th January 1986 ;

AND WHEREAS the Constituent Assembly, established by the Constituent Assembly Decree 1988 consisting of a Chairman, a Deputy Chairman, 450 elected members and 111 nominated members was to deliberate upon the Draft Constitution prepared by the Constitution Review Committee ;

AND WHEREAS the Constituent Assembly established by the Constituent Assembly Decree 1988, and as empowered by that Decree, has deliberated upon the draft Constitution (except certain provisions thereon) drawn up by the Constitution Review Committee and presented the result of its deliberations to the Armed Forces Ruling Council ;

AND WHEREAS the Armed Forces Ruling Council has approved the same subject to such modifications as it deemed necessary and may be deemed necessary in future, in the public interest and for purposes of promoting the welfare and fostering the unity and progress of the people of Nigeria ;

AND WHEREAS in order that the Federal Military Government may achieve its objective of leaving an enduring Constitution to the Nation, and allow for a learning process, it is necessary during the transition period to enact certain Decrees by progression in order to bring into force the relevant provisions of the Constitution relative to each of the three tiers of Government ;

AND WHEREAS it is imperative that the present Military Administration should continue to rule by the enactment of Decrees for the welfare, unity and progress of all the citizens of Nigeria, notwithstanding anything to the contrary in the provisions of the Schedule to this Decree ;

AND WHEREAS, except as may be provided to the contrary, nothing in the Schedule to this Decree shall impede or derogate from the powers and functions exercisable by the Federal Military Government under the Constitution (Suspension and Modification) Decree 1984 (as amended) and the Federal Military Government (Supremacy and Enforcement of Powers) Decree 1984 during the transition period ;

AND WHEREAS, it is necessary in accordance with the provisions of the Transition to Civil Rule (Political Programme) Decree 1987 for the Constitution of the Federal Republic of Nigeria 1989 after necessary modifications and approval by the Armed Forces Ruling Council to be promulgated in order to give the same force of law by 1st October 1992 in the interest and for the promotion of the welfare and unity of the people of Nigeria:

NOW THEREFORE, THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :

Promulgation of certain Constitutional and transitional Decrees.

1. For the continuance of the governance of Nigeria, the Federal Military Government shall enact, during the transition period, the following Decrees, that is —

(a) the Local Government (Basic Constitutional and Transitional Provisions) Decree to guarantee the operation, composition, and finance of as well as the functions to be transitionally performed by the democratically elected Local Governments as the third tier of Government ;

(b) the States Government (Basic Constitutional and Transitional Provisions) Decree to confer powers, functions and duties to be performed during the transition period by the democratically elected civilian Governor of each State, the House of Assembly and their relationship with the Federal Military Government ;

(c) Federal Government (Basic Constitutional and Transitional Provisions) Decree to cater for other matters affecting the Government of the Federation during the transition period and its relationship with the States and Local Government Areas ;

(d) and such other Decrees as may be necessary for the learning process.

Promulgation of the Constitution of the Federal Republic of Nigeria.

2.—(1) There shall be for Nigeria a Constitution which shall be as set out in the Schedule to this Decree.

(2) The Constitution set out in the Schedule to this Decree shall come into operation on the date therein provided.

(3) Whenever it may hereafter be necessary for the Constitution to be printed it shall be lawful for the Federal Government Printer to omit all parts of this Decree apart from the Schedule and the Constitution as so printed shall have the force of law notwithstanding the omission.

Citation, etc.

3.—(1) This Decree may be cited as the Constitution of the Federal Republic of Nigeria (Promulgation) Decree 1989.

(2) Notwithstanding section 331 of the Constitution, where circumstances so warrant, the President, Commander-in-Chief of the Armed Forces may, by Order, published in the *Gazette*, appoint a date earlier than 1st October 1992 for the coming into force of any of the provisions of the Constitution specified in the Order.



## SCHEDULE

## Section 2

### THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1989

#### ARRANGEMENT OF SECTIONS

#### CHAPTER I

##### *General Provisions*

##### PART I—FEDERAL REPUBLIC OF NIGERIA

1. Supremacy of the Constitution.
2. The Federal Republic of Nigeria.
3. States of the Federation, Local Governments and the Federal Capital Territory.

#### PART II

##### POWERS OF THE FEDERAL REPUBLIC OF NIGERIA

4. Legislative powers.
5. Executive powers.
6. Judicial powers.
7. Local government system.
8. Traditional Council.
9. New States, new Local Government Areas and boundary adjustment.
10. Mode of altering provisions of the Constitution.
11. Non-adoption of State religion.
12. Public order and public security.
13. Implementation of treaties.

#### CHAPTER II

##### *FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY*

14. Fundamental obligations of Government.
15. The Government and the people.
16. Political objectives.
17. Economic objectives.
18. Social objectives.
19. Educational objectives.
20. Foreign policy objectives.
21. Directive on Nigerian cultures.
22. Obligations of the mass media.
23. National ethic.
24. Duties of the citizen.

#### CHAPTER III

##### *CITIZENSHIP*

25. Citizenship by birth.
26. Citizenship by registration.
27. Citizenship by naturalisation.
28. Avoidance of dual citizenship.
29. Deprivation of citizenship.
30. Persons deemed to be Nigerian citizens.
31. Power to make regulations.

#### CHAPTER IV

##### *FUNDAMENTAL RIGHTS*

32. Right to life.
33. Right to dignity of human person.
34. Right to personal liberty.
35. Right to fair hearing.
36. Right to private life.
37. Right to freedom of thought, conscience and religion.
38. Right to freedom of expression and the press.
39. Right to peaceful assembly and association.
40. Right to freedom of movement.
41. Right to freedom from discrimination.
42. Compulsory acquisition of property.
43. Restriction on and derogation from fundamental rights.
44. Special jurisdiction of High Court and legal aid.

#### CHAPTER V

##### *THE LEGISLATURE*

#### PART I

##### NATIONAL ASSEMBLY

##### A—COMPOSITION AND STAFF OF NATIONAL ASSEMBLY

45. Establishment of the National Assembly.
46. Composition of the Senate.
47. Composition of the House of Representatives.

ARRANGEMENT OF SECTIONS—*continued*

48. President of the Senate and Speaker of the House of Representatives.
49. Staff of the National Assembly.

*B—Procedure for Summoning and Dissolution of National Assembly*

50. Declaration of assets and liabilities : oaths of members.
51. Presiding at sittings of the National Assembly and at joint sittings.
52. Quorum.
53. Languages.
54. Voting.
55. Unqualified persons sitting or voting : penalty.
56. Mode of exercising Federal legislative power : general.
57. Mode of exercising Federal legislative power : money bills.
58. Regulation of procedure.
59. Vacancy not to invalidate proceedings.
60. Committees.
61. Sittings.
62. Dissolution and issue of proclamations by President.

*C—Qualifications for Membership of National Assembly and Right of Attendance*

63. Qualifications for election.
64. Disqualifications.
65. Attendance of President and Ministers.
66. Tenure of seat of members.
67. Remuneration.
68. Recall.

*D—Elections to National Assembly*

69. Senatorial districts and Federal constituencies.
70. Size of Senatorial districts and Federal constituencies.
71. Periodical review of Senatorial districts and Federal constituencies.
72. Time when alteration of Senatorial districts or Federal constituencies takes effect.
73. Ascertainment of population.
74. Time of election to the National Assembly.
75. Direct election and franchise.
76. Supervision of election.

77. Power of National Assembly as to determination of certain questions.

*E—Power and Control over Public Funds*

78. Establishment of Consolidated Revenue Fund.
79. Authorisation of expenditure from Consolidated Revenue Fund.
80. Authorisation of expenditure in default of appropriations.
81. Contingencies Fund.
82. Remuneration of the President and certain other officers.
83. Audit of public accounts.
84. Appointment of Auditor-General.
85. Tenure of office of Auditor-General.
86. Power to conduct investigations.
87. Powers as to matters of evidence.

PART II—HOUSE OF ASSEMBLY OF STATE

*A—Composition and Staff of House of Assembly*

88. Establishment of House of Assembly for each State.
89. Composition of House of Assembly.
90. Speaker of House of Assembly.
91. Staff of House of Assembly.

*B—Procedure for Summoning and Dissolution of House of Assembly*

92. Declaration of assets and liabilities : oaths of members.
93. Presiding at sittings.
94. Quorum.
95. Languages.
96. Voting.
97. Unqualified persons sitting or voting : penalty.
98. Mode of exercising legislative power of a State.
99. Regulation of procedure.
100. Vacancy not to invalidate proceedings.
101. Committees.
102. Sittings.
103. Dissolution and issue of proclamation by Governor.

ARRANGEMENT OF SECTIONS—*continued*

*C—Qualifications for Membership of House of Assembly and Rights of Attendance*

104. Qualifications for election.
105. Disqualifications.
106. Attendance of Governor and Commissioners.
107. Tenure of seat of members.
108. Remuneration.
109. Recall.

*D—Elections to a House of Assembly*

110. State constituencies.
111. Size of State constituencies.
112. Periodical review of State constituencies.
113. Time when alteration of State constituencies takes effect.
114. Time of election to House of Assembly.
115. Direct election and franchise.
116. Supervision of election.
117. Power of National Assembly as to determination of certain questions.

*E—Powers and Control over Public Funds*

118. Establishment of Consolidated Revenue Fund.
119. Authorisation of expenditure from Consolidated Revenue Fund.
120. Authorisation of expenditure in default of appropriations.
121. Contingencies Fund.
122. Remuneration of the Governor and certain other officers.
123. Audit of public accounts.
124. Appointment of Auditor-General of a State.
125. Tenure of office of Auditor-General.
126. Power to conduct investigations.
127. Power as to matters of evidence.

CHAPTER VI

*The Executive*

PART I.—FEDERAL EXECUTIVE

*A—The President of the Federation*

128. Establishment of the office of President.
129. Qualification for election as President.

130. Election of President: general.
131. Election: single candidate.
132. Election: more than one candidate.
133. Computation of fractions in certain cases.
134. Tenure of office of President.
135. Death of President-elect before oath of Office.
136. Disqualifications.
137. Declaration of assets and liabilities: oaths of President.
138. Establishment of the office of Vice-President.
139. Nomination and election of Vice-President.
140. Removal of President or Vice-President from office.
141. Permanent incapacity of President or Vice-President.
142. Acting President during temporary absence of President.
143. Discharge of functions of President.
144. Ministers of Federal Government.
145. Executive responsibilities of Vice-President and Ministers.
146. Declaration of assets and liabilities: oaths of Ministers.
147. Attorney-General of the Federation.
148. Special Advisers.
149. Declaration of assets and liabilities: oaths of Special Advisers.
150. Composition of governing bodies of statutory corporations and bodies.

*B—Establishment of Certain Federal Executive Bodies*

151. Federal Commissions and Councils.
152. Appointment of Chairman and members.
153. Tenure of office of members.
154. Qualification for membership.
155. Removal of members.
156. Independence of certain bodies.
157. Quorum.
158. Powers and procedure.
159. Interpretation.

ARRANGEMENT OF SECTIONS—*continued*

*C—Public Revenue*

160. "Federation Account" and "Local Government Account."
161. Allocation of other revenues.
162. Federal grants-in-aid.
163. Cost of collection of certain duties.
164. Set-off.
165. Sums charged on Consolidated Revenue Fund.
166. Provisions with regard to payment.

*D—Public Service of the Federation*

167. Establishment of Federal Civil Service.
168. Federal Civil Service Commission : power of delegation.
169. Presidential appointments.
170. Code of Conduct.
171. Protection of pension rights.
172. Public prosecutions.
173. Prerogative of mercy.

PART II—STATE EXECUTIVE

*A—The Governor of a State*

174. Establishment of the office of Governor.
175. Qualification for election as Governor.
176. Election of Governor : general.
177. Election : single candidate.
178. Election : more than one candidate.
179. Computation of fractions in certain cases.
180. Tenure of office of Governor.
181. Death of Governor-elect before Oath of Office.
182. Disqualifications.
183. Declaration of assets and liabilities : oaths of Governor.
184. Establishment of the office of Deputy Governor.
185. Nomination and election of Deputy Governor.
186. Removal of Governor or Deputy Governor from office.
187. Permanent incapacity of Governor or Deputy Governor.
188. Acting Governor during temporary absence of Governor.
189. Discharge of functions of Governor.

190. Commissioners of State Government.
191. Executive responsibilities of Deputy Governor and Commissioners.
192. Declaration of assets and liabilities : oaths of Commissioners.
193. Attorney-General of a State
194. Composition of governing bodies of statutory corporations and bodies.

*B—Establishment of Certain State Executive Bodies*

195. State Commissions and Councils.
196. Appointment of Chairman and members.
197. Tenure of office of members.
198. Qualification for membership.
199. Removal of members.
200. Independence of certain bodies.
201. Quorum.
202. Powers and procedure.
203. Interpretation.

*C—The Public Service of a State*

204. Establishment of State Civil Service.
205. State Civil Service Commission : power of delegation.
206. Appointment by Governor.
207. Code of Conduct.
208. Protection of pension rights.
209. Public prosecutions.
210. Prerogative of mercy.

PART III—SUPPLEMENTAL

*A—National Population Census*

211. National Population Census.

*B—Nigeria Police Force*

212. Establishment and composition of Nigeria Police Force.
213. Appointment of Inspector-General and control of Nigeria Police Force.
214. Delegation of powers of the Nigeria Police Council.



ARRANGEMENT OF SECTIONS—*continued*

*C—Armed Forces of the Federation.*

- 215 Establishment and composition of Armed Forces of the Federation.
- 216. Command and operational use.
- 217. Establishment of body to ensure federal character of Armed Forces.
- 218. Compulsory military service.

*D—Political Parties*

- 219. Prohibition of political activities by certain associations.
- 220. Number and restriction on formation of political parties.
- 221. Constitution and rules.
- 222. Aims and objects.
- 223. Finances of political parties.
- 224. Annual report on finances.
- 225. Prohibition of quasi-military organisations.
- 226. Powers of the National Assembly with respect to political parties.
- 227. Interpretation.

CHAPTER VII

THE JUDICATURE

PART I—FEDERAL COURTS

*A—The Supreme Court of Nigeria.*

- 228. Establishment and composition of the Supreme Court of Nigeria.
- 229. Appointment of Chief Justice of Nigeria and Justices of the Supreme Court.
- 230. Original jurisdiction.
- 231. Appellate jurisdiction.
- 232. Appeals from decisions of Presidential Election Tribunals.
- 233. Constitution.
- 234. Finality of determination.
- 235. Practice and procedure.

*B—The Court of Appeal*

- 236. Establishment and composition of the Court of Appeal.
- 237. Appointment of President and Justices of the Court of Appeal.
- 238. Jurisdiction.
- 239. Appeals as of right from a High Court.

- 240. Appeals with leave.

- 241. Exercise of right of appeal from a High Court in civil and criminal matters.

- 242. Appeals from Sharia Court of Appeal.

- 243. Appeals from Customary Court of Appeal.

- 244. Appeals from Code of Conduct Tribunal and other courts and tribunals.

- 245. Constitution of Court of Appeal.

- 246. Practice and procedure.

*C—The Federal High Court.*

- 247. Establishment and composition of the Federal High Court.

- 248. Appointment of Chief Judge and Judges.

- 249. Jurisdiction.

- 250. Powers.

- 251. Constitution, practice and procedure.

*D—The Federal High Court in the Federal Capital Territory, Abuja.*

- 252. Establishment and composition of the Federal High Court in the Federal Capital Territory, Abuja.

PART II—STATE COURTS

*A—High Court of a State.*

- 253. Establishment of a High Court for each State.

- 254. Appointment of Chief Judge and Judges.

- 255. Jurisdiction : general.

- 256. Appeals from Local Government Council Election Tribunals.

- 257. Constitution.

- 158. Practice and procedure.

*B—Sharia Court of Appeal of a State*

- 259. Establishment of Sharia Court of Appeal.

- 260. Appointment of Grand Kadi and Kadis.

- 261. Jurisdiction.

- 262. Constitution.

- 263. Practice and procedure.

*C—Customary Court of Appeal of a State*

- 264. Establishment of Customary Court of Appeal.

ARRANGEMENT OF SECTIONS—*continued*

- 265. Appointment of President and Judges.
- 266. Jurisdiction.
- 267. Constitution.
- 268. Practice and procedure.

PART III.—ELECTION TRIBUNALS

- 269. Establishment and jurisdiction of election tribunals.

PART IV.—SUPPLEMENTAL

- 270. Jurisdiction of State Courts in respect of Federal causes.
- 271. Enforcement of decisions.
- 272. Appointment of persons learned in Islamic law and Customary law.
- 273. Disqualification of certain legal practitioners.
- 274. Declaration of assets and liabilities: oaths of judicial officers.
- 275. Tenure of office and pension rights of judicial officers.
- 276. Removal of Chief Justice of Nigeria or Chief Judge of a State from office.
- 277. Removal of other judicial officers from office.
- 278. Restriction on former judicial officers.
- 279. Vacancies.
- 280. Determination of causes and matters.
- 281. References of questions of law.
- 282. Interpretation.

CHAPTER VIII

PART I.—LOCAL GOVERNMENT COUNCILS

*A—Establishment*

- 283. Establishment of Local Government Council.
- 284. Division into wards and boundaries thereof.
- 285. Periodical reviews of wards.

*B—The Chairman and Vice-Chairman*

- 286. Establishment of office of Chairman and Vice-Chairman.
- 287. Qualifications of Chairman.
- 288. Disqualifications of Chairman.
- 289. Declaration of assets and liabilities: oaths of Chairman.

- 290. Election of Chairman.
- 291. Nomination and election of Vice-Chairman.
- 292. Removal of Chairman or Vice-Chairman.
- 293. Permanent incapacity of Chairman and Vice-Chairman.
- 294. Discharge of functions of Chairman.
- 295. Executive responsibility of Vice-Chairman or Supervisory Councillors.
- 296. Tenure of office of Chairman.
- 297. Death of Chairman-elect before oaths of Office.
- 298. Number of Councillors.
- 299. Qualification of Councillors.
- 300. Disqualification of Councillors.
- 301. Declaration of assets and liabilities: oaths of Councillors.
- 302. Supervisory Councillors.
- 303. Tenure of seat of members.

*D—General*

- 304. Recall.
- 305. Presiding at sittings of Local Government Councils.
- 306. Quorum.
- 307. Voting.

PART II.—PUBLIC SERVICE OF A LOCAL GOVERNMENT

*Public Service of a Local Government*

- 308. Local Government Service.
- 309. Protection of pension rights.
- 310. Code of Conduct.

CHAPTER IX

*Federal Capital Territory, Abuja and General Supplementary Provisions*

PART I.—FEDERAL CAPITAL TERRITORY, ABUJA

- 311. Federal Capital Territory: ownership of lands.
- 312. Capital of the Federation.
- 313. Application of the Constitution.
- 314. Representations in the National Assembly.

ARRANGEMENT OF SECTIONS—*continued*

315. Administration of the Federal capital Territory, Abuja.

316. Judicial Services of the Federal Capital Territory, Abuja.

PART II.—MISCELLANEOUS

317. Procedure for Proclamation of State of emergency.

318. Resignations.

319. Restriction on certain citizens.

320. Restrictions on legal proceedings.

PART III.—TRANSITIONAL PROVISIONS AND SAVINGS

321. Citizenship.

322. Standing Orders.

323. Special provisions in respect of first election.

324. System of revenue allocation.

325. Debts.

326. Existing law.

327. Existing offices, courts and authorities.

328. Succession to property, rights, liabilities and obligations.

PART IV.—INTERPRETATION, CITATION AND COMMENCEMENT

329. Interpretation.

330. Citation.

331. Commencement.

SCHEDULES

First Schedule—Part I—States of the Federation.

Part II—Definition of Federal Capital Territory, Abuja.

Second Schedule—Part I—Legislative Powers Exclusive Legislative List.

Part II—Concurrent Legislative List.

Extent of Federal and State Legislative Powers.

Part III—Supplemental and Interpretation.

Third Schedule—Part I—Federal Executive Bodies.

Part II—State Executive Bodies.

Fourth Schedule—Part I—Functions of a Local Government.

Part II—Functions of a Traditional Council.

Fifth Schedule—Part I—Code of Conduct for Public Officers.

Part II—Public Officers for the purposes of the Code of Conduct.

Sixth Schedule—Presidential Election Tribunals.

Seventh Schedule—Oaths.

## THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA

WE THE PEOPLE of the Federal Republic of Nigeria :  
HAVING firmly and solemnly resolved :

TO PROVIDE for a Constitution for the purpose of promoting the good government and welfare of all persons in our country on the principles of Freedom, Equality and Justice, and for the purpose of consolidating the Unity of our people :

AND TO LIVE in unity and harmony as one indivisible and indissoluble Sovereign Nation under God dedicated to the promotion of inter-African solidarity, and world peace, international co-operation and understanding :

DO HEREBY MAKE, ENACT AND GIVE TO OURSELVES the following Constitution—

### CHAPTER I GENERAL PROVISIONS

#### PART I

#### FEDERAL REPUBLIC OF NIGERIA

1.—(1) This Constitution is supreme and its provisions shall have binding force on all authorities and persons throughout the Federal Republic of Nigeria.

Supremacy  
of the  
Constitution.

(2) The Federal Republic of Nigeria shall not be governed, nor shall any person or group of persons take control of the Government of Nigeria or any part thereof, except in accordance with the provisions of this Constitution.

(3) If any other law is inconsistent with the provisions of this Constitution, this Constitution shall prevail, and that other law shall to the extent of the inconsistency be void.

2.—(1) Nigeria is one indivisible and indissoluble Sovereign State to be known by the name of the Federal Republic of Nigeria.

The Federal  
Republic of  
Nigeria.

(2) Nigeria shall be a Federation consisting of States and a Federal Capital Territory.

3.—(1) There shall be 21 States in Nigeria, that is to say, Akwa Ibom, Anambra, Bauchi, Bendel, Benue, Borno, Cross River, Gongola, Imo, Kaduna, Kano, Katsina, Kwara, Lagos, Niger, Ogun, Ondo, Oyo, Plateau, Rivers and Sokoto.

States of the  
Federation,  
Local  
Governments  
and the  
Federal  
Capital  
Territory.

(2) Each State of Nigeria named in the first column of Part I of the First Schedule to this Constitution shall consist of the Local Government Areas shown opposite thereto in the second column of that Schedule.

Part I,  
First  
Schedule.

(3) The headquarters of the Government of each State shall be known as the Capital City of that State as shown in the third column of Part I of the First Schedule to this Constitution opposite the State named in the first column thereof.



(4) There shall be 449 Local Government Areas in Nigeria as shown in the second column of Part I to the First Schedule to this Constitution.

(5) The Federal Capital Territory shall be Abuja which shall be as defined in Part II of the First Schedule to this Constitution.

Part II,  
First  
Schedule.

(6) The provisions in Part I of Chapter IX hereof shall, in relation to the Federal Capital Territory, Abuja, have effect in the manner set out thereunder.

## PART II

### POWERS OF THE FEDERAL REPUBLIC OF NIGERIA

Legislative  
powers.

4.—(1) The legislative powers of the Federal Republic of Nigeria shall be vested in a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

Part I,  
Second  
Schedule.

(2) The National Assembly shall have power to make laws for the peace, order and good government of the Federation or any part thereof with respect to any matter included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

(3) The power of the National Assembly to make laws for the peace, order and good government of the Federation with respect to any matter included in the Exclusive Legislative List shall, save as otherwise provided in this Constitution, be to the exclusion of the Houses of Assembly of States.

(4) In addition and without prejudice to the powers conferred by subsection (2) of this section, the National Assembly shall have power to make laws with respect to the following matters, that is to say—

Part II,  
Second  
Schedule.

(a) any matter in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto ; and

(b) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

(5) If any law enacted by the House of Assembly of a State is inconsistent with any law validly made by the National Assembly, the law made by the National Assembly shall prevail, and that other law shall to the extent of the inconsistency be void.

(6) The legislative powers of a State of the Federation shall be vested in the House of Assembly of the State.

(7) The House of Assembly of a State shall have power to make laws for the peace, order and good government of the State or any part thereof with respect to the following matters, that is to say ;

Part I,  
Second  
Schedule.

(a) any matter not included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution ;

(b) any matter included in the Concurrent Legislative List set out in the first column of Part II of the Second Schedule to this Constitution to the extent prescribed in the second column opposite thereto ; and

(c) any other matter with respect to which it is empowered to make laws in accordance with the provisions of this Constitution.

(8) Save as otherwise provided by this Constitution, the exercise of legislative powers by the National Assembly or by a House of Assembly shall be subject to the jurisdiction of courts of law and of judicial tribunals established by law; and accordingly, the National Assembly or a House of Assembly shall not enact any law that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law.

(9) Notwithstanding the foregoing provisions of this section, the National Assembly or a House of Assembly shall not, in relation to any criminal offence whatsoever, have power to make any law which shall have retrospective effect.

5.—(1) Subject to the provisions of this Constitution, the executive powers of the Federation—

Executive powers.

(a) shall be vested in the President and may, subject as aforesaid and to the provisions of any law made by the National Assembly, be exercised by him either directly or through the Vice-President or Ministers of the Government of the Federation or other officers in the public service of the Federation; and

(b) shall extend to the execution and maintenance of this Constitution, all laws made by the National Assembly and to all matters with respect to which the National Assembly has for the time being power to make laws.

(2) Subject to the provisions of this Constitution, the executive powers of a State—

(a) shall be vested in the Governor of that State and may, subject as aforesaid and to the provisions of any law made by a House of Assembly, be exercised by him either directly or through the Deputy Governor or Commissioners of the Government of that State or other officers in the public service of the State; and

(b) shall extend to the execution and maintenance of this Constitution, all laws made by the House of Assembly of that State and to all matters with respect to which the House of Assembly has for the time being power to make laws; but such executive powers shall be so exercised as not to impede or prejudice the exercise of the executive powers of the Federation or to endanger assets or investments of the Government of the Federation in that State or endanger the continuance of a federal government in Nigeria.

(3) Subject to the provisions of this Constitution, the executive powers of a Local Government—

(a) shall be vested in the Chairman of that Local Government Council and may, subject as aforesaid and to the provisions of any law made by the House of Assembly of the State within whose boundaries the Local Government Area is situated and bye-laws made by the Local Government Council be exercised by him either directly or through the Vice-Chairman or Supervisory Councillors of the Local Government or officers in the service of that Local Government; and

(b) shall extend to the execution and maintenance of this Constitution, all bye-laws made by the Local Government Council and to all matters with respect to which the Local Government Council has for the time being power to make bye-laws; but such executive powers shall be so exercised as not to impede or prejudice the exercise of the executive powers of the

Federation or of the State in which the Local Government Area concerned is situated or to endanger assets or investments of the Government of the Federation or of the State Government in the Local Government Area.

(4) Notwithstanding the foregoing provisions of this section—

(a) the President shall not declare a state of war between the Federation and another country except with the sanction of a resolution of both Houses of the National Assembly sitting in a joint session ; and

(b) except with the prior approval of the Senate, no member of the Armed Forces of the Federation shall be deployed on combat duty outside Nigeria.

(5) Notwithstanding the provisions of subsection (4) (b) of this section, the President, in consultation with the National Defence Council, may deploy members of the Armed Forces of the Federation on a limited combat duty outside Nigeria if he is satisfied that the national security is under imminent threat or danger :

Provided that the President shall within seven days of actual combat engagement obtain the consent of the Senate.

Judicial  
powers.

6.—(1) The judicial powers of the Federation shall be vested in the courts to which this section relates, being courts established for the Federation.

(2) The judicial powers of a State shall be vested in the courts to which this section relates, being courts established, subject as provided by this Constitution, for a State.

(3) The courts to which this section relates established by this Constitution for the Federation and for States specified in subsection (5) (a) to (j) of this section shall be the only superior courts of record in Nigeria ; and save as otherwise prescribed by the National Assembly or by the House of Assembly of a State, each court shall have all the powers of a superior court of record.

(4) Nothing in the foregoing provisions of this section shall be construed as precluding—

(a) any House of Assembly, from establishing courts other than those to which this section relates with subordinate jurisdiction to that of a High Court,

(b) any House of Assembly, which does not require it, from abolishing any court which it has power to establish or which it has brought into being.

(5) This section relates to—

(a) the Supreme Court of Nigeria ;

(b) the Court of Appeal ;

(c) the Federal High Court including the Federal High Court in the Federal Capital Territory, Abuja ;

(d) a Sharia Court of Appeal of the Federal Capital Territory ;

(e) a High Court of a State ;

(f) a Sharia Court of Appeal of a State ;

(g) a Customary Court of Appeal of a State ;

(h) a Customary Court of Appeal of the Federal Capital Territory ;

(i) such other courts as may be authorised by law to exercise jurisdiction on matters with respect to which the National Assembly may make laws ; and

(j) such other courts as may be authorised by law to exercise jurisdiction at first instance or on appeal on matters with respect to which a House of Assembly may make laws.

(6) The judicial powers vested in accordance with the foregoing provisions of this section—

(a) shall extend, notwithstanding anything to the contrary in this Constitution, to all inherent powers and sanctions of a court of law ;

(b) shall extend to all matters between persons, or between government or authority and any person in Nigeria, and to all actions and proceedings relating thereto, for the determination of any question as to the civil rights and obligations of that person ; and accordingly, the doctrine of state immunity in respect of liability in tort no longer applies ;

(c) shall not, except as otherwise provided by this Constitution, extend to any issue or question as to whether any act or omission by any authority or person or as to whether any law or any judicial decision is in conformity with the Fundamental Objectives and Directive Principles of State Policy set out in Chapter II hereof ; and

(d) shall not, as from the date when this section comes into force, extend to any action or proceedings relating to any existing law made on or after 15th January, 1966 for determining any issue or question as to the competence of any authority or person to make any such law.

7.—(1) The system of local government by democratically elected local government councils is under this Constitution guaranteed.

Local  
government  
system.

(2) There shall be 449 Local Government Areas in Nigeria as named in the second column of Part I of the First Schedule to this Constitution and each of the Local Government Areas shall be the only unit in respect of which the government of a State is empowered to establish an authority for the purpose of local government.

Part I,  
Second  
Schedule.

(3) Without prejudice to the provisions of subsection (2) of this section, the Government of a State may by Law create for any Local Government Area up to a maximum of 7 Development Areas having regard to such factors as common historical and traditional ties, geographical contiguity and administrative expedience.

(4) Subject to subsection (2) of this section, the person authorised by law to prescribe the area over which a Local Government may exercise authority shall define such area as clearly as practicable and in conformity with the provisions of Part I of the First Schedule to this Constitution.

(5) It shall be the duty of Local Government within the State to participate in economic planning and development of the Local Government Area concerned and to this end a joint economic planning board shall be established by a Law enacted by the House of Assembly of the State.

(6) Government shall ensure that every person who is entitled to vote or be voted for at an election to a House of Assembly shall have the right to vote or be voted for at an election to a Local Government Council.



Part I,  
Fourth  
Schedule.

(7) The functions to be conferred by Law upon Local Governments shall include those set out in Part I of the Fourth Schedule to this Constitution.

(8) Subject to the provisions of this Constitution—

(a) the National Assembly shall make provisions for statutory allocation of public revenue to Local Governments in the Federation ; and

(b) the House of Assembly of a State shall make provisions for statutory allocation of public revenue to Local Governments within the State.

(9) The Auditor-General of the Local Governments of a State shall audit annually the accounts of the Local Governments and the report thereof shall be laid before the House of Assembly of the State.

(10) Subject to the provisions of Chapter VIII of this Constitution, the House of Assembly of a State shall enact a Law providing for the structure, composition, revenue, expenditure and other financial matters, staff meeting and other relevant matters for the Local Governments in the State.

Traditional  
Council.

8.—(1) Subject to the peculiarities of each State, the House of Assembly of the State may enact a Law for the establishment of a Traditional Council for a Local Government Area or a group of Local Government Areas.

(2) Each of such Councils shall be presided over by a Traditional Ruler appointed in the manner prescribed by Law.

(3) The functions to be conferred by Law upon a Traditional Council shall be as set out in Part II of the Fourth Schedule to this Constitution.

Part II,  
Fourth  
Schedule.

New States,  
new Local  
Government  
Areas and  
boundary  
adjustment.

9.—(1) A bill for an Act of the National Assembly for the purpose of creating a new State shall only be passed if—

(a) a request, supported by at least two-thirds majority of members (representing the area demanding the creation of the new State) in each of the following, namely—

(i) the Senate and the House of Representatives,

(ii) the House of Assembly in respect of the area, and

(iii) the Local Government Councils in respect of the area, is received by the National Assembly ;

(b) a proposal for the creation of the State is thereafter approved in a referendum by at least two-thirds majority of the people of the area where the demand for creation of the State originated ;

(c) the result of the referendum is then approved by a simple majority of the members in each Local Government Council in the majority of all Local Government Councils in the States ;

(d) the result of the referendum is approved by a resolution passed by two-third majority of members of each House of the National Assembly.

(2) A bill for an Act of the National Assembly for the purpose of boundary adjustment of any existing State shall only be passed if—

(a) a request for the boundary adjustment, supported by two-thirds majority of members (representing the area demanding and the area affected by the boundary adjustment) in each of the following, namely—

(i) the Senate and the House of Representatives,

- (ii) the House of Assembly in respect of the area, and
- (iii) the Local Government Councils in respect of the area, is received by the National Assembly ; and
- (b) a proposal for the boundary adjustment is approved by—
  - (i) a simple majority of members of each House of the National Assembly, and
  - (ii) a simple majority of members of the House of Assembly in respect of the area concerned.

(3) A bill for an Act of the National Assembly for the purpose of creating a new Local Government Area shall only be passed if—

(a) a request supported by at least two-thirds majority of members (representing the area demanding the creation of the new Local Government Area) in each of the following, namely—

- (i) the Senate and the House of Representatives,
- (ii) the House of Assembly in respect of the area, and
- (iii) the Local Government Councils in respect of the area, is received by the National Assembly ;
- (b) a proposal for the creation of the Local Government Area is thereafter approved in a referendum by at least two-thirds majority of the people of the Local Government Area where the demand for the proposed Local Government Area originated ;

(c) the result of the referendum is then approved by a simple majority of the members in each Local Government Council in a majority of all the Local Government Councils in the State ;

(d) the result of the referendum is approved by a resolution passed by two-thirds majority of members of each House of the National Assembly.

(4) A bill for an Act of the National Assembly for the purpose of boundary adjustment of any existing Local Government Area shall only be passed if—

(a) a request for the boundary adjustment supported by two-thirds majority of members representing the area demanding and the area affected by the boundary adjustment in each of the following, namely—

- (i) the House of Assembly in respect of the Area, and
- (ii) the Local Government Council in respect of the Area, is received by the National Assembly ;

(b) a proposal for the boundary adjustment is approved by a simple majority of members of the House of Assembly in respect of the Area concerned.

(5) An Act of the National Assembly passed in accordance with this section shall make consequential provisions with respect to the names and headquarters of States or Local Government Areas as provided in section 3 and in Part I of the First Schedule to this Constitution.

Part I  
First  
Schedule.

10.—(1) The National Assembly may, subject to the provisions of this section, alter any of the provisions of this Constitution.

Mode of  
altering  
provisions  
of the  
Constitution.

(2) A bill for an Act of the National Assembly for the alteration of this Constitution, not being an Act to which section 9 of this Constitution applies, shall not be passed in either House of the National Assembly unless the proposal is supported by the votes of not less than two-thirds majority of all the members of that House and approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

(3) A bill for an Act of the National Assembly for the purpose of altering the provisions of this section, section 9 or Chapter IV of this Constitution shall not be passed by either House of the National Assembly unless the proposal is approved by the votes of not less than four-fifths majority of all the members of each House, and also approved by resolution of the Houses of Assembly of not less than two-thirds of all the States.

(4) For the purpose of section 9 of this Constitution and of subsections (2) and (3) of this section, the number of members of each House of the National Assembly shall, notwithstanding any vacancy, be deemed to be the number of members specified in sections 46 and 47 of this Constitution.

11. The Government of the Federation or of a State shall not adopt any religion as State Religion.

Non-  
adoption  
of State  
religion.

Public order  
and public  
security.

12.—(1) The National Assembly may make laws for the Federation or any part thereof with respect to the maintenance and securing of public safety and public order and providing, maintaining and securing of such supplies and services as may be designated by the National Assembly as essential supplies and services.

(2) Nothing in this section shall preclude a House of Assembly from making laws with respect to the matters referred to in this section, including the provision for maintenance and securing of such supplies and services as may be designated by the National Assembly as essential supplies and services.

(3) During any period when the Federation is at war, the National Assembly may make such laws for the peace, order and good government of the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List as may appear to it to be necessary or expedient for the defence of the Federation.

(4) At any time when any House of Assembly of a State is unable to perform its functions by reason of the situation prevailing in that State, the National Assembly may make such laws for the peace, order and good government of that State with respect to matters on which a House of Assembly may make laws as may appear to the National Assembly to be necessary or expedient until such time as the House of Assembly is able to resume its functions ; and any such laws enacted by the National Assembly pursuant to this section shall have effect as if they were laws enacted by the House of Assembly of the State :

Provided that nothing in this section shall be construed as conferring on the National Assembly power to remove the Governor or the Deputy Governor of the State from office.

(5) For the purposes of subsection (4) of this section, a House of Assembly shall not be deemed to be unable to perform its functions so long as the House of Assembly can hold a meeting and transact business.

13.—(1) No treaty between the Federation and any other country shall have the force of law except to the extent to which any such treaty has been enacted into law by the National Assembly.

Implementa-  
tion of  
treaties.

(2) The National Assembly may make laws for the Federation or any part thereof with respect to matters not included in the Exclusive Legislative List for the purpose of implementing a treaty.

(3) A bill for an Act of the National Assembly passed pursuant to the provisions of subsection (2) of this section shall not be presented to the President for assent, and shall not be enacted, unless it is ratified by a majority of all the Houses of Assembly in the Federation.

## CHAPTER II

### FUNDAMENTAL OBJECTIVES AND DIRECTIVE PRINCIPLES OF STATE POLICY

14. It shall be the duty and responsibility of all organs of government and of all authorities and persons, exercising legislative, executive or judicial powers to conform to, observe and apply the provisions of this Chapter.

Fundamental  
obligations of  
Government.

15.—(1) The Federal Republic of Nigeria shall be a State based on the principles of democracy and social justice.

The Govern-  
ment and  
the people.

(2) It is hereby, accordingly, declared that—

(a) sovereignty belongs to the people of Nigeria from whom government through this Constitution derives all its powers and authority ;

(b) the security and welfare of the people shall be the primary purpose and responsibility of government ;

(c) the participation by the people in their government shall be ensured in accordance with the provisions of this Constitution.

(3) The composition of the Government of the Federation or any of its agencies and the conduct of its affairs shall be carried out in such manner as to reflect the federal character of Nigeria and the need to promote national unity, and also to command national loyalty thereby ensuring that there shall be no predominance of persons from a few States or from a few ethnic or other sectional groups in that government or in any of its agencies.

(4) The composition of the Government of a State, a Local Government or any of the agencies of such Governments, and the conduct of the affairs of the Governments or such agencies shall be carried out in such manner as to recognise the diversity of the people within its area of authority and the need to promote a sense of belonging and loyalty among all the people of the Federation.

16.—(1) The motto of the Federal Republic of Nigeria shall be Unity and Faith, Peace and Progress.

Political  
objectives.

(2) Accordingly, national integration shall be actively promoted whilst discrimination on the grounds of place of origin, circumstance of birth, sex, religion, status, ethnic or linguistic association or ties shall be prohibited.

(3) For the purpose of promoting national integration it shall be the duty of the State to—

(a) provide adequate facilities for, and encourage free mobility of people, goods and services throughout the Federation ;



(b) secure full residence rights for every citizen in all parts of the Federation ;

(c) encourage inter-marriage among persons from different places of origin, or of different religious, ethnic or linguistic association or ties ; and

(d) promote or encourage the formation of associations that cut across ethnic, linguistic, religious or other sectional barriers.

(4) The State shall foster a feeling of belonging and of involvement among the various peoples of the Federation, to the end that loyalty to the nation shall override sectional loyalties.

(5) The State shall eradicate all corrupt practices and abuse of power.

(6) The State shall protect and defend the liberty of the individual, enforce the rule of law and ensure the efficient functioning of government services.

Economic  
objectives.

17.—(1) The State shall, within the context of the ideals and objectives for which provisions are made in this Constitution—

(a) harness the resources of the nation and promote national prosperity and an efficient, dynamic and self-reliant economy ;

(b) manage and control the national economy in such manner as to secure the maximum welfare, freedom and happiness of every citizen on the basis of social justice, equality of status and opportunity ;

(c) without prejudice to its right to operate or participate in areas of the economy other than the major sectors of the economy, manage and operate the major sectors of the economy ;

(d) without prejudice to the right of any person to participate in areas of the economy within the major sectors of the economy, protect the right of every citizen to engage in any economic activities outside the major sectors of the economy.

(2) The State shall direct its policy towards ensuring—

(a) the promotion of a planned and balanced economic development including the diversification of industries and dispersal of industrial projects and infrastructural facilities throughout the Federation ;

(b) that the material resources of the community are harnessed and distributed equitably and judiciously to serve the common good of all the people ;

(c) that the economic system is not operated in such a manner as to permit the concentration of wealth or the means of production and exchange in the hands of few individuals or of a group ; and

(d) that suitable and adequate shelter, food, water supply, reasonable national minimum living wage, old age care and pensions, unemployment and sick benefits and welfare for the disabled are provided for all citizens.

(3) A body shall be set up by an Act of the National Assembly which shall have power—

(a) to review from time to time the ownership and control of business enterprises operating in Nigeria and make recommendations to the President on the same ; and

(b) to administer any law for the regulation of the ownership and control of such enterprises.

(4) For the purposes of subsection (1) of this section—

(a) reference to the “major sectors of the economy” shall be construed as a reference to such economic activities as may from time to time be declared by a resolution of each House of the National Assembly to be managed and operated exclusively by the Government of the Federation ; and until a resolution to the contrary is made by the National Assembly economic activities being operated exclusively by the Government of the Federation on the date immediately preceding the day when this section comes into force, whether directly or through the agencies of a statutory or other corporation or company, shall be deemed to be major sectors of the economy ;

(b) “economic activities” includes activities directly concerned with the production, distribution and exchange of wealth or of goods and services ;

(c) “participate” includes the rendering of services and supplying of goods.

18.—(1) The State social order is founded on ideals of Freedom, Equality and Justice.

Social  
objectives.

(2) In furtherance of the social order—

(a) every citizen shall have equality of rights, obligations and opportunities before the law ;

(b) the sanctity of the human person shall be recognised and human dignity shall be maintained and enhanced ;

(c) exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented ;

(d) the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.

(3) The State shall direct its policy towards ensuring that—

(a) all citizens without discrimination on any ground whatsoever have the opportunity for securing adequate means of livelihood as well as adequate opportunities to secure suitable employment ;

(b) conditions of work are just and humane, and that there are adequate facilities for leisure and for social, religious and cultural life ;

(c) the health, safety and welfare of all persons in employment are safe guarded and not endangered or abused ;

(d) there are adequate medical and health care facilities for all persons ;

(e) there is equal pay for equal work without discrimination on account of sex, or on any other ground whatsoever ;

(f) children, young persons, the aged, and the disabled are protected against any exploitation whatsoever, and against moral and material neglect ;

(g) provision is made for public assistance in deserving cases or other conditions of need.

19.—(1) Government shall direct its policy toward ensuring that there are equal and adequate educational opportunities at all levels.

Educational  
objectives.

(2) Government shall promote science and technology.

(3) Government shall strive to eradicate illiteracy and to this end Government shall as and when practicable provide—

- (a) free, compulsory and universal primary education ;
- (b) free secondary education ;
- (c) free university education ; and
- (d) free adult literacy programme.

(4) Government shall promote the learning of indigenous languages.

Foreign  
policy  
objectives.

20. The foreign policy objectives shall be—

- (a) promotion and protection of the national interest ;
- (b) promotion of the total liberation of Africa and support of African unity ;
- (c) promotion of international co-operation for the consolidation of universal peace and mutual respect among all nations and elimination of racial discrimination in all its manifestations ;
- (d) respect for international law and treaty obligations as well as the seeking of settlement of international disputes by negotiation, mediation, conciliation, arbitration and adjudication ; and
- (e) promotion of a just world economic order.

Directive on  
Nigerian  
cultures.

21. The State shall protect, preserve and promote the Nigerian cultures which enhance human dignity and are consistent with the fundamental objectives as provided in this Chapter.

Obligations  
of the mass  
media.

22. The press, radio, television and other agencies of the mass media shall at all times be free to uphold the fundamental objectives contained in this Chapter and highlight the responsibility and accountability of the Government to the people.

National  
ethic.

23. The National ethic shall be Discipline, Integrity, Dignity of Labour, Social Justice, Religious Tolerance, Self-Reliance and Patriotism.

Duties of  
the citizen.

24. It shall be the duty of every citizen—

- (a) to abide by this Constitution, respect its ideals and its institutions, the National Flag, the National Anthem, the National Pledge, and legitimate and properly constituted authorities ;
- (b) to protect and preserve public property, and fight against misappropriation and squandering of public funds ;
- (c) to help enhance the power, prestige and good name of the country and to defend the country and render national service as may be required ;
- (d) to respect the dignity and religion of other citizens and the rights and the legitimate interests of others and to live in unity and harmony and in the spirit of common brotherhood ;
- (e) to make positive and useful contributions to the advancement, progress and well-being of the community where he resides ;
- (f) to work conscientiously in his lawful and chosen occupation and to abstain from any activity detrimental to the general welfare of other citizen or to the country ;

- (g) to ensure the proper upbringing of his children ;
- (h) to participate in and defend all democratic processes and practices ;
- (i) to render assistance to appropriate and lawful agencies in the maintenance of law and order ; and
- (j) to declare his income honestly to appropriate and lawful agencies and to pay his tax promptly.

### CHAPTER III CITIZENSHIP

25.—(1) The following persons are citizens of Nigeria by birth, namely—

Citizenship  
by birth.

(a) every person born in Nigeria on or before the date of independence, either of whose parents or any of whose grandparents belongs or belonged to a community indigenous to Nigeria ;

Provided that a person shall not become a citizen of Nigeria by virtue of this section if neither of his parents nor any of his grandparents was born in Nigeria ;

(b) every person born in Nigeria on or after the date of independence either of whose parents or any of whose grandparents is a citizen of Nigeria ; and

(c) every person born outside Nigeria either of whose parents is a citizen of Nigeria.

(2) In this section “the date of independence” means the 1st day of October, 1960.

26.—(1) Subject to the provisions of section 28 of this Constitution, a person to whom the provisions of this section apply may be registered as a citizen of Nigeria, if the President is satisfied that—

Citizenship  
by registra-  
tion.

(a) he is a person of good character ;

(b) he has shown a clear intention of his desire to be domiciled in Nigeria ; and

(c) he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution.

Seventh  
Schedule.

(2) The provisions of this section shall apply to—

(a) any woman who is or has been married to a citizen of Nigeria ; or

(b) every person of full age and capacity born outside Nigeria any of whose grandparents is a citizen of Nigeria.

(3) Notwithstanding anything contained in subsections (1) and (2) of this section, a non-Nigerian child adopted by a citizen of Nigeria in accordance with procedure approved by any law in force in Nigeria may by application by such citizen be registered as a citizen of Nigeria.

27.—(1) Subject to the provisions of section 28 of this Constitution, any person who is qualified in accordance with the provisions of this section may apply to the President for the grant of a certificate of naturalisation.

Citizenship  
by naturali-  
sation.

(2) No person shall be qualified to apply for the grant of a certificate of naturalisation, unless he satisfies the President that—

(a) he is a person of full age and capacity ;



Seventh  
Schedule.

- (b) he is a person of good character ;
- (c) he has shown a clear intention of his desire to be domiciled in Nigeria;
- (d) he is, in the opinion of the Governor of the State where he is or he proposes to be resident, acceptable to the local community in which he is to live permanently, and has been assimilated into the way of life of Nigerians in that part of the Federation ;
- (e) he is a person who has made or is capable of making useful contribution to the advancement, progress and well-being of Nigeria;
- (f) he has taken the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution ; and
- (g) he has, immediately preceding the date of his application, either—
  - (i) resided in Nigeria for a continuous period of 15 years, or
  - (ii) resided in Nigeria continuously for a period of 12 months, and during the period of 20 years immediately preceding his application has resided in Nigeria for an aggregate of not less than 15 years.

Avoidance  
of dual  
citizenship.

28.—(1) Subject to the other provisions of this section, a person shall forfeit forthwith his Nigerian citizenship if he acquires or retains the citizenship or nationality of a country other than Nigeria.

(2) Any registration of a person as a citizen of Nigeria or the grant of a certificate of naturalisation to a person who is a citizen of a country other than Nigeria at the time of such registration or grant shall be conditional upon effective renunciation of the citizenship or nationality of that other country within a period of not more than 12 months from the date of such registration or grant.

(3) A citizen of Nigeria by birth shall not forfeit his Nigerian citizenship if, within 12 months of the coming into force of the provisions of this Chapter or of his attaining the age of 21 years (whichever is the later) he renounces the citizenship or nationality of any other country which he may possess.

Deprivation  
of citizenship.

29.—(1) The President may deprive a person, other than a person who is a citizen of Nigeria by birth or by registration, of his citizenship, if he is satisfied that such a person has within a period of 7 years after becoming naturalised been sentenced to imprisonment for a term of not less than 3 years.

(2) The President shall deprive a person, other than a person who is a citizen of Nigeria by birth, of his citizenship, if he is satisfied from the records of proceedings of a court of law or other tribunal, or after due inquiry in accordance with regulations made by him, that—

(a) the person has shown himself by act or speech to be disloyal towards the Federal Republic of Nigeria ; or

(b) the person has, during any war in which Nigeria was engaged unlawfully traded with the enemy or been engaged in or associated with any business that was in the opinion of the President carried on in such a manner as to assist the enemy of Nigeria in that war, or unlawfully communicated with such enemy to the detriment of or with intent to cause damage to the interest of Nigeria.

30. For the purposes of this Chapter, a parent or grandparent of a person shall be deemed to be a citizen of Nigeria if at the time of the birth of that person such parent or grandparent would have possessed that status by birth if he had been alive on the date of independence; and in this section, "the date of independence" has the meaning assigned to it in section 25 (2) of this Constitution.

Persons deemed to be Nigerian citizens.

31.—(1) The President may make regulations, not inconsistent with this Chapter, prescribing all matters which are required or permitted to be prescribed or which are necessary or convenient to be prescribed for carrying out or giving effect to the provisions of this Chapter, and for granting special immigrant status with full residential rights to non-Nigerian spouses of citizens of Nigeria who do not wish to acquire Nigerian citizenship.

Power to make regulations.

(2) Any regulations made by the President pursuant to the provisions of this section shall be laid before the National Assembly for confirmation.

#### CHAPTER IV FUNDAMENTAL RIGHTS

32.—(1) Every person has a right to life, and no one 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 in Nigeria.

Right to life.

(2) A person shall not be regarded as having been deprived of his life in contravention of this section, if he dies as a result of the use, to such extent and in such circumstances as are permitted by law, of such force as is reasonably necessary—

(a) for the defence of any person from unlawful violence or for the defence of property;

(b) in order to effect a lawful arrest or to prevent the escape of a person lawfully detained; or

(c) for the purpose of suppressing a riot, insurrection or mutiny:

Provided that a judicial inquiry to determine the cause of the death of such person shall be held within one month.

(3) For the purposes of subsection (2) "judicial inquiry" includes a coroner's inquest.

33.—(1) Every individual is entitled to respect for the dignity of his person, and accordingly

Right to dignity of human persons.

(a) no person shall be subjected to any form of torture or to inhuman or degrading treatment;

(b) no person shall be held in slavery or servitude; and

(c) no person shall be required to perform forced or compulsory labour.

(2) For the purposes of subsection (1)(c) of this section, "forced or compulsory 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 Federation, the Nigeria Police Force or other government security services established by law in pursuance of their duties as such or, in the case of persons who have conscientious objections to service in the armed forces of the Federation, any labour required instead of such service ;

(c) any labour required which is reasonably necessary in the event of any emergency or calamity threatening the life or well-being of the community; or

(d) any labour or service that forms part of—

(i) normal communal or other civic obligations for the well-being of the community,

(ii) such compulsory national service in the armed forces of the Federation as may be prescribed by an Act of the National Assembly, or

(iii) such compulsory national service which forms part of the education and training of citizens of Nigeria as may be prescribed by an Act of the National Assembly.

Right to  
personal  
liberty.

34.—(1) Every person shall be entitled to his personal liberty and no person shall be deprived of such liberty save in the following cases and in accordance with a procedure permitted by law—

(a) in execution of the sentence or order of a court in respect of a criminal offence of which he has been found guilty ;

(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 18 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 of effecting the expulsion, extradition or other lawful removal from Nigeria of any person or the taking of proceedings relating thereto :

Provided that a person who is charged with an offence and who has been detained in lawful custody awaiting trial shall not continue to be kept in such detention for a period longer than the maximum period of imprisonment prescribed for the offence.

(2) Any person who is arrested or detained shall have the right to remain silent or avoid answering any question until after consultation with a legal practitioner or any other person of his own choice.

(3) Any person who is arrested or detained shall be informed in writing within 24 hours (and in a language that he understands) of the facts and grounds for his arrest or detention.

(4) Any person who is arrested or detained in accordance with subsection (1) (c) of this section, shall be brought before a court of law within a reasonable time, and if he is not tried within a period of—

(a) 2 months from the date of his arrest or detention in the case of a person who is in custody or is not entitled to bail ; or

(b) 3 months from the date of his arrest or detention in the case of a person who has been released on bail, 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.

(5) In subsection (4) of this section the expression “a reasonable time” means—

(a) in the case of an arrest or detention in any place where there is a court of competent jurisdiction within a radius of 40 kilometers, a period of one day ; and

(b) in any other case, a period of 2 days or such longer period as in the circumstances may be considered by the court to be reasonable.

(6) Any person who is unlawfully arrested or detained shall be entitled to compensation and public apology from the appropriate authority or person; and in this subsection, “the appropriate authority or person” means an authority or person specified by law.

(7) Nothing in this section shall be construed—

(a) in relation to subsection (4) of this section, as applying in the case of a person arrested or detained upon reasonable suspicion of having committed a capital offence ; and

(b) as invalidating any law by reason only that it authorises the detention for a period not exceeding 3 months of a member of the armed forces of the Federation or a member of the Nigeria Police Force or other government security services established by law in execution of a sentence imposed by an officer of the armed forces of the Federation or of the Nigeria Police Force or other government security services established by law, in respect of an offence punishable by such detention of which he has been found guilty.

(8) Juveniles accused or convicted of offences shall be kept in remand homes or reformatory centres and their treatment including rehabilitation shall be the underlying principle for their custody.

35.—(1) In the determination of his civil rights and obligations, including any question or determination by or against any government or authority, 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.

Right to  
fair hearing.

(2) Without prejudice to the foregoing provisions of this section, a law shall not be invalidated by reason only that it confers on any government or authority power to determine questions arising in the administration of a law that affects or may affect the civil rights and obligations of any person if such law—



(a) provides for an opportunity for the person whose rights and obligations may be affected to make representations to the administering authority before that authority makes the decision affecting that person ;

(b) contains no provision making the determination of the administering authority final and conclusive.

(3) 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 or tribunal.

(4) Every person who is charged with a criminal offence shall be presumed to be innocent until he is proved guilty but 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 the 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 a legal practitioner of his own choice ;

(d) to examine in person or by his legal practitioner 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.

(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 judgment in the case within 7 days of the conclusion of the case.

(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 court of competent jurisdiction 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.

(9) No person who shows that he has been pardoned for a criminal offence shall again be tried for that offence.

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

(11) Subject as otherwise provided by this Constitution, a person shall not be convicted of a criminal offence unless that offence is defined and the penalty therefore is prescribed in a written law ; and in this subsection, a written law refers to an Act of the National Assembly or a Law of a State, any subsidiary legislation or instrument under the provisions of a law.

(12) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsections (1) and (3) of this section (including the announcement of 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 parties thereto or their legal practitioners in the interest of defence, public safety, public order, public morality, the welfare of persons who have not attained the age of 18 years, the protection of the private life 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 ;

(b) if in any proceedings before a court or such a tribunal a Minister of the Government of the Federation or a Commissioner of the Government of a State satisfies the court or tribunal 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 private and shall take such other action as may be necessary or expedient to prevent the disclosure of the matter.

36.—The privacy of citizens, their homes, correspondence, telephone conversations and telegraphic communications is hereby guaranteed and protected.

Right to private life.

37.—(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.

Right to freedom of thought, conscience and religion.

(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 observance if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parent or guardian.

(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 entitle any person to form, take part in the activity or be a member of a secret society.

Right to  
freedom of  
expression  
and the press.

38.—(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) Without prejudice to the generality of subsection (1) of this section, every person shall be entitled to own, establish and operate any medium for the dissemination of information, ideas and opinions :

Provided that no person, other than the Government of the Federation or of a State or any other person or body authorised by the President, shall own, establish or operate a television or wireless broadcasting station for any purpose whatsoever.

(3) Nothing in this section shall invalidate any law that is reasonably justifiable in a democratic society.—

(a) for the purpose of preventing the disclosure of information received in confidence, maintaining the authority and independence of courts or regulating telephony, wireless broadcasting, television or the exhibition of cinematograph films ; or

(b) imposing restrictions upon persons holding office under the government of the Federation or of a State or of a Local Government, members of the Armed Forces of the Federation or members of the Nigeria Police Force or other government security services established by law.

Right to  
peaceful  
assembly and  
association.

39. Every person shall be entitled to assemble freely and associate with other persons, and in particular he may form or belong to any political party, trade union or any other association for the protection of his interests :

Provided that—

(a) the provisions of this section shall not derogate from the powers conferred by this Constitution on the National Electoral Commission with respect to political associations to which that Commission does not accord recognition ; and

(b) a person elected to a legislative house on the platform of a political party shall not be entitled to join or declare himself to be a member of the other political party until the general election next following his election.

Right to  
freedom of  
movement.

40.—(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 or exit therefrom.

(2) Nothing in subsection (1) of this section shall invalidate any law that is reasonably justifiable in a democratic society—

(a) imposing restrictions on the residence or movement of any person who has committed or is reasonably suspected to have committed a criminal offence in order to prevent him from leaving Nigeria ; or

(b) providing for the removal of any person from Nigeria to any other country—

(i) to be tried outside Nigeria for any criminal offence, or

(ii) to undergo imprisonment outside Nigeria in execution of the sentence of a court of law in respect of a criminal offence of which he has been found guilty :

Provided that there is reciprocal agreement between Nigeria and such other country in relation to such matter.

41.—(1) A citizen of Nigeria of a particular community, ethnic group, place of origin, circumstance of birth, sex, religion or political opinion shall not, by reason only that he is such a person—

Right to freedom from discrimination.

(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 to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, circumstance of birth, sex, 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 accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, circumstance of birth, sex, religions or political opinions.

(2) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

(3) Nothing in subsection (1) of this section shall invalidate any law by reason only that the law imposes restrictions with respect to the appointment of any person to any office under the State or as a member of the armed forces of the Federation or a member of the Nigeria Police Force or other government security services established by law.

42.—(1) No movable property or any interest in an immovable property 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 in the manner and for the purposes prescribed by a law that, among other things—

Compulsory acquisition of property.

(a) requires the prompt payment of compensation thereof ; 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 a court of law or tribunal or body having jurisdiction in that part of Nigeria.

(2) Nothing in subsection (1) of this section shall be construed as affecting any general law—

(a) for the imposition or enforcement of any tax, rate or duty ;

(b) for the imposition of penalties or forfeitures for the breach of any law, whether under civil process or after conviction for 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 or deceased persons, and of corporate or unincorporate bodies 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 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 purpose of any examination, investigation or enquiry ;
- (l) providing for the carrying out of work on land for the purpose of soil conservation ; or

(m) subject to prompt payment of compensation for damage to buildings, economic trees or crops, providing for any authority or person to enter, survey or dig any land, or to lay, install or erect poles, cables, wires, pipes, or other conductors or structures on any land, in order to provide or maintain the supply or distribution of energy, fuel, water, sewage, telecommunication services or other public facilities or public utilities.

(3) Notwithstanding the foregoing provisions of this section, the entire property in and control of all minerals, mineral oils and natural gas in, under or upon any land in Nigeria or in, under or upon the territorial waters and the Exclusive Economic Zone of Nigeria shall vest in the Government of the Federation and shall be managed in such manner as may be prescribed by the National Assembly.

Restriction  
on and  
derogation  
from funda-  
mental right.

43.—(1) Nothing in sections 36, 37, 38, 39, and 40 of this Constitution 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.

(2) An Act of the National Assembly shall not be invalidated by reason only that it provides for the taking, during periods of emergency, of measures that derogate from the provisions of section 32 or 34 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 32 of this Constitution except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 35 (7) of this Constitution.

(3) In this section, a "period of emergency" means any period during which there is in force a proclamation of a state of emergency declared by the President in exercise of the powers conferred on him under section 317.

44.—(1) Any person who alleges that any of the provisions of this Chapter has been, is being or is likely to be contravened in any State or in the Federal Capital Territory, Abuja, in relation to him may apply to a High Court having jurisdiction in that area for redress.

Special jurisdiction of High Court and legal aid.

(2) Subject to the provisions of this Constitution, a High Court shall have original jurisdiction to hear and determine any application made to it in pursuance of the provisions 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 State or in the Federal Capital Territory, Abuja, of any rights to which the person who makes the application may be entitled under this Chapter.

(3) The Chief Justice of Nigeria may make rules with respect to the practice and procedure of a High Court for the purposes of this section.

(4) The National Assembly—

(a) may confer upon a High Court such powers in addition to those conferred by this section as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the court more effectively to exercise the jurisdiction conferred upon it by this section ; and

(b) shall make provisions—

(i) for the rendering of financial assistance to any indigent citizen of Nigeria where his right under this Chapter has been infringed or with a view to enabling him to engage the services of a legal practitioner to prosecute his claim, and ensure that opportunities for securing justice are not denied, and

(ii) for ensuring that allegations of infringement of such rights are substantial and the requirement or need for financial or legal aid is real.

(5) In this section, reference to a High Court includes a reference to the Federal High Court in the Federal Capital Territory, Abuja.

## CHAPTER V

### THE LEGISLATURE

#### PART I

#### NATIONAL ASSEMBLY

##### *A—Composition and Staff of National Assembly*

45. There shall be a National Assembly for the Federation which shall consist of a Senate and a House of Representatives.

Establishment of the National Assembly.

46. The Senate shall consist of 3 Senators from each State and one from the Federal Capital Territory, Abuja.

Composition of the Senate.

47. Subject to the provisions of Chapter IX of this Constitution, the House of Representatives shall consist of 453 members.

Composition of the House of Representatives.

48.—(1) There shall be—

(a) a President and a Deputy President of the Senate, who shall be elected by members of that House from among themselves ; and

President of the Senate and Speaker of the House of Representatives.

(b) a Speaker and a Deputy Speaker of the House of Representatives who shall be elected by members of that House from among themselves.

(2) The President or Deputy President of the Senate or the Speaker or Deputy Speaker of the House of Representatives shall vacate his office—

(a) if he ceases to be a member of the Senate or of the House of Representatives, as the case may be, otherwise than by reason of a dissolution of the Senate or the House of Representatives ; or

(b) when the House of which he was a member first sits after any dissolution of that House ; or

(c) if he is removed from office by a resolution of the Senate or of the House of Representatives, as the case may be, by the votes of not less than two-thirds majority of members of that House.

Staff of the  
National  
Assembly.

49. There shall be a Clerk to the National Assembly and such other staff as may be prescribed by an Act of the National Assembly, and the method of appointment of the Clerk and other staff of the National Assembly shall be as prescribed by that Act.

#### *B—Procedure for Summoning and Dissolution of National Assembly*

Declaration  
of assets  
and liabilities : oaths  
of members.

Seventh  
Schedule.

50.—(1) Every person elected to the Senate or the House of Representatives shall, before taking his seat, declare his assets and liabilities as prescribed in this Constitution and subsequently take and subscribe the Oath of Allegiance and the Oath of Membership prescribed in the Seventh Schedule to this Constitution before the President of the Senate or, as the case may be, the Speaker of the House of Representatives, but a member may before taking the oaths take part in the election of a President and a Deputy President of the Senate or, as the case may be, of a Speaker and a Deputy Speaker of the House of Representatives.

(2) The President and Deputy President of the Senate and the Speaker and the Deputy Speaker of the House of Representatives shall declare their assets and liabilities as prescribed in this Constitution and subsequently take and subscribe the Oath of Allegiance and the Oath of Membership prescribed as aforesaid before the Clerk of the National Assembly.

Presiding at  
sittings of the  
National  
Assembly and  
at joint  
sittings.

51.—(1) At any sitting of the National Assembly—

(a) in the case of the Senate, the President of the Senate shall preside, and in his absence the Deputy President shall preside ; and

(b) in the case of the House of Representatives, the Speaker of that House shall preside, and in his absence the Deputy Speaker shall preside.

(2) At any joint sitting of the Senate and the House of Representatives—

(a) the President of the Senate shall preside, and in his absence the Speaker of the House of Representatives shall preside ; and

(b) in the absence of the persons mentioned in paragraph (a) of this subsection the Deputy President of the Senate and in his absence the Deputy Speaker of the House of Representatives shall preside.

(3) In the absence of the person mentioned in subsections (1) and (2) of this section such member of the Senate or the House of Representatives as the Senate or the House of Representatives may elect for that purpose shall preside.

52.—(1) The quorum of the Senate or the House of Representatives shall be one-half of all the members of the legislative house concerned.

Quorum.

(2) The quorum of a joint sitting of both the Senate and the House of Representatives shall be one-half of all the members of both Houses.

53. The business of the National Assembly shall be conducted in English and in Hausa, Igbo and Yoruba when adequate arrangements have been made therefor.

Languages.

54.—(1) Except as otherwise provided by this Constitution, any question proposed for decision in the Senate or the House of Representatives 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.

Voting.

(2) Except as otherwise provided by this Constitution, the required majority for the purpose of determining any question shall be a simple majority.

(3) The Senate or the House of Representatives shall by its rule provide—

(a) that a member of the House shall declare any direct pecuniary interest he may have in any matter coming before the House for deliberation ;

(b) that the House may by resolution decide whether or not such member may vote or participate in its deliberations on such matter ;

(c) the penalty, if any, which the House may impose for failure to declare any direct pecuniary interest such member may have ; and

(d) for such other matters pertaining to the foregoing as the House may think necessary ;

but nothing in the foregoing provisions shall enable any rules to be made to require any member who signifies his intention not to vote or participate in such matter, and who does not so vote or participate to declare such interest.

55. Any person who sits or votes in the Senate or the House of Representatives knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and shall upon conviction be liable to such punishment as shall be prescribed by an Act of the National Assembly.

Unqualified persons sitting or voting : penalty.

56.—(1) The power of the National Assembly to make laws shall be exercised by bills passed by both the Senate and the House of Representatives and, except as otherwise provided by subsection (5) of this section, assented to by the President.

Mode of exercising Federal legislative power : general.

(2) A bill may originate in either the Senate or the House of Representatives and shall not become law unless it has been passed and, except as otherwise provided by this section and section 60 of this Constitution, assented to in accordance with the provisions of this section.



(3) Where a bill has been passed by the House in which it originated, it shall be sent to the other House ; and it shall be presented to the President for assent when it has been passed by that other House and agreement has been reached between the 2 Houses on any amendment made on it.

(4) Where a bill is presented to the President for assent, he shall within 30 days thereof signify that he assents or that he withholds assent.

(5) Where the President withholds his assent and the bill is again passed by each House by two-thirds majority, the bill shall become law and the assent of the President shall not be required.

Mode of  
exercising  
Federal  
legislative  
power :  
money bills.

57.—(1) The provisions of this section shall apply to—

(a) an appropriation bill or a supplementary appropriation bill including any other bill for the payment, issue or withdrawal from the Consolidated Revenue Fund or any other public fund of the Federation of any money charged thereon or any alteration in the amount of such a payment, issue or withdrawal ; and

(b) a bill for the imposition of or increase in any tax, duty or fee or any reduction, withdrawal or cancellation thereof.

(2) Where a bill to which this section applies is passed by one of the Houses of the National Assembly but is not passed by the other House within a period of 2 months from the commencement of a financial year, the President of the Senate shall within 14 days thereafter arrange for and convene a meeting of the joint finance committee to examine the bill with a view to resolving the differences between the two Houses.

(3) Where the joint finance committee fails to resolve such differences then the bill shall be presented to the National Assembly sitting at a joint meeting, and if the bill is passed at such joint meeting, it shall be presented to the President for assent.

(4) Where the President within 30 days after the presentation of the bill to him fails to signify his assent or where he withholds assent, then the bill shall again be presented to the National Assembly sitting at a joint meeting, and if passed by two-thirds majority of members of both Houses at such joint meeting, the bill shall become law and the assent of the President shall not be required.

(5) In this section "joint finance committee" refers to the joint committee of the National Assembly on finance established pursuant to section 60 (3) of this Constitution.

Regulation of  
procedure.

58. Subject to the provisions of this Constitution, the Senate or the House of Representatives shall have power to regulate its own procedure, including the procedure for summoning and recess of the House.

Vacancy not  
to invalidate  
proceedings.

59. The Senate or the House of Representatives may act notwithstanding any vacancy in its membership, 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.

Committees.

60.—(1) The Senate or the House of Representatives may appoint a committee of its members for such special or general purpose as in its opinion

would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise, as it thinks fit, delegate any functions exercisable by it to any such committee.

(2) The number of members of a committee appointed under this section, their terms of office and quorum shall be fixed by the House appointing it.

(3) The Senate and the House of Representatives shall appoint a joint committee on finance consisting of an equal number of persons appointed by each House and may appoint any other joint committee under the provisions of this section.

(4) Nothing in this section shall be construed as authorising such House to delegate to a committee the power to decide whether a bill shall be passed into law or to determine any matter which it is empowered to determine by resolution under the provisions of this Constitution, but the committee may be authorised to make recommendations to the House on any such matter.

61. The Senate and the House of Representatives shall each sit for a period of not less than 161 days and not more than 181 days in a year.

Sittings.

62.—(1) The Senate and the House of Representatives shall each stand dissolved at the expiration of a period of 4 years commencing from the date of the first sitting of the House.

Dissolution and issue of proclamations by President

(2) If the Federation is at a time when the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of 4 years mentioned in subsection (1) of this section from time to time but not beyond a period of 6 months at any one time.

(3) Subject to the provisions of this Constitution, the person elected as the President shall have power to issue a proclamation for the holding of the first session of the National Assembly immediately after his being sworn in or for its dissolution as provided in this section.

### *C—Qualifications for Membership of National Assembly and Right of Attendance*

63.—(1) Subject to the provisions of section 65 of this Constitution—

Qualifications for election.

(a) a person shall be qualified for election as a member of the Senate if he is a citizen of Nigeria and has attained the age of 30 years ;

(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 25 years.

(2) A person shall be qualified for election under subsection (1) of this section only if he has been educated up to at least the School Certificate level or its equivalent.

64.—(1) No person shall be qualified for elections to the Senate or the House of Representatives if—

Disqualifications.

(a) he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such country ;

(b) 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) he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment for an offence involving dishonesty (by whatever name called) imposed on him by such a court or substituted by a competent authority for any other sentence imposed on him by such a court ;

(d) he has been convicted and sentenced by a court of law or tribunal established by law for an offence involving dishonesty or he has been found guilty of a contravention of the Code of Conduct ;

(e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in Nigeria ;

(f) he is a person employed in the public service of the Federation or of any State ; or

(g) he is a member of any secret society.

(2) Where in respect of 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, any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier ; and for the purposes of this subsection, an "appeal" includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

Attendance of  
President and  
Ministers.

65.—(1) The President shall address annually a joint meeting of the National Assembly on the state of affairs of the nation.

(2) The President may attend any joint meeting of the National Assembly or any meeting of either House of the National Assembly, either to deliver an address on national affairs including fiscal measures or to make such statement on the policy of government as he considers to be of national importance.

(3) A Minister of the Government of the Federation shall attend either House of the National Assembly if invited to explain to the House the conduct of his Ministry, and in particular when the affairs of that ministry are under discussion.

(4) Nothing in this section shall enable any person who is not a member of the Senate or of the House of Representatives to vote in that House or in any of its committees.

66.—(1) A member of the Senate or of the House of Representatives shall vacate his seat in the House of which he is a member if—

Tenure of  
seat of  
members.

(a) he becomes a member of another legislative House ;

(b) any other circumstances arise that, if he were not a member of the Senate or the House of Representatives, would cause him to be disqualified for election as a member ;

(c) he ceases to be a citizen of Nigeria ;

(d) he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State, a Chairman or Councillor of a Local Government Council ;

(e) save as otherwise prescribed by this Constitution, he becomes a member of a Commission or other body established by this Constitution or by any other law ;

(f) without just cause, he is absent from meetings of the House of which he is a member for a period amounting in the aggregate to more than one-sixth of the total number of days during which the House meets in any one year ;

(g) being a person whose election to the House was sponsored by one political party, he resigns from that political party or becomes a member of the other political party before the expiration of the period for which that House was elected ;

(h) he becomes a member of a secret society ; or

(i) the President of the Senate, or as the case may be the Speaker of the House of Representatives receives a certificate under the hand of the Chairman of the National Electoral Commission stating that the provisions of section 68 of this Constitution have been complied with in respect of the recall of that member.

(2) The President of the Senate or the Speaker of the House of Representatives, as the case may be, shall give effect to subsection (1) of this section, so however that the President of the Senate or the Speaker of the House of Representatives or a member shall first present evidence satisfactory to the House concerned that any of the provisions of that subsection has become applicable in respect of that member.

(3) A member of the Senate or of the House of Representatives shall be deemed to be absent without just cause from a meeting of the House of which he is a member, unless the person presiding certifies in writing that he is satisfied that the absence of the member from the meeting was for a just cause.

67.—(1) A member of the Senate or of the House of Representatives shall receive sitting allowance and such other allowances as the National Revenue Mobilisation Allocation and Fiscal Commission may recommend.

Remunera-  
tion.



(2) A member of the Senate or of the House of Representatives shall be paid for only the number of days he sits.

Recall.

68. A member of the Senate or of the House of Representatives may be recalled as such a member if—

(a) there is presented to the Chairman of the National Electoral Commission a petition in that behalf signed by more than one-half of the persons registered to vote in that member's constituency alleging their loss confidence that member; and

(b) the petition is thereafter in a referendum conducted by the National Electoral Commission within 90 days of the date of receipt of the petition, approved by a simple majority of the votes of the persons registered to vote in that member's constituency.

*D—Elections to National Assembly*

Senatorial district and Federal constituencies.

69. Subject to the provisions of section 70 of this Constitution, the National Electoral Commission shall—

(a) divide each State of the Federation into 3 Senatorial districts for purposes of elections to the Senate; and

(b) subject to the provisions of Chapter IX of this Constitution, divide the Federation into 453 Federal constituencies for purposes of elections to the House of Representatives.

Size of Senatorial districts and Federal constituencies.

70. No Senatorial district or Federal constituency shall fall within more than one State, and the boundaries of each district or constituency shall be as contiguous as possible such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

Periodical review of Senatorial districts and Federal constituencies.

71.—(1) The National Electoral Commission shall review the division of States and of the Federation into Senatorial districts and Federal constituencies at intervals of not less than 10 years, and may alter the districts or constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review.

(2) Notwithstanding subsection (1) of this section, the Commission may at any time carry out such a review and alter the districts or constituencies in accordance with the provisions of this section to such extent as it considers necessary, in consequence of any amendment to section 3 of this Constitution or any provision replacing that section, or by reason of the holding of a census of the population, or pursuant to an Act of the National Assembly.

Time when alteration of Senatorial districts or Federal constituencies takes effects.

72. Where the boundaries of any Senatorial district or Federal constituency established under section 69 of this Constitution are altered in accordance with the provisions of section 71 of this Constitution that alteration shall come into effect after it has been approved by each House of the National Assembly and after the current life of the Senate (in the case of an alteration to the boundaries of a Senatorial district) or the House of Representatives (in the case of an alteration to the boundaries of a Federal constituency).

Ascertainment of population.

73. For the purposes of section 70 of this Constitution the number of inhabitants of Nigeria or any part thereof shall be ascertained by reference to the 1963 census of the population of Nigeria or the latest census held in pursuance of an Act of the National Assembly after the coming into force of the provisions of this Part.

74.—(1) Elections to each House of the National Assembly shall be held on a date to be appointed by the National Electoral Commission.

Time of election to the National Assembly.

(2) The date mentioned in subsection (1) of this section shall not be earlier than 60 days before and not later than the date on which the House stands dissolved, or where the election is to fill a vacancy occurring more than 90 days before such date not later than 30 days after the vacancy occurred.

75.—(1) Subject to the provisions of this Constitution, every Senatorial district or Federal constituency established in accordance with the provisions of this Part shall return one member who shall be directly elected to the Senate or the House of Representatives in such manner as may be prescribed by an Act of the National Assembly.

Direct election and franchise.

(2) Every citizen of Nigeria, who has attained the age of 18 years residing in Nigeria at the time of the registration of voters for purposes of election to a legislative house, shall be entitled to be registered as a voter for that election.

76. The registration of voters and the conduct of elections shall be subject to the direction and supervision of the National Electoral Commission.

Supervision of election.

77. The National Assembly shall make provisions as respects—

(a) persons who may apply to an election tribunal for the determination of any question as to whether—

Power of National Assembly as to determination of certain questions.

(i) any person has been validly elected to the office of President or Vice-President,

(ii) any person has been validly elected as a member of the Senate or of the House of Representatives,

(iii) the term of office of any person has ceased, and

(iv) the seat in the Senate or in the House of Representatives of a member of that House has become vacant ;

(b) circumstances and manner in which and the conditions upon which such applications may be made ; and

(c) powers, practice and procedure of the election tribunals in relation to any such application.

#### *E—Powers and Control over Public Funds*

78.—(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 the National Assembly into any other public fund of the Federation established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the Federation.

Establishment of 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 where the issue of those moneys has been authorised by an Appropriation Act, Supplementary Appropriation Act or an Act passed in pursuance of section 79 of this Constitution.

(3) No money shall be withdrawn from any public fund of the Federation other than the Consolidated Revenue Fund of the Federation unless the issue of those moneys has been authorised by an Act of the National Assembly.

(4) No money shall be withdrawn from the Consolidated Revenue Fund or any other public fund of the Federation, except in the manner prescribed by the National Assembly.

Authorisation  
of expenditure  
from  
Consolidated  
Revenue  
Fund.

79.—(1) The President shall cause to be prepared and laid before each House of the National Assembly not later than 60 days before the expiration of each financial year estimates of the revenues and expenditure of the Federation for the following year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund of the Federation by this Constitution) shall be included in a bill, to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund 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

(b) that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Act, a supplementary estimate showing the sums required shall be laid before each House of the National Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

Authorisation  
of expenditure  
in  
default of  
appropriations.

80. If the Appropriation Bill in respect of any financial year has not been passed into law by the beginning of the financial year, the President 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 of the Federation for a period not exceeding 3 months or until the coming into operation of the Appropriation Act, whichever is the earlier :

Provided that the withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the Federation under the provisions of the Appropriation Act passed by the National Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorised for the immediately preceding financial year.

Contingencies  
Fund.

81.—(1) The National Assembly may by law make provisions for the establishment of a Contingencies Fund for the Federation and for authorising the President, 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 the need.

(2) Where any advance is made in accordance with the provisions of this section, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced within 30 days for the purpose of replacing the amount so advanced.

Remuneration  
of the  
President  
and certain  
other officers.

82.—(1) There shall be paid to the holders of the offices mentioned in this section such salaries and allowances as may be prescribed by the National Assembly but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

(2) The salaries and allowances payable to the holders of the offices so mentioned shall be a charge upon the Consolidated Revenue Fund of the Federation.

(3) The salaries payable to the holders of the said offices and their conditions of service other than allowances shall not be altered to their disadvantage after their appointment.

(4) The offices aforesaid are the offices of President, Vice-President, Chief Justice of Nigeria, Justice of the Supreme Court, President of the Court of Appeal, Justice of the Court of Appeal, Chief Judge of the Federal High Court, Judge of the Federal High Court, Judge of the Federal High Court in the Federal Capital Territory, Grand Kadi and Kadi of the Sharia Court of Appeal of the Federal Capital Territory, President and Judge of the Customary Court of Appeal of the Federal Capital Territory, Inspector-General of Police, the Auditor-General of the Federation and the Chairmen and members of the following executive bodies, namely, the Code of Conduct Bureau, the Federal Civil Service Commission, the National Electoral Commission, the Federal Judicial Service Commission, the National Population Commission, the Revenue Mobilisation Allocation and Fiscal Commission, the Nigeria Police Council, and the Public Complaints Commission.

(5) Provisions may be made by an Act of the National Assembly for the grant of a pension or gratuity to or in respect of a person who has held office as President or Vice-President and was not removed from office as a result of impeachment; and any pension or gratuity granted by virtue of any provisions made in pursuance of this subsection shall be a charge upon the Consolidated Revenue Fund of the Federation.

(6) The recurrent expenditure of judicial offices of the Federation (in addition to salaries and allowances of the judicial officers mentioned in subsection (4) of this section) shall be a charge upon the Consolidated Revenue Fund of the Federation.

83.—(1) There shall be an Auditor-General for the Federation who shall be appointed in accordance with the provisions of section 84 of this Constitution.

Audit of  
public  
accounts.

(2) The public accounts of the Federation and of all offices and courts of the Federation shall be audited by the Auditor-General who shall submit his reports to the National Assembly; and for that purpose, the Auditor-General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to these accounts.

(3) Nothing in subsection (2) of this section shall be construed as authorising the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies including all persons and bodies established by an Act of the National Assembly, but the Auditor-General may—

(a) provide such bodies with—

(i) a list of auditors qualified to be appointed by them as external auditors and from which the bodies shall appoint their external auditors;

(ii) a guideline on the level of fees to be paid to external auditors;



(b) comment on their annual accounts and auditor's reports thereon.

(4) The Auditor-General shall within 90 days of receipt of the Accountant-General's financial statement submit his reports to each House of the National Assembly which shall then cause the reports to be considered by a committee of that House responsible for public accounts.

(5) In the exercise of his functions under this Constitution, the Auditor-General shall not be subject to the direction or control of any other authority or person.

Appointment  
of Auditor-  
General.

84.—(1) The Auditor-General for the Federation shall be appointed by the President on the recommendation of the Federal Civil Service Commission, subject to confirmation by the Senate.

(2) Power to appoint persons to act in the office of the Auditor-General shall vest in the President.

(3) Except with the sanction of a resolution of the Senate, no person shall act in the office of the Auditor-General for a period exceeding 6 months.

Tenure of  
office of  
Auditor-  
General.

85.—(1) A person holding the office of the Auditor-General for the Federation shall be removed from office by the President acting on an address supported by two-thirds majority of the Senate praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) The Auditor-General shall not be removed from office before such retiring age as may be prescribed by law, save in accordance with the provisions of this section.

Power to  
conduct  
investiga-  
tions.

86.—(1) Subject to the provisions of this Constitution, each House of the National Assembly shall have power by resolution published in its journal or in the *Gazette* of the Government of the Federation to direct or cause to be directed an investigation into—

(a) any matter or thing with respect to which it has power to make laws; and

(b) the conduct of affairs of any person, authority, ministry or government department charged, or intended to be charged, with the duty of or responsibility for—

(i) executing or administering laws enacted by the National Assembly, and

(ii) disbursing or administering moneys appropriated or to be appropriated by the National Assembly.

(2) The powers conferred on the National Assembly under the provisions of this section are exercisable only for the purpose of enabling it—

(a) to make laws with respect to any matter within its legislative competence and to correct any defects in existing laws; and

(b) to prevent and expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

Powers as to  
matters of  
evidence.

87.—(1) For the purposes of any investigation under section 86 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with section 60 of this Constitution shall have power—

(a) to procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and to examine all persons as witnesses whose evidence may be material or relevant to the subject matter ;

(b) to require such evidence to be given on oath ;

(c) to summon any person in Nigeria to give evidence at any place or to produce any document or other thing in his possession or under his control, and to examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions ; and

(d) to issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House or the committee in question, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons, and also to impose such fine as may be prescribed for any such failure, refusal or neglect ; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law.

(2) A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the President of the Senate or the Speaker of the House of Representatives, as the case may require.

## PART II

### HOUSE OF ASSEMBLY OF A STATE

#### *A—Composition and Staff of House of Assembly*

88. There shall be a House of Assembly for each of the States of the Federation.

Establishment of House of Assembly for each State.

89. Subject to the provisions of this Constitution, a House of Assembly of a State shall consist of two times the total number of seats which that State has in the House of Representatives, and the members of a House of Assembly shall be elected on part-time basis in accordance with the provisions of this Constitution.

Composition of House of Assembly.

90.—(1) There shall be a Speaker and a Deputy Speaker of a House of Assembly who shall be selected by the members of the House from among themselves.

Speaker of House of Assembly.

(2) The Speaker or Deputy Speaker of the House of Assembly shall vacate his office—

(a) if he ceases to be a member of the House of Assembly otherwise than by reason of the dissolution of the House ;

(b) when the House of which he was a member first sits after any dissolution of the House ; or

(c) if he is removed from office by a resolution of the House of Assembly by the votes of not less than two-thirds majority of the members of the House.

91. There shall be a Clerk to a House of Assembly and such other staff as may be prescribed by a Law enacted by the House of Assembly, and the method of appointment of the Clerk and other staff of the House shall be as prescribed by that Law.

Staff of House of Assembly.

*B—Procedure for Summoning and Dissolution of House of Assembly*

Declaration  
of assets and  
liabilities :  
oaths of  
members.  
Seventh  
Schedule.

92.—(1) Every person elected to a House of Assembly shall, before taking his seat, declare his assets and liabilities in the manner prescribed in this Constitution and subsequently take and subscribe before the Speaker of the House, the Oath of Allegiance and the Oath of Membership prescribed in the Seventh Schedule to this Constitution, but a member may before taking the oaths take part in the election of the Speaker and Deputy Speaker of the House of Assembly.

(2) The Speaker and Deputy Speaker of a House of Assembly shall declare their assets and liabilities in the manner prescribed by this Constitution and subsequently take and subscribe the Oath of Allegiance and the Oath of Membership prescribed as aforesaid before the Clerk of the House of Assembly.

Presiding at  
Sittings.

93.—(1) At any sitting of a House of Assembly, the Speaker of that House shall preside, and in his absence the Deputy Speaker shall preside.

(2) In the absence of the Speaker and the Deputy Speaker of the House such member of the House as the House may elect for that purpose shall preside.

Quorum.

94. The quorum of a House of Assembly shall be one-half of all the members of the House.

Languages.

95. The business of a House of Assembly shall be conducted in English, but the House may in addition to English conduct the business of the House in one or more other languages spoken in the State as the House may by resolution approve.

Voting.

96.—(1) Except as otherwise provided by this Constitution, any question proposed for decision in a House of Assembly 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) Except as otherwise provided by this Constitution, the required majority for the purpose of determining any question shall be a simple majority.

(3) A House of Assembly shall by its rules provide—

(a) that a member of the House shall declare any direct pecuniary interest he may have in any matter coming before the House for deliberation ;

(b) that the House may by resolution decide whether or not such member may vote, or participate in its deliberations, on such matter ;

(c) the penalty, if any, which the House may impose for failure to declare any direct pecuniary interest such member may have ; and

(d) for such other matters pertaining to the foregoing as the House may think necessary, but nothing in this subsection shall enable any rules to be made to require any member, who signifies his intentions not to vote on or participate in such matter, and who does not so vote or participate, to declare any such interest.

97. Any person who sits or votes in a House of Assembly of a State knowing or having reasonable grounds for knowing that he is not entitled to do so shall be guilty of an offence and shall upon conviction be liable to such punishment as shall be prescribed by Law of the House of Assembly of the State.

Unqualified persons sitting or voting : penalty.

98.—(1) The power of a House of Assembly to make laws shall be exercised by bills passed by the House of Assembly and, except as otherwise provided by this section, assented to by the Governor.

Mode of exercising legislative power of a State.

(2) A bill shall not become Law unless it has been duly passed and, subject to subsection (1) of this section, assented to in accordance with the provisions of this section.

(3) Where a bill has been passed by the House of Assembly it shall be presented to the Governor for assent.

(4) Where a bill is presented to the Governor for assent he shall within 30 days thereof signify that he assents or that he withholds assent.

(5) Where the Governor withholds assent and the bill is again passed by the House of Assembly by two-thirds majority, the bill shall become Law and the assent of the Governor shall not be required.

99. Subject to the provisions of this Constitution, a House of Assembly shall have power to regulate its own procedure, including the procedure for summoning and recess of the House.

Regulation of procedure.

100. A House of Assembly may act notwithstanding any vacancy in its membership, 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 such proceedings.

Vacancy not to invalidate proceedings.

101.—(1) A House of Assembly may appoint a committee of its members for any special or general purpose as in its opinion would be better regulated and managed by means of such a committee, and may by resolution, regulation or otherwise as it thinks fit delegate any functions exercisable by it to any such committee.

Committees.

(2) The number of members of a committee appointed under this section, their term of office and quorum shall be fixed by the House of Assembly.

(3) Nothing in this section shall be construed as authorising a House of Assembly to delegate to a committee the power to decide whether a bill shall be passed into Law or to determine any matter which it is empowered to determine by resolution under the provisions of this Constitution, but such a committee of the House may be authorised to make recommendations to the House on any such matter.

102. A House of Assembly shall sit for a period of not less than 161 days and not more than 181 days in a year.

Sittings.

103.—(1) A House of Assembly shall stand dissolved at the expiration of a period of 4 years commencing from the date of the first sitting of the House.

Dissolution and issue of proclamation by Governor.



(2) If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of 4 years mentioned in subsection (1) of this section from time to time but not beyond a period of 6 months at any one time.

(3) Subject to the provisions of this Constitution, the person elected as the Governor of a State shall have power to issue a proclamation for the holding of the first session of the State House Assembly concerned immediately after his being sworn in or for its dissolution as provided in this section.

*C—Qualifications for Membership of House of Assembly  
and Rights of Attendance*

Qualifications  
for election.

104. Subject to the provisions of section 105 of this Constitution, a person shall be qualified for election as a member of a House of Assembly if he is a citizen of Nigeria and has attained the age of 25 years and has been educated up to at least the School Certificate level or its equivalent.

Disqualifica-  
tions.

105.—(1) No person shall be qualified for election to a House of Assembly if—

(a) he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;

(b) 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) he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment for an offence involving dishonesty (by whatever name called) imposed on him by such a court or substituted by a competent authority for any other sentence imposed on him by such a court;

(d) he has been convicted and sentenced by a court of law or tribunal established by law for an offence involving dishonesty or he has been found guilty of a contravention of the Code of Conduct;

(e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt, under any law in force in any part of Nigeria;

(f) he is a person employed in the public service of the Federation or of any State; or

(g) he is a member of any secret society.

(2) Where in respect of 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, any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier; and for the purposes of this subsection, an "appeal" includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

106.—(1) The Governor of a State shall address annually a meeting of the House of Assembly on the state of affairs of the State.

Attendance of Governor and Commissioners.

(2) The Governor of a State may attend a meeting of the House of Assembly of the State either to deliver an address on State affairs or to make such statement on the policy of government as he may consider to be of importance to the State.

(3) A Commissioner of the Government of a State shall attend the House of Assembly of the State if invited to explain to the House the conduct of his Ministry, and in particular when the affairs of that ministry are under discussion.

(4) Nothing in this section shall enable any person who is not a member of a House of Assembly to vote in that House or in any of its committees.

107.—(1) A member of a House of Assembly shall vacate his seat in the House if—

Tenure of seat of members.

(a) he becomes a member of another legislative house ;

(b) any other circumstances arise that, if he were not a member of that House, would cause him to be disqualified for election as such a member ;

(c) he ceases to be a citizen of Nigeria ;

(d) he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State, Chairman or Councillor of a Local Government Council ;

(e) save as otherwise provided by this Constitution, he becomes a member of a Commission or other body established by this Constitution or by any other law ;

(f) without just cause, he is absent from meetings of the House of Assembly for a period amounting in the aggregate to more than one-sixth of the total number of days during which the House meets in any one year ;

(g) being a person whose election to the House of Assembly was sponsored by one political party, he resigns from that political party or he becomes a member of the other political party before the expiration of the period for which that House was elected ;

(h) he becomes a member of a secret society ; or

(i) the Speaker of the House of Assembly receives a certificate under the hand of the Chairman of the National Electoral Commission stating that the provisions of section 109 of this Constitution have been complied with in respect of the recall of that member.

(2) The Speaker of the House of Assembly shall give effect to subsection (1) of this section, so however that the Speaker or a member shall first present evidence satisfactory to the House that any of the provisions of that subsection has become applicable in respect of that member.

(3) A member of a House of Assembly shall be deemed to be absent without just cause from a meeting of the House of Assembly unless the person presiding certifies in writing that he is satisfied that the absence of the member from the meeting was for a just cause.

Remuneration.

108.—(1) A member of the House of Assembly shall receive sitting allowance and such other allowances as the National Revenue Mobilisation Allocation and Fiscal Commission may recommend.

(2) A member of the House of Assembly shall be paid for only the number of days he sits.

Recall.

109. A member of the House of Assembly may be recalled as such a member if—

(a) there is presented to the Chairman of the National Electoral Commission a petition in that behalf signed by more than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member ; and

(b) the petition is thereafter in a referendum conducted by the National Electoral Commission, within 90 days of the date of the receipt of the petition, approved by a simple majority of the votes of the persons registered to vote in that member's constituency.

*D—Elections to a House of Assembly*

State constituencies.

110. Subject to the provisions of section 111 of this Constitution, the National Electoral Commission shall divide every State in the Federation into such number of State constituencies as is equal to two times the number of Federal constituencies within that State.

Size of State Constituencies

111. Each State constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

Periodical review of State constituencies.

112.—(1) The National Electoral Commission shall review the division of every State into constituencies at intervals of not less than 10 years, and may alter such constituencies in accordance with the provisions of this section to such extent as it may consider desirable in the light of the review.

(2) The National Electoral Commission 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 alteration of the boundaries of the State or by reason of the holding of a census of the population of Nigeria in pursuance of an Act of the National Assembly or in consequence of any amendment to section 3 of this Constitution or any provisions replacing that section.

Time when alteration of State constituencies takes effect.

113. Where the boundaries of any State constituency established under section 110 of this Constitution are altered in accordance with the provisions of section 112 of this Constitution, that alteration shall come into effect after it has been approved by each House of the National Assembly and after the current life of the House of Assembly of the State.

Time of election to House of Assembly.

114.—(1) Elections to a House of Assembly shall be held on a date to be appointed by the National Electoral Commission.

(2) The date mentioned in subsection (1) of this section shall not be earlier than 60 days before and not later than the date on which the House

of Assembly stands dissolved, or where the election is to fill a vacancy occurring more than 90 days before such date not later than 30 days after the vacancy occurred.

**115.—**(1) Subject to the provisions of this Constitution, every State constituency established in accordance with the provisions of this Part shall return one member who shall be directly elected to a House of Assembly as may be prescribed by an Act of the National Assembly.

Direct  
election and  
franchise.

(2) Every citizen of Nigeria, who has attained the age of 18 years residing in Nigeria at the time of the registration of voters for purposes of election to any legislative house, shall be entitled to be registered as a voter for that election.

**116.** The registration of voters and the conduct of elections shall be subject to the direction and supervision of the National Electoral Commission.

Supervision  
of election.

**117.** The National Assembly shall make provisions as respects—

Power of  
National  
Assembly as  
to determina-  
tion of certain  
questions.

(a) persons who may apply to an election tribunal for the determination of any question as to whether—

(i) any person has been validly elected to the office of Governor or Deputy Governor,

(ii) any person has been validly elected as a member of a House of Assembly,

(iii) the term of office of any person has ceased, and

(iv) the seat in the House of Assembly of a member of that House has become vacant ;

(b) circumstances and manner in which, and the conditions upon which such application may be made ; and

(c) powers, practice and procedure of the election tribunals in relation to any such application.

#### *E—Powers and Control over Public Funds*

**118.—**(1) All revenues or other moneys raised or received by a State (not being revenues or other moneys payable under this Constitution or any Law of a House of Assembly into any other public fund of the State established for a specific purpose) shall be paid into and form one Consolidated Revenue Fund of the State.

Establish-  
ment of  
Consolidated  
Revenue  
Fund.

(2) No moneys shall be withdrawn from the Consolidated Revenue Fund of the State except to meet expenditure that is charged upon the Fund by this Constitution or where the issue of those moneys has been authorised by an Appropriation Law, Supplementary Appropriation Law or Law passed in pursuance of section 119 of this Constitution.

(3) No moneys shall be withdrawn from any public fund of the State other than the Consolidated Revenue Fund of the State unless the issue of those moneys has been authorised by Law of the House of Assembly of the State.

(4) No moneys shall be withdrawn from the Consolidated Revenue Fund of the State or any other public fund of the State except as prescribed by the House of Assembly.



Authorisation  
of expenditure  
from  
Consolidated  
Revenue  
Fund.

119.—(1) The Governor shall cause to be prepared and laid before the House of Assembly not later than 60 days before the expiration of each financial year estimates of the revenue and expenditure of the State for the following financial year.

(2) The heads of expenditure contained in the estimates, other than expenditure charged upon the Consolidated Revenue Fund of the State by this Constitution, shall be included in a bill to be known as an Appropriation Bill, providing for the issue from the Consolidated Revenue Fund of the State 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 Law for any purpose is insufficient; or

(b) that a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Law, a supplementary estimate showing the sums required shall be laid before the House of Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

Authorisation  
of expenditure  
in  
default of  
appropriation.

120. If the Appropriation Bill in respect of any financial year has not been passed into Law by the beginning of the financial year, the Governor may authorise the withdrawal of moneys from the Consolidated Revenue Fund of the State for the purpose of meeting expenditure necessary to carry on the services of the government for a period not exceeding 3 months or until the coming into operation of the Law, whichever is the earlier :

Provided that the withdrawal in respect of any such period shall not exceed the amount authorised to be withdrawn from the Consolidated Revenue Fund of the State under the provisions of the Appropriation Law passed by the House of Assembly for the corresponding period in the immediately preceding financial year, being an amount proportionate to the total amount so authorised for the immediately preceding financial year.

Contingencies  
Fund.

121.—(1) A House of Assembly may by Law make provisions for the establishment of a Contingencies Fund for the State and for authorising the Governor, 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 the provisions of this section, a Supplementary Estimate shall be presented and a Supplementary Appropriation Bill shall be introduced within 30 days for the purpose of replacing the amount so advanced.

Remuneration  
of the  
Governor and  
certain other  
officers.

122.—(1) There shall be paid to the holders of the offices mentioned in this section such salaries and allowances as may be prescribed by a House of Assembly but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

(2) The salaries and allowances payable to the holders of the offices so mentioned shall be charged upon the Consolidated Revenue Fund of the State.

(3) The salaries payable to the holders of the said offices and their conditions of service other than allowances shall not be altered to their disadvantage after their appointment.

(4) The offices aforesaid are the offices of Governor, Deputy Governor, Chief Judge of a State and Judge of the High Court of a State, Grand Kadi and Kadi of the Sharia Court of Appeal of a State, President and Judge of the Customary Court of Appeal of a State, the Auditor-General of a State, Auditor-General of the Local Government Councils of a State and Chairmen and members of the following bodies, that is to say, the State Civil Service Commission, the State Judicial Service Commission and the State Local Government Service Commission.

(5) Provisions may be made by a Law of a House of Assembly for the grant of a pension or gratuity to or in respect of a person who has held office as Governor or Deputy Governor and was not removed from office as a result of impeachment; and any pension or gratuity granted by virtue of any provision made in pursuance of this subsection shall be a charge upon the Consolidated Revenue Fund of the State.

(6) The recurrent expenditure of judicial offices of the State (in addition to salaries and allowances of the judicial officers mentioned in subsection (4) of this section) shall be a charge upon the Consolidated Revenue Fund of the State.

123.—(1) There shall be an Auditor-General for each State, and an Auditor-General for the Local Governments of a State who shall be appointed in accordance with the provisions of section 124 of this Constitution.

Audit of  
public  
accounts.

(2) The public accounts of a State and of all offices and courts of the State shall be audited by the Auditor-General of the State who shall submit his reports to the House of Assembly of the State concerned; and for that purpose the Auditor-General or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to these accounts.

(3) The public accounts of a Local Governments Council and of all offices of the Local Government shall be audited by the Auditor-General of the Local Governments of the State who shall submit his report to the House of Assembly of the State concerned; and for that purpose the Auditor-General or any person authorised by him in that behalf shall have access to all books records, returns and other documents relating to these accounts.

(4) Nothing in subsection (2) of this section shall be construed as authorising the Auditor-General to audit the accounts of or appoint auditors for government statutory corporations, commissions, authorities, agencies including all persons and bodies established by Law but the Auditor-General may—

(a) provide such bodies with—

(i) a list of auditors qualified to be appointed by them as external auditors, and from which the bodies shall appoint their external auditors, and

(ii) a guideline on the level of fees to be paid to external auditors;

(b) comment on their annual accounts and auditor's reports thereon.

(5) The Auditor-General of a State and the Auditor-General of the Local Governments of a State shall within 90 days of receipt of the Accountant-General's Financial Statement and annual Accounts of the Local

Government Councils submit his reports to the House of Assembly of the State and the House shall cause the reports to be considered by a committee of the House responsible for public accounts.

(6) In the exercise of his functions under this Constitution, the Auditor-General of a State and the Auditor-General of the Local Government of a State shall not be subject to the direction or control of any other authority or person.

Appointment  
of Auditor-  
General of  
a State.

124.—(1) The Auditor-General of a State and the Auditor-General for the Local Governments of a State shall be appointed by the Governor of the State on the recommendation of the State Civil Service Commission subject to confirmation by the House of Assembly of the State.

(2) Power to appoint persons to act in the office of the Auditor-General shall vest in the Governor.

(3) Except with the sanction of a resolution of the House of Assembly of a State, no person shall act in the office of the Auditor-General for a period exceeding 6 months.

Tenure of  
office of  
Auditor-  
General.

125.—(1) A person holding the office of the Auditor-General under subsection (1) of section 124 of this Constitution shall be removed from office by the Governor of the State acting on an address supported by two-thirds majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) The Auditor-General shall not be removed from office before such retiring age as may be prescribed by law, save in accordance with the provisions of this section.

Power to  
conduct  
investiga-  
tions.

126.—(1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the *Gazette* of the Government of the State to direct or cause to be directed an inquiry or investigation into—

(a) any matter or thing with respect to which it has power to make laws; and

(b) the conduct of affairs of any person, authority, Ministry or government department charged, or intended to be charged, with the duty of or responsibility for—

(i) executing or administering laws enacted by that House of Assembly, and

(ii) disbursing or administering moneys appropriated or to be appropriated by such House.

(2) The powers conferred on a House of Assembly under the provisions of this section are exercisable only for the purpose of enabling the House—

(a) to make laws with respect to any matter within its legislative competence and to correct any defects in existing laws; and

(b) to prevent and expose corruption, inefficiency or waste in the execution or administration of laws within its legislative competence and in the disbursement or administration of funds appropriated by it.

127.—(1) For the purposes of any investigation under section 126 of this Constitution and subject to the provisions thereof, a House of Assembly or a committee appointed in accordance with section 101 of this Constitution shall have power—

Power as to matters of evidence.

(a) to procure all such evidence, written or oral, direct or circumstantial, as it may think necessary or desirable, and to examine all persons as witnesses whose evidence may be material or relevant to the subject-matter;

(b) to require such evidence to be given on oath ;

(c) to summon any person in Nigeria to give evidence at any place or to produce any document or other thing in his possession or under his control, and to examine him as a witness and require him to produce any document or other thing in his possession or under his control, subject to all just exceptions ; and

(d) to issue a warrant to compel the attendance of any person who, after having been summoned to attend, fails, refuses or neglects to do so and does not excuse such failure, refusal or neglect to the satisfaction of the House of Assembly or the committee, and to order him to pay all costs which may have been occasioned in compelling his attendance or by reason of his failure, refusal or neglect to obey the summons, and also to impose such fine as may be prescribed for any such failure, refusal or neglect ; and any fine so imposed shall be recoverable in the same manner as a fine imposed by a court of law.

(2) A summons or warrant issued under this section may be served or executed by any member of the Nigeria Police Force or by any person authorised in that behalf by the Speaker of the House of Assembly of the State.

## CHAPTER VI

### THE EXECUTIVE

#### PART I

#### FEDERAL EXECUTIVE

#### *A—The President of the Federation*

128.—(1) There shall be for the Federation a President.

Establishment of the office of President.

(2) The President shall be the Head of State, the Chief Executive of the Federation and Commander-in-Chief of the Armed Forces of the Federation.

129. A person shall be qualified for election to the office of President if—

Qualification for election as President.

(a) he is a citizen of Nigeria by birth ; and

(b) he has attained the age of 35 years.

130.—(1) An election to the office of President shall be held on a date to be appointed by the National Electoral Commission.

Election of President : general.

(2) An election to the said office shall be held on a date not earlier than 90 days and not later than 60 days before the expiration of the term of office of the last holder of that office.



(3) Where in an election to the office of President—

(a) at the close of nomination only one candidate has been nominated, the National Electoral Commission shall extend the time for nomination ; or

(b) at the close of nomination one of the two candidates nominated for the election is the only candidate by reason of disqualification, withdrawal, incapacitation, disappearance or death of the other candidate, the National Electoral Commission shall extend the time for nomination, so however that where after the extension only one candidate remains validly nominated there shall be no further extension and section 131 of this Constitution shall apply.

(4) For the purpose of an election to the office of President, the whole country shall be regarded as one constituency.

(5) Every person who is registered to vote at an election of a member of a legislative house shall be entitled to vote at an election to the office of President.

Election :  
single  
candidate.

131. A candidate for an election to the office of President shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election—

(a) he has a majority of "Yes" votes over "No" votes cast at the election ; and

(b) he has not less than one-third of the votes cast at the election in each of at least two-thirds of all the States in the Federation, but where the only candidate fails to be elected in accordance with this section, then there shall be fresh nominations.

Election :  
more than  
one candi-  
date.

132.—(1) A candidate for an election to the office of President shall be deemed to have been duly elected where, there being two candidates for the election—

(a) he has a majority of votes cast at the election ; and

(b) he has not less than one-third of the votes cast at the election in each of at least two-thirds of all the States of the Federation.

(2) In default of a candidate duly elected under subsection (1) of this section, the National Electoral Commission shall within 7 days of the result of the election arrange for another election between the two candidates and a candidate at such election shall be deemed to have been duly elected to the office of President if—

(a) he has a majority of the votes cast at the election ; and

(b) he has not less than one-third of the votes cast at the election in each of a majority of all the States of the Federation.

(3) In default of a candidate duly elected under subsection (2) of this section, the National Electoral Commission shall within 7 days of the result of the election constitute an electoral college consisting of all the members of the National and State Assemblies sitting in their respective legislative houses and voting on the same day, and a candidate shall be deemed to have been duly elected to the office of President if he has a simple majority of the votes cast by all the members of the National and State Assemblies present and voting.

(4) In the event of an equality of votes following election by an electoral college under subsection (3) of this section, another election or further elections shall be conducted by the electoral college until the emergence of a candidate elected as provided in subsection (3) of this section.

133. For the purposes of sections 131 (b), 132 (1) (b) and (2) (b) of this Constitution, where the computation of two-thirds of all the States of the Federation or one-third of the votes cast in a State, as the case may be, results in a fraction, the figure obtained shall be rounded up to the next higher whole number.

Computations of fractions in certain cases.

134.—(1) Subject to the provisions of this Constitution, a person shall hold the office of President until—

Tenure of office of President.

(a) when his successor in office takes the oath of that office ;

(b) he dies whilst holding such office ;

(c) the date when his resignation from office takes effect ; or

(d) he otherwise ceases to hold office in accordance with the provisions of this Constitution.

(2) Subject to the provisions of subsection (1) of this section, the President shall vacate his office at the expiration of a period of 4 years commencing from the date, when—

(a) in the case of a person first elected as President under this Constitution, he took the Oath of Allegiance and the Oath of Office ; and

(b) in any other case, the person last elected to that office under this Constitution took the Oath of Allegiance and the Oath of Office or would but for his death, have taken such oaths.

(3) If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of 4 years mentioned in subsection (2) of this section from time to time ; but no such extension shall exceed a period of 6 months at any one time.

135. If a person duly elected as President dies before taking and subscribing the Oath of Allegiance and Oath of Office, the person elected with him as Vice-President shall be sworn in as President and a new Vice-President shall be appointed as provided under section 143 (3) of this Constitution.

Death of President-elect before Oath of office.

136.—(1) A person shall not be qualified for election to the office of President if—

Disqualifications.

(a) he has not been educated up to at least the School Certificate level or its equivalent ;

(b) he does any act, acquires any status or suffers any disability which, if he were a member of the Senate, would have disqualified him from membership of that House ; or

(c) he had been elected to such office at any 2 previous elections.

(2) The President shall not, during his tenure of office, hold any other executive office or paid employment in any capacity whatsoever.

Declaration  
of assets and  
liabilities :  
Oaths of  
President.  
Seventh  
Schedule.

137.—(1) A person elected to the office of President shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed to the Oath of Allegiance and the Oath of Office as prescribed in the Seventh Schedule to this Constitution.

(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 that office.

Establish-  
ment of the  
office of  
Vice-Presi-  
dent.

138. There shall be for the Federation a Vice-President.

Nomination  
and election  
of Vice-  
President.

139.—(1) In any election to which the foregoing provisions of this Part of this Chapter relate, a candidate for an election to the office of President shall not be deemed to be validly nominated unless he nominates another candidate as his associate for his running for the office of President, who is to occupy the office of Vice-President ; and that candidate shall be deemed to have been duly elected to the office of Vice-President if the candidate for an election to the office of President who nominated him as such associate is duly elected as President in accordance with the provisions aforesaid.

(2) The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualifications, declaration of assets and liabilities and oaths of President shall apply in relation to the office of Vice-President as if references to President were references to Vice-President.

Removal of  
President  
or Vice-  
President  
from office.

140.—(1) The President or Vice-President may be removed from office in accordance with the provisions of this section.

(2) Whenever a notice of any allegation in writing signed by not less than one-third of the members of the National Assembly—

(a) is presented to the President of the Senate ;

(b) stating that the holder of the office of President or Vice-President is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified, the President of the Senate shall within 7 days of the receipt of the notice cause a copy thereof to be served on the holder of the office and on each member of the National Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the National Assembly.

(3) Within 14 days of the presentation of the notice to the President of the Senate (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) each House of the National Assembly shall resolve by motion without any debate whether or not the allegation shall be investigated.

(4) A motion of the National Assembly that the allegation be investigated shall not be declared as having been passed, unless it is supported by the votes of not less than two-thirds majority of all the members of each House of the National Assembly.

(5) Within 7 days of the passing of a motion under the foregoing provisions, the Chief Justice of Nigeria shall at the request of the President of the Senate appoint a Panel of 7 persons who in his opinion are of unquestionable integrity, not being members of any public service, legislative house or political party, to investigate the allegation as provided in this section.

(6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person and be represented before the Panel by a legal practitioner of his own choice.

(7) A Panel appointed under this section shall—

(a) have such powers and exercise its functions in accordance with such procedure as may be prescribed by the National Assembly ; and

(b) within 3 months of its appointment report its findings to each House of the National Assembly.

(8) Where the Panel reports to each House of the National Assembly that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.

(9) Where the report of the Panel is that the allegation against the holder of the office has been proved, then within 14 days of the receipt of the report, each House of the National Assembly shall consider the report, and if by a resolution of each House of the National Assembly supported by not less than two-thirds majority of all its members, the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.

(10) No proceedings or determination of the Panel or of the National Assembly or any matter relating thereto shall be entertained or questioned in any court.

(11) In this section, "gross misconduct" means a grave violation of the Oath of Office or grave breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the National Assembly to gross misconduct.

141.—(1) The President or Vice-President shall cease to hold office, if—

(a) by a resolution passed by two-thirds majority of all the members of the executive council of the Federation, it is declared that the President or Vice-President is incapable of discharging the functions of his office ; and

Permanent  
incapacity  
of President  
or Vice-  
President.



(b) the declaration is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the President of the Senate and the Speaker of the House of Representatives.

(2) Where the medical panel certifies in the report that in its opinion the President or Vice-President is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the President of the Senate and the Speaker of the House of Representatives shall be published in the *Gazette* of the Government of the Federation.

(3) The President or Vice-President shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel to which this section relates shall be appointed by the President of the Senate, and shall comprise 5 medical practitioners in Nigeria—

(a) one of whom shall be the personal physician of the holder of the office concerned ; and

(b) 4 other medical practitioners who have, in the opinion of the President of the Senate, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions.

(5) In this section, the reference to “executive council of the Federation” is a reference to the body of Ministers of the Government of the Federation, howsoever called, established by the President and charged with such responsibilities for the functions of government as the President may direct.

Acting  
President  
during  
temporary  
absence of  
President.

142. Whenever the President transmits to the President of the Senate and the Speaker of the House of Representatives a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office, until he transmits to them a written declaration to the contrary, such functions shall be discharged by the Vice-President as Acting President.

Discharge  
of functions  
of President.

143.—(1) The Vice-President shall hold the office of President if the office of President becomes vacant by reason of death or resignation or the removal of the President from office in accordance with section 140 or 141 of this Constitution.

(2) Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-President is also vacant, the President of the Senate shall hold the office of President for a period of not more than 3 months, during which there shall be an election of a new President, who shall hold office as provided for in section 134 (2) of this Constitution.

(3) Where the office of Vice-President becomes vacant—

(a) by reason of death or resignation or removal in accordance with section 140 or 141 of this Constitution ; or

(b) by his assumption of the office of President in accordance with subsection (1) of this section ; or

(c) for any other reason,  
the President shall nominate and, with the approval of each House of the National Assembly, appoint a new Vice-President.

144.—(1) There shall be such offices of Ministers of the Government of the Federation as may be established by the President.

Ministers of  
Federal  
Government.

(2) Any appointment to the office of Minister of the Government of the Federation shall, if the nomination of any person to such office is confirmed by the Senate, be made by the President.

(3) Any appointment under subsection (2) of this section by the President shall be in conformity with the provisions of section 15 (3) of this Constitution :

Provided that in giving effect to the provisions aforesaid, the President shall appoint at least one Minister from each State, who shall be an indigene of such State.

(4) Where a member of the National Assembly or of a House of Assembly is appointed as Minister of the Government of the Federation, he shall be deemed to have resigned his membership of the National Assembly or of the House of Assembly on his taking the Oath of Office as Minister.

(5) No person shall be appointed as a Minister of the Government of the Federation unless he is qualified for election as a member of the House of Representatives.

145.—(1) The President shall assign to the Vice-President specific responsibility for any business of the Government of the Federation.

Executive  
responsibilities  
of Vice-  
President  
and  
Ministers.

(2) The President, may in his discretion, assign to any 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.

(3) The President shall hold regular meetings with the Vice-President and all the Ministers of the Government of the Federation for the purpose of—

(a) determining the general direction of domestic and foreign policies of the Government of the Federation ;

(b) co-ordinating the activities of the President, the Vice-President and the Ministers of the Government of the Federation in the discharge of their executive responsibilities; and

(c) advising the President generally in the discharge of his executive functions other than those functions with respect to which he is required by this Constitution to seek the advice or act on the recommendation of any other person or body.

146. A Minister of the Government of the Federation shall not enter upon the duties of his office, unless he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Oath of Office of Minister prescribed in the Seventh Schedule to this Constitution.

Declaration  
of assets  
and liabilities :  
Oaths  
of Ministers.  
Seventh  
Schedule.

147.—(1) There shall be an Attorney-General of the Federation who shall be the Chief Law Officer and a Minister of the Government of the Federation.

Attorney-  
General of  
the Federa-  
tion.

Special  
Advisers.

(2) A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of the Federation, unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years.

148.—(1) The President may appoint any person as a Special Adviser to assist him in the performance of his functions.

(2) The number of such Advisers shall not exceed 3 whatsoever and their remuneration and allowances shall be as prescribed by law or by resolution of the National Assembly but not exceeding the amount as shall have been determined by the Revenue Mobilisation Allocation and Fiscal Commission.

(3) Any appointment made pursuant to the provisions of this section shall be at the pleasure of the President and shall cease when the President ceases to hold office.

(4) No person shall be appointed as a Special Adviser unless he is qualified for election as a member of the House of Representatives.

Declaration  
of assets  
and liabilities—Oaths  
of Special  
Advisers.  
Seventh  
Schedule.

149.—A person appointed as a Special Adviser under section 148 of this Constitution shall not begin to perform the functions of his office until he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Oath of office prescribed in the Seventh Schedule to this Constitution.

Composition  
of  
governing  
bodies of  
statutory  
corporations  
and bodies.

150. In appointing Chairmen and members of boards and governing bodies of statutory corporations and companies in which the government of the Federation has controlling shares or interest and of councils of universities, colleges and other institutions of higher learning, the President shall have regard to the provisions of section 15 (3) of this Constitution.

*B—Establishment of Certain Federal Executive Bodies*

Federal  
Commissions  
and Councils.

151.—(1) There shall be established for the Federation the following bodies namely—

- (a) Code of Conduct Bureau;
- (b) Council of State;
- (c) Federal Civil Service Commission;
- (d) Federal Judicial Service Commission;
- (e) National Boundaries Commission;
- (f) National Defence Council;
- (g) National Economic Council;
- (h) National Electoral Commission;
- (i) National Population Commission;
- (j) National Primary Education Commission;
- (k) Revenue Mobilisation Allocation and Fiscal Commission;
- (l) National Security Council;
- (m) Nigeria Police Council; and
- (n) Public Complaints Commission.

Part I,  
Third  
Schedule.

(2) The composition and powers of each body established by subsection (1) of this section are as contained in Part I of the Third Schedule to this Constitution.

(3) Within one year of assuming office, the President shall ensure that bodies established by subsection (1) of this section are constituted and made functional.

152. All Chairmen and members of the bodies so established shall be appointed by the President.

Appointment of Chairman and members.

153.—(1) A person who is a member of any of the bodies established as aforesaid shall, subject to the provisions of this Part, remain a member thereof—

Tenure of office of members.

(a) in the case of an *ex officio* member, whilst he holds the office by virtue of which he is a member of the body ;

(b) in the case of a person who is a member by virtue of his having previously held an office, for the duration of his life ; and

(c) in the case of a person who is a member otherwise than as an *ex officio* member or otherwise than by virtue of his having previously held an office, for a period of 5 years from the date of his appointment.

(2) A member of any of the bodies shall cease to be a member if any circumstances arise that, if he were not a member of the body, would cause him to be disqualified for appointment as such a member.

154.—(1) No person shall be qualified for appointment as a member of any of the bodies aforesaid if—

Qualification for membership.

(a) he is not qualified or if he is disqualified for election as a member of the House of Representatives ;

(b) he has been removed as a member of any of the bodies or as the holder of any other office on the ground of misconduct determined by a court of law, a tribunal set up by law or an administrative panel of enquiry.

(2) Any person employed in the public service of the Federation or of a State shall not be disqualified for appointment as Chairman or member of any of such bodies :

Provided that where such person has been duly appointed he shall, on his appointment, be deemed to have resigned or where appropriate withdrawn or retired from his former office as from the date of the appointment.

(3) No person shall be qualified for appointment to any of the bodies aforesaid if, having previously been appointed as a member otherwise than as an *ex officio* member of the body, he has been re-appointed for a further term as a member of the same body.

155.—(1) Subject to the provisions of subsection (3) of this section, and save in the case of *ex officio* Chairmen and members whose removal is provided for elsewhere in this Constitution, a person holding any of the offices to which this section applies may only be removed from that office by the President acting on an address supported by two-thirds majority of the Senate praying that the person be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Removal of members.

(2) This section applies to the offices of the Chairmen and members of the Code of Conduct Bureau, Council of State, Federal Civil Service Commission, Federal Judicial Service Commission, National Electoral



Commission, National Population Commission, Revenue Mobilisation Allocation and Fiscal Commission, Nigeria Police Council and Public Complaints Commission.

(3) The Chairman and members of the National Population Commission shall cease to hold their offices if the President declares a national census report unreliable and the report is rejected in accordance with section 211 of this Constitution.

Independence of certain bodies.

156.—(1) In exercising its power to make appointments or to exercise disciplinary control over persons, the Code of Conduct Bureau, the Federal Civil Service Commission, the Federal Judicial Service Commission, the National Electoral Commission, the Revenue Mobilisation Allocation and Fiscal Commission and the Public Complaints Commission shall not be subject to the direction or control of any other authority or person.

(2) The National Population Commission shall not be subject to the direction or control of any other authority or person—

(a) in appointing, training or arranging for the training of enumerators or other staff of the Commission to assist it in the conduct of any population census ;

(b) in deciding whether or not to accept or revise the return of any officer of the said Commission concerning the population census in any area or part of the Federation ;

(c) in carrying out the operation of conducting the census ; and

(d) in compiling its report of a national census for publication.

Quorum.

157. The quorum for a meeting of any of the bodies established by section 151 of this Constitution shall be not less than one-half of the total number of members of that body.

Powers and procedure.

158.—(1) Subject to subsection (2) of this section, any of the bodies established by section 151 of this Constitution may, with the approval of the President, by rules or otherwise regulate its own procedure or confer powers and impose duties on any officer or authority for the purpose of discharging its functions.

(2) In the exercise of any powers under subsection (1) of this section, any such body shall not confer powers or impose duties on any officer or authority of a State except with the approval of the Governor of the State.

Interpretation.

159. In this Part of this Chapter, unless the context otherwise requires—

(a) any reference to “*ex officio* member” shall be construed as a reference to a person who is a member by virtue of his holding or performing the functions of an office in the public service of the Federation ;

(b) “office” means an office in the public service of the Federation ; and

(c) any reference to “member” of a body established by section 151 of this Constitution shall be construed as including a reference to the Chairman of that body.

#### C—Public Revenue

“Federation Account” and “Local Government Account”.

160.—(1) The Federation shall maintain a special account to be called “the Federation Account” into which shall be paid all revenues collected by the Government of the Federation, except the proceeds of the personal income tax from the residents of the Federal Capital Territory, Abuja.

(2) Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State governments, and the Local Governments in each State, on such terms and in such manner as may be prescribed by the National Assembly.

(3) Any amount standing to the credit of the States in the Federation Account shall be distributed among the States on such terms and in such manner as may be prescribed by the National Assembly.

(4) Any amount standing to the credit of Local Governments in the Federation Account shall be allocated directly to the Local Governments concerned on such terms and in such manner as may be prescribed by the National Assembly.

(5) Each State Government and Local Governments in the State shall maintain a special account to be called "Local Governments Account" into which shall be paid such funds to be applied for joint purposes as may be prescribed by the State or the National Assembly.

(6) Each State shall pay to the Local Governments in its area of jurisdiction such proportion of its revenue (excluding the sums received from the Federation Account) on such terms and in such manner as may be prescribed by the National Assembly.

(7) The amount standing to the credit of the Local Governments in the Local Governments Account shall be distributed among the Local Governments on such terms and in such manner as may be prescribed by the House of Assembly of the State.

(8) The National Assembly and the House of Assembly of each State shall, in exercising their powers under subsections (2) to (7) of this section, act after considering the report of the Revenue Mobilisation Allocation and Fiscal Commission.

(9) For the purposes of subsection (1) of this section "revenue" means any income or return accruing to or derived by the Government of the Federation from any source and includes—

(a) any receipt, however described, arising from the operation of any law ;

(b) any return, however described, arising from or in respect of any property held by the Government of the Federation ;

(c) any return by way of interest on loans, and dividends in respect of shares or interest held by the Government of the Federation in any company or statutory body.

161. Where under an Act of the National Assembly, tax or duty is imposed in respect of any of the matters specified in item D of Part II of the Second Schedule to this Constitution, the net proceeds of such tax or duty shall be distributed among the States on the basis of derivation ; and accordingly—

(a) where such tax or duty is collected by the Government of a State or other authority of the State, the net proceeds shall be treated as part of the Consolidated Revenue Fund of that State ;

(b) where such tax or duty is collected by the Government of the Federation or other authority of the Federation, there shall be paid to each State at such times as the National Assembly may prescribe a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.

Allocation  
of other  
revenues.  
Item D,  
Part II,  
Second  
Schedule.

Federal  
grants-in-  
aid.

162.—(1) The Federation may make grants to a State or a Local Government to supplement the revenue of that State or Local Government in such sum and subject to such terms and conditions as may be prescribed by the National Assembly.

(2) The Federation may make external grants to a foreign State or any international body in furtherance of the foreign policy objectives of Nigeria in such sum and subject to such terms and conditions as may be prescribed by the National Assembly.

Cost of  
collection of  
certain  
duties.

163. Each State 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 for the purpose of collection of taxes or duties which are wholly or partly payable to the State pursuant to the provisions of this Part of this Chapter or of any Act of the National Assembly as is proportionate to the share of the proceeds of those taxes or duties received by the State in respect of that financial year.

Set-off.

164.—(1) Any payment that is required by this Part of this Chapter to be made by the Federation to a State may be set-off by the Federation in or towards payment of any sum that is due from that State to the Federation in respect of any loan made by the Federation to that State.

(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  
Consoli-  
dated Re-  
venue Fund.

165. Any payment that is required by this Part of this Chapter to be made by the Federation to a State shall be a charge upon the Consolidated Revenue Fund of the Federation and any payment that is so required to be made by a State to the Federation shall be a charge upon the Consolidated Revenue Fund of that State.

Provisions  
with regards  
to payment.

166.—(1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Auditor-General of the Federation :

Provided that a provisional payment may be made before the Auditor-General has given his certificate.

(2) The National Assembly may prescribe the time at and manner in which any payment falling to be made under this Part of this Chapter shall be effected and provide for the making of adjustments and provisional payments.

Establish-  
ment of  
Federal  
Civil  
Service.

*D—The Public Service of the Federation*

167. There shall be a Civil Service of the Federation.

168. Subject to the provisions of this Constitution, the Federal Civil Service Commission may, with the approval of the President and subject to such conditions as it may deem fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to any officer in the civil service of the Federation.

Federal Civil Service Commission : power of delegation.

169.—(1) Power to appoint persons to hold or act in the offices to which this section applies and to remove persons so appointed from any such office shall vest in the President.

Presidential appointments.

(2) The offices to which this section applies are, namely—

(a) Secretary to the Government of the Federation ;

(b) Ambassador, High Commissioner or other Principal Representative of Nigeria abroad ;

(c) Director-General in a Ministry or Head of any Extra Ministerial department of Government of the Federation, howsoever designated ; and

(d) any office on the personal staff of the President.

(3) An appointment to the office of Ambassador, High Commissioner or other Principal Representative of Nigeria abroad shall not have effect unless the appointment is confirmed by the Senate.

(4) In exercising his powers of appointment under this section, the President shall have regard to the federal character of Nigeria and the need to promote national unity.

(5) Any appointment made pursuant to the provisions of this section shall be at the pleasure of the President and shall cease when the President ceases to hold office.

170. A person in the public service of the Federation shall observe and conform to the Code of Conduct.

Code of Conduct.

171.—(1) Subject to the provisions of this Constitution, the right of a person in all the public service of the Federation to receive pension or gratuity shall be regulated by law.

Protection of pension rights.

(2) Any benefit to which a person is entitled in accordance with or under such law as is referred to in subsection (1) of this section shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law, including the Code of Conduct.

(3) Pensions in respect of service in the public service of the Federation shall not be taxed.

172.—(1) The Attorney-General of the Federation shall have power

Public prosecutions.

(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 the National Assembly ;

(b) to take over and continue any such criminal proceedings that may have been instituted by any other authority or person ; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.



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

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

(4) The Attorney-General of the Federation may confer a general or special authority upon the Attorney-General of a State to exercise, subject to such conditions and exceptions as he may think fit, any of the powers conferred upon him by subsection (1) of this section in relation to prosecution in that State and may vary or revoke any such authority.

Prerogative  
of mercy.

173.—(1) The President may—

(a) grant any person concerned with or convicted of any offence created by an Act of the National Assembly a pardon, either free or subject to lawful conditions ;

(b) grant to any person a respite, either for an 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) The powers of the President under subsection (1) of this section shall be exercised by him after consultation with the Council of State.

(3) The President, acting in accordance with the advice of the Council of State, may exercise his powers under subsection (1) of this section in relation to persons concerned with offences against naval, military or airforce law or convicted or sentenced by a court-martial.

## PART II

### STATE EXECUTIVE

#### *A—The Governor of a State*

Establish-  
ment of the  
office of  
Governor.

174.—(1) There shall be for each State of the Federation a Governor.

(2) The Governor of a State shall be the Chief Executive of that State.

Qualifi-  
cation for  
election as  
Governor.

175.—A person shall be qualified for election to the office of Governor if—

(a) he is a citizen of Nigeria by birth ; and

(b) he has attained the age of 30 years.

176.—(1) An election to the office of Governor shall be held on a date to be appointed by the National Electoral Commission.

Election of Governor : general.

(2) An election to the said office shall be held on a date not earlier than 90 days and not later than 60 days before the expiration of the term of office of the last holder of that office.

(3) Where in an election to the office of Governor—

(a) at the close of nomination only one candidate has been nominated, the National Electoral Commission shall extend the time for nomination ; or

(b) at the close of nomination one of the two candidates nominated for the election is the only candidate by reason of the disqualification, withdrawal, incapacitation, disappearance or death of the other candidate, the National Electoral Commission shall extend the time for nomination, so however that where after the extension only one candidate remains validly nominated there shall be no further extension and section 177 of this Constitution shall apply.

(4) For the purpose of an election under this section, a State shall be regarded as one constituency.

(5) Every person who is registered to vote at an election of a member of a legislative house shall be entitled to vote at an election to the office of Governor.

177. A candidate for an election to the office of Governor shall be deemed to have been duly elected to such office where, being the only candidate nominated for the election—

Election : single candidate.

(a) he has a majority of "Yes" votes over "No" votes cast at the election ; and

(b) he has not less than one-third of the votes cast at the election in each of at least two-thirds of all the Local Government Areas in the State, but where the only candidate fails to be elected in accordance with this subsection then there shall be fresh nominations.

178.—(1) A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected where, there being two candidates—

Election : more than one candidate.

(a) he has a majority of the votes cast at the election ; and

(b) he has not less than one-third of all the votes cast in each of at least two-thirds of all the Local Government Areas in the State.

(2) In default of a candidate duly elected under subsection (1) of this section, the National Electoral Commission shall within 7 days of the result of the election held under that subsection, arrange for an election between the two candidates and a candidate at such election shall be deemed to have been duly elected to the office of Governor of a State if—

(a) he has a majority of the votes cast at the election ; and

(b) he has not less than onethird of the votes cast at the election in each of a majority of all the Local Government Areas in the State.

(3) In default of a candidate duly elected under subsection (2) of this section, the National Electoral Commission shall within 7 days of the result of the election constitute an electoral college consisting of all the members of the House of Assembly of the State and Local Government Councils in

the State sitting and voting together in the House of Assembly and a candidate shall be deemed to have been duly elected to the office of Governor if he has a simple majority of the votes cast by all members of the House of Assembly and the Local Government Councils present and voting.

(4) In the event of an equality of votes following an election by an electoral college under subsection (3) of this section, another or further elections shall be conducted by the electoral college until the emergence of a candidate elected as provided in subsection (3) of this section.

Computation  
of fractions  
in certain  
cases.

179.—For the purposes of sections 177 (b), 178 (1) (b) and (2) (b) of this Constitution, where the computation of two-thirds of all the Local Government Areas of a State or one-half of the votes cast, as the case may be, results in a fraction, the figure obtained shall be rounded up to the next higher whole number.

Tenure of  
office of  
Governor.

180.—(1) Subject to the provisions of this Constitution, a person shall hold the office of Governor until—

- (a) when his successor in office takes the Oath of that office ;
- (b) he dies whilst holding such office ;
- (c) the date when his resignation from office takes effect ; or
- (d) he otherwise ceases to hold office in accordance with the provisions of this Constitution.

(2) Subject to the provisions of subsection (1) of this section, the Governor shall vacate his office at the expiration of a period of 4 years commencing from the date when—

- (a) in the case of a person first elected as Governor under this Constitution, he took the Oath of Allegiance and the Oath of Office ; and
- (b) the person last elected to that office took the Oath of Allegiance and the Oath of Office or would, but for his death, have taken such Oaths.

(3) If the Federation is at war in which the territory of Nigeria is physically involved and the President considers that it is not practicable to hold elections, the National Assembly may by resolution extend the period of 4 years mentioned in subsection (2) of this section from time to time ; but no such extension shall exceed a period of 6 months at any one time.

Death of  
Governor  
elect before  
Oath of  
Office.

181. If a person duly elected as Governor dies before taking and subscribing the Oath of Allegiance and Oath of Office, the person elected with him as Deputy Governor shall be sworn in as Governor and a new Deputy Governor shall be appointed under section 189 (3) of this Constitution.

Disqualifi-  
cations.

182.—(1) A person shall not be qualified for election to the office of Governor if—

- (a) he has not been educated up to at least the School Certificate level or its equivalent ;
- (b) he does any act, acquires any status or suffers any disability which, if he were a member of the Senate, would have disqualified him from membership of the Senate ; and
- (c) he has been elected to such office at any 2 previous elections.

(2) A Governor shall not, during his tenure of office, hold any other executive office or paid employment in any capacity whatsoever.

**183.—**(1) A person elected to the office of Governor of a State shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Oath of Office prescribed in the Seventh Schedule to this Constitution.

Declaration  
of assets  
and liabilities  
: oaths  
of Governor.  
Seventh  
Schedule.

(2) The oaths aforesaid shall be administered by the Chief Judge of the State and in his absence the Grand Kadi of the Sharia Court of Appeal of the State, if any, or the President of the Customary Court of Appeal of the State, if any, or the person for the time being respectively appointed to exercise the functions of any of those offices in that State.

**184.** There shall be for each State of the Federation a Deputy Governor.

Establish-  
ment of the  
office of  
Deputy  
Governor.

**185.—**(1) In any election to which the foregoing provisions of this Part of this Chapter relate, a candidate for the office of Governor shall not be deemed to have been validly nominated for such office unless he nominates another candidate as his associate for his running for the office of Governor, who is to occupy the office of Deputy Governor; and that candidate shall be deemed to have been duly elected to the office of Deputy Governor if the candidate who nominated him is duly elected as Governor in accordance with the said provisions.

Nomination  
and election  
of Deputy  
Governor.

(2) The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualifications, declaration of assets and liabilities and oaths of Governor shall apply in relation to the office of Deputy Governor as if references to Governor were references to Deputy Governor.

**186.—**(1) The Governor or Deputy Governor of a State may be removed from office in accordance with the provisions of this section.

Removal of  
Governor or  
Deputy  
Governor  
from office.

(2) Whenever a notice of any allegation in writing signed by not less than one-third of the members of the House of Assembly—

(a) is presented to the Speaker of the House of Assembly of the State;

(b) stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified, the Speaker of the House of Assembly shall within 7 days of the receipt of the notice cause a copy thereof to be served on the holder of the office and on each member of the House of Assembly, and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the House of Assembly.

(3) Within 14 days of the presentation of the notice to the Speaker of the House of Assembly (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the House of Assembly shall resolve by motion, without any debate whether or not the allegation shall be investigated.

(4) A motion of the House of Assembly that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all members of the House of Assembly.



(5) Within 7 days of the passing of a motion under the foregoing provisions, the Chief Judge of the State shall at the request of the Speaker of the House of Assembly, appoint a Panel of 7 persons who in his opinion are of unquestionable integrity not being members of any public service, legislative house or political party, to investigate the allegation as provided in this section.

(6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person and be represented before the Panel by a legal practitioner of his own choice.

(7) A Panel appointed under this section shall—

(a) have such powers and exercise its functions in accordance with such procedure as may be prescribed by the House of Assembly ; and

(b) within 3 months of its appointment, report its findings to the House of Assembly.

(8) Where the Panel reports to the House of Assembly that the allegation has not been proved, no further proceedings shall be taken in respect of the matter.

(9) Where the report of the Panel is that the allegation against the holder of the office has been proved, then, within 14 days of the receipt of the report, the House of Assembly shall consider the report, and if by a resolution of the House of Assembly supported by not less than two-thirds majority of all its members, the report of the Panel is adopted, then the holder of the office shall stand removed from office as from the date of the adoption of the report.

(10) No proceedings or determination of the Panel or of the House of Assembly or any matter relating thereto shall be entertained or questioned in any court.

(11) In this section "gross misconduct" means a grave violation of the Oath of Office or grave breach of the provisions of this Constitution or a misconduct of such nature as amounts in the opinion of the House of Assembly to gross misconduct.

Permanent  
incapacity  
of Governor  
or Deputy  
Governor.

187.—(1) The Governor or Deputy Governor shall cease to hold office if—

(a) by a resolution passed by two-thirds majority of all the members of the executive council of the State it is declared that the Governor or Deputy Governor is incapable of discharging the functions of his office; and

(b) the declaration is verified, after such medical examination as may be necessary, by a medical panel established under subsection (4) of this section in its report to the Speaker of the House of Assembly.

(2) Where the medical panel certifies in such report that in its opinion the Governor or Deputy Governor is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the Speaker of the House of Assembly shall be published in the *Gazette* of the Government of the State.

(3) The Governor or Deputy Governor shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel to which this section relates shall be appointed by the Speaker of the House of Assembly of the State, and shall comprise 5 medical practitioners in Nigeria—

(a) one of whom shall be the personal physician of the holder of the office concerned ; and

(b) 4 other medical practitioners who have, in the opinion of the Speaker of the House of Assembly, attained a high degree of eminence in the field of medicine relative to the nature of the examination to be conducted in accordance with the foregoing provisions.

(5) In this section, the reference to “executive council of the State” is a reference to the body of Commissioners of the Government of the State, howsoever called, established by the Governor and charged with such responsibilities for the functions of government as the Governor may direct.

188. Whenever the Governor transmits to the Speaker of the House of Assembly a written declaration that he is proceeding on vacation or that he is otherwise unable to discharge the functions of his office and until he transmits to him a written declaration to the contrary such functions shall be discharged by the Deputy Governor as Acting Governor.

Acting  
Governor  
during  
temporary  
absence of  
Governor.

189.—(1) The Deputy Governor of a State shall hold the office of Governor of the State if the office of Governor becomes vacant by reason of death, resignation or the removal of Governor from office in accordance with section 186 or 187 of this Constitution.

Discharge  
of functions  
of Governor.

(2) Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Deputy Governor of a State is also vacant, the Speaker of the House of Assembly of the State shall hold office of Governor of the State for a period of not more than 3 months, during which there shall be an election of a new Governor of the State, who shall hold office as provided for in section 180 (1) of this Constitution.

(3) Where the office of Deputy Governor becomes vacant—

(a) by reason of death or resignation or removal in accordance with section 186 or 187 of this Constitution ;

(b) by his assumption of the office of Governor of a State in accordance with subsection (1) of this section ; or

(c) for any other reason,  
the Governor shall nominate and, with the approval of the House of Assembly of the State, appoint a new Deputy Governor.

190.—(1) There shall be Commissioners of the Government of a State and number of such Commissioners shall not exceed 10.

Commis-  
sioners of  
State  
Government.

(2) Any appointment to the office of Commissioner of the Government of a State shall, be made by the Governor after confirmation by the House of Assembly of the State.

(3) Any appointment under subsection (2) of this section shall be in conformity with the provisions of section 15 (4) of this Constitution.

(4) Where a member of a House of Assembly or of the National Assembly is appointed as Commissioner of the Government of a State, he shall be deemed to have resigned his membership of the House of Assembly or of the National Assembly as the case may be on his taking the Oath of Office as Commissioner.

(5) No person shall be appointed as a Commissioner of the Government of a State unless he is qualified for election as a member of the House of Assembly of the State.

**191.**—(1) The Governor shall assign to the Deputy Governor specific responsibility for any business of the Government of the State.

(2) The Governor may in his discretion, assign to any Commissioner of the Government of the State responsibility for any business of the Government of that State, including the administration of any department of Government.

(3) The Governor shall hold regular meetings with the Deputy Governor and all the Commissioners of the Government of the State for the purpose of—

(a) determining the general direction of the policies of the Government of the State ;

(b) co-ordinating the activities of the Governor, the Deputy Governor and the Commissioners of the Government of the State in the discharge of their executive responsibilities ; and

(c) advising the Governor generally in the discharge of his executive functions other than those functions with respect to which he is required by this Constitution to seek the advice or act on the recommendation of any other person or body.

**192.** A Commissioner of the Government of a State shall not enter upon the duties of his office unless he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Oath of Office prescribed in the Seventh Schedule to this Constitution.

**193.**—(1) There shall be an Attorney-General for each State who shall be the Chief Law Officer and a Commissioner of the Government of that State.

(2) A person shall not be qualified to hold or perform the functions of the office of the Attorney-General of a State unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 10 years.

**194.** In appointing Chairmen and members of boards and governing bodies of statutory corporations and companies in which the Government of the State has controlling shares or interest and of councils of universities, colleges and other institutions of higher learning the Governor shall have regard to the provisions of section 15 (4) of this Constitution.

Executive responsibilities of Deputy Governor and Commissioners.

Declaration of assets and liabilities : oaths of Commissioners. Seventh Schedule.

Attorney-General of a State.

Composition of governing bodies of statutory corporations and bodies.

B—Establishment of certain State Executive Bodies

195.—(1) There shall be established for each State of the Federation the following bodies, namely—

State Com-  
missions  
and Councils.

- (a) State Civil Service Commission ;
- (b) State Council of Chiefs ;
- (c) State Judicial Service Commission ; and
- (d) State Local Government Service Commission.

(2) The composition and powers of each body established by subsection (1) of this section are as set out in Part II of the Third Schedule to this Constitution.

Part II,  
Third  
Schedule.

(3) Within one year of assuming office, the Governor shall ensure that the bodies established under subsection (1) of this section are constituted and made functional.

196. Except in the case of *ex officio* members or where other provisions are made in this Constitution, the Chairmen and members of any of the bodies so established shall, subject to the provisions of this Constitution, be appointed by the Governor of the State subject to confirmation by the House of Assembly of the State.

Appointment  
of Chairman  
and  
members.

197.—(1) A person who is a member of any of the bodies established as aforesaid shall, subject to the provisions of this Part, remain a member thereof—

Tenure of  
office of  
members.

(a) in the case of an *ex officio* member, whilst he holds the office by virtue of which he is a member of the body ;

(b) in the case of a person who is a member otherwise than as an *ex officio* member or otherwise than by virtue of his having previously held an office, for a period of 5 years from the date of his appointment.

(2) A member of any of the bodies shall cease to be a member if any circumstances arise that, if he were not a member of the body, would cause him to be disqualified for appointment as such a member.

198.—(1) No person shall be qualified for appointment as a member of any of the bodies aforesaid if—

Qualifi-  
cation for  
membership.

(a) he is not qualified or if he is disqualified for election as a member of a House of Assembly.

(b) he has been removed as a member of any of the bodies or as the holder of any other office on the ground of misconduct determined by a court of law, a tribunal established by law or an administrative panel of inquiry.

(2) Any person employed in the public service of a State shall not be disqualified for appointment as Chairman or member of any such bodies :

Provided that where such a person, not being an *ex officio* member of the State Council of Chiefs, has been duly appointed, he shall on his appointment be deemed to have resigned or where appropriate withdrawn or retired from his former office as from the date of the appointment.

(3) No person shall be qualified for appointment to any of the bodies aforesaid, if, having previously been appointed as a member otherwise than as an *ex officio* member of that body, he has been re-appointed for a further term as a member of the same body.



Removal of members.

199.—(1) Save in the case of *ex officio* Chairmen and members whose removal is provided for elsewhere in this Constitution, any person holding any of the offices to which this section applies shall only be removed from that office by the Governor of that State acting on an address supported by two-thirds majority of the House of Assembly of the State praying that he be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

(2) This section applies to the offices of the Chairman and members of the State Civil Service Commission, the State Judicial Service Commission and the State Local Government Service Commission.

Independence of certain bodies.

200. In exercising its powers to make appointments or to exercise disciplinary control over persons, Commissions, the State Civil Service Commission, the State Judicial Service Commission or the State Local Government Service Commission shall not be subject to the direction or control of any other authority.

Quorum.

201. The quorum for a meeting of any of the bodies established by Section 195 of this Constitution shall not be less than one-half of the total number of members of that body.

Powers and procedure.

202.—(1) Subject to subsection (2) of this Section, any of the bodies may, with the approval of the Governor, by rules or otherwise regulate its own procedure or confer powers or impose duties on any officer or authority for the purpose of discharging its functions.

(2) In the exercise of any powers under subsection (1) of this section, any such body shall not confer powers or impose duties on any officer or authority of the Federation except with the approval of the President.

Interpretation.

203. In this part of this Chapter, unless the context otherwise requires—

(a) any reference to "*ex officio* member" shall be construed as a reference to a person who is a member by virtue of his holding or performing the functions of an office in the public service of a State ;

(b) "*Office*" means an office in the Public Service of a State ; and

(c) any reference to "*member*" of any of the bodies established by section 195 of this Constitution shall be construed as including a reference to the Chairman of that body.

### C—The Public Service of a State

Establishment of State Civil Service.

204. There shall be for each State a Civil Service.

State Civil Service Commission: power of delegation.

205. Subject to the provisions of this Constitution, a State Civil Service Commission may, with the approval of the Governor and subject to such conditions as it may deem fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to any officer in the Civil Service of the State.

Appointment by Governor.

206.—(1) Powers to appoint persons to hold or act in the offices to which this section applies and to remove persons so appointed from any such office shall vest in the Governor.

(2) The office to which this section applies are, namely—

- (a) Secretary to the Government of the State ;
- (b) Director-General in a Ministry or Head of any Extra-Ministerial Department of Government of the State, howsoever designated ; and
- (c) any office on the personal staff of the Governor.

(3) In exercising his powers of appointment under this section, the Governor shall have regard to the diversity of the people and the need to promote a sense of belonging and unity among the various peoples within the State.

(4) Any appointment made pursuant to the provisions of this section shall be at the pleasure of the Governor and shall cease when the Governor ceases to hold office.

207.—A person in the public service of a State shall observe and conform to the Code of Conduct.

Code of  
Conduct.

208.—(1) Subject to the provisions of subsection (2) of this section, the right of a person in the Public Service of a State to receive pension or gratuity shall be regulated by law.

Protection  
of pension  
rights

(2) Any benefit to which a person is entitled in accordance with or under such law as is referred to in subsection (1) of this section shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law, including the Code of Conduct.

(3) Pensions in respect of service in the public service of a State shall not be taxed.

209.—(1) The Attorney-General of a State shall have power—

Public  
prosecutions.

(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 Law of the House of Assembly;

(b) to take over and continue any such criminal proceedings that may have been instituted by any other authority or person; and

(c) to discontinue at any stage before judgment is delivered any such criminal proceedings instituted or undertaken by him or any other authority or person.

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

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

210.—(1) The Governor may—

Prerogative  
of mercy.

(a) grant any person concerned with or convicted of any offence created by any Law of a State pardon, either free or subject to lawful conditions;

(b) grant to any person a respite, either for an 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 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) The powers of the Governor under subsection (1) of this section shall be exercised by him after consultation with such advisory council of the State on prerogative of mercy as may be established by the Law of the State.

### PART III

#### SUPPLEMENTAL

##### A—National Population Census

National  
Population  
Census.

211.—(1) Any report of the National Population Commission containing the population census after every census shall be delivered to the President by the Chairman of the Commission.

(2) The President shall within a period of 30 days after receipt of the report lay copies of the report before the Council of State, which shall consider the report and advise the President whether to accept it or reject it.

(3) Where the Council of State advises the President to accept the report, the President shall accept the same and shall then lay the report on the table of each House of the National Assembly.

(4) Where the President accepts such report and has laid it on the table of each House of the National Assembly he shall publish it in the *Gazette* of the Government of the Federation for public information.

(5) Where the Council of State advises the President to reject the report upon the ground—

(a) that the population census contained in the report is inaccurate; or

(b) that the report is perverse,

the President shall reject the report accordingly and no reliance shall be placed upon any such report by any authority or person or for any purpose whatsoever.

##### B—Nigeria Police Force

Establish-  
ment and  
composition  
of Nigeria  
Police Force.

212.—(1) There shall be a Police Force for Nigeria, which shall be styled the Nigeria Police Force, and subject to the provisions of this section no other Police Force shall be established for the Federation or any part thereof.

(2) Subject to the provisions of this Constitution—

(a) the Nigeria Police Force shall be organised and administered in accordance with such provisions as may be prescribed by an Act of the National Assembly;

(b) the members of the Nigeria Police Force shall have such powers and duties as may be conferred upon them by law.

213.—(1) There shall be an Inspector-General of Police who, shall be appointed by the President from serving members of the Nigeria Police Force.

(2) Before appointing a person to the office of the Inspector-General of Police or removing him from that office the President shall consult the Nigeria Police Council.

(3) The Nigeria Police Force shall be under the command of the Inspector-General of Police.

(4) The President or such other Minister of the Government of the Federation as he may authorise in that behalf may give to the Inspector-General of Police such lawful directions with respect to the maintenance and securing of public safety and public order as he may consider necessary, and the Inspector-General of Police shall comply with those directions or cause them to be complied with.

(5) Subject to the provisions of this section, the Governor of a State, as the Chairman of the State Security Committee, may give to the Commissioner of Police of that State such lawful directions with respect to the maintenance and securing of public safety and public order within the State as he may consider necessary, and the Commissioner of Police shall comply with those directions or cause them to be complied with :

Provided that before carrying out any such directions under the foregoing provisions of this subsection, the Commissioner of Police may request that the matter be referred to the President or such Minister of the Government of the Federation as may be authorised in that behalf by the President for his directions.

(6) The question whether any, and if so what, directions have been given under this section shall not be inquired into in any court.

214. Subject to the provisions of this Constitution, the Nigeria Police Council may, with the approval of the President and subject to such conditions as it may think fit, delegate any of the powers conferred upon it by this Constitution to any of its members or to the Inspector-General of Police or any other member of the Nigeria Police Force.

Appointment  
of Inspector-  
General and  
control of  
Nigeria  
Police  
Force.

Delegation  
of powers of  
the Nigeria  
Police  
Council.

### *C—Armed Forces of the Federation*

215.—(1) There shall be an Armed Forces for the Federation.

(2) The Armed Forces shall consist of an Army, a Navy, an Air Force and such other branches of the Armed Forces as may be considered adequate and effective for the purpose of—

(a) defending Nigeria from external aggression ;

(b) maintaining its territorial integrity and securing its borders from violation on land, sea or air ;

(c) suppressing insurrection and acting in aid of civil authorities to restore order when called upon to do so by the President, but subject to such conditions as may be prescribed by an Act of the National Assembly ; and

(d) performing such other functions as may be prescribed by an Act of the National Assembly.

Establish-  
ment and  
composition  
of the  
Armed  
Forces of  
the Federa-  
tion.



(3) The Army, Navy, Air Force and other branches of the Armed Forces shall, subject to this Constitution, be organised and administered in accordance with provisions made in that behalf by an Act of the National Assembly.

Command and operational use.

216.—(1) The powers of the President as the Commander-in-Chief of the Armed Forces of the Federation shall include power to determine the operational use of the Armed Forces of the Federation.

(2) The powers conferred on the President by subsection (1) of this section shall include power to appoint the Chief of Defence Staff, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air Staff and Chiefs of such other branches of the Armed Forces of the Federation as may be established by an Act of the National Assembly.

(3) The President may, by directions in writing and subject to such conditions as he may think fit, delegate to any member of the Armed Forces of the Federation his powers relating to the operational use of the Armed Forces of the Federation.

Establishment of body to ensure federal character of Armed Forces.

217. The National Assembly shall—

(a) in giving effect to the functions specified in section 215 of this Constitution ; and

(b) with respect to the powers exercisable by the President under section 216 of this Constitution, by an Act, establish a body which shall comprise such members as the National Assembly may determine, and which shall have power to ensure that the composition of the Armed Forces of the Federation shall reflect the federal character of Nigeria as prescribed in the said section 15 (3) of this Constitution.

Compulsory military service.

218.—(1) The Federation shall establish and maintain adequate facilities for carrying into effect any Act of the National Assembly providing for compulsory military training or military service for citizens of Nigeria.

(2) Until an Act of the National Assembly is made in that behalf the President may maintain adequate facilities in any secondary or post secondary educational institution in Nigeria for giving military training in any such institution which desires to have the training.

#### *D—Political Parties*

Prohibition of political activities by certain associations.

219. No association other than a political party recognised and registered under this Constitution shall canvass for votes for any candidate at any election or contribute to the funds of any political party or to the election expenses of any candidate at an election.

Number and restriction on formation of political parties.

220.—(1) There shall be only 2 political parties in the Federation.

(2) No association by whatever name called shall function as political party, unless—

(a) the names and addresses of its national officers are registered with the National Electoral Commission ;

(b) the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, circumstances of birth, sex, religion or ethnic grouping ;

(c) a copy of its constitution is registered in the principal office of the Commission in such form as may be prescribed by the Commission ;

(d) any alteration in its registered constitution is also registered in the principal office of the Commission within 30 days of the making of such alteration ;

(e) the name of the association, its emblem or motto does not contain any ethnic or religious connotation or give the appearance that the activities of the association are confined to a part of the geographical area of Nigeria ; and

(f) the headquarters of the association is situated in the Federal Capital Territory, Abuja.

**221.—**(1) The constitution and rules of a political party shall provide—

(a) for the periodical election on a democratic basis of the principal officers and members of the executive committee or other governing body of the political party ; and

Constitution  
and rules.

(b) ensure that the members of the executive committee or other governing body of the political party reflect the federal character of Nigeria.

(2) For the purposes of this section—

(a) the election of the officers or members of the executive committee or other governing body of a political party shall be deemed to be periodical only if it is made at regular intervals of not exceeding 4 years ; and

(b) the members of the executive committee or other governing body of the political party shall be deemed to reflect the federal character of Nigeria only if the members thereof belong to different States not being less in number than two-thirds of all the States comprising the Federation.

**222.—**The programme as well as the aims and objects of a political party shall conform with the provisions of Chapter II of this Constitution.

Aims and  
objects.

**223.—**(1) Every political party, shall, at such times and in such manner as the National Electoral Commission may require, submit to the National Electoral Commission and publish a statement of its assets and liabilities.

(2) Every political party shall submit to the Commission a detailed annual statement and analysis of its sources of funds and other assets together with a similar statement of its expenditure in such form as the Commission may require.

Finances of  
political  
parties.

(3) No political party shall hold or possess any funds or other assets outside Nigeria nor shall it be entitled to retain any funds or assets remitted or sent to it from outside Nigeria and any such funds or other assets remitted or sent to a political party from outside Nigeria shall be paid over or transferred to the Commission within 21 days of its receipt with such information as the Commission may require.

(4) The Commission shall have power to give directions to political parties regarding the books or records of financial transactions which they shall keep and to examine all such books and records.

(5) The powers conferred on the Commission under subsection (4) of this section may be exercised by it through any member of its staff or any person who is an auditor by profession, and who is not a member of a political party.

Annual  
report on  
finances.

224.—(1) The National Electoral Commission shall in every year prepare and submit to the National Assembly a report on the accounts and balance sheet of each political party.

(2) It shall be the duty of the Commission, in preparing its report under this section, to carry out such investigations as will enable it to form an opinion as to whether proper books of accounts and proper records have been kept by each political party; and if the Commission is of opinion that proper books of accounts have not been kept by a political party, the Commission shall so report.

(3) The Commission or its duly authorised agent shall have a right of access at all times to the books and accounts and vouchers of both political parties and shall be entitled to require from the officers of the parties such information and explanation as the Commission or the agent thinks necessary for the performance of the Commission's duties under this Constitution; and if the Commission or such agent fails or is unable to obtain all the information and explanation which the Commission considers necessary for the purposes of the investigations, the Commission shall state that fact in its reports.

Prohibition  
of quasi-  
military  
organisa-  
tions.

225. No person or association shall retain, organise, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interest or in such manner as to arouse reasonable apprehension that they are organised and trained or equipped for that purpose.

Powers of  
the  
National  
Assembly  
with respect  
to political  
parties.

226. The National Assembly may by law provide—

(a) for the punishment of any person involved in the management or control of any political party found after due inquiry to have contravened any of the provisions of sections 219, 223 (3) and 225 of this Constitution;

(b) for the disqualification of any person from holding public office on the ground that he knowingly aids or abets a political party in contravening section 223 (3) or section 225 of this Constitution;

(c) for an annual grant to the National Electoral Commission for disbursement to political parties on a fair and equitable basis to assist them in the discharge of their functions;

(d) for the conferment on the Commission of other powers as may appear to the National Assembly to be necessary or desirable for the purpose of enabling the Commission more effectively to ensure that the political parties observe the provisions of this Part of this Chapter; and

(e) for the maximum amount which any individual is allowed to contribute to a political party.

Interpreta-  
tion.

227. In this Part of this Chapter, unless the context otherwise requires—  
“association” means any body of persons corporate or unincorporate who agree to act together for any common purpose, and includes an association formed for any ethnic, social, cultural, occupational or religious purpose; and

"political party" means any association recognised and registered as such under the provisions of section 220 (2) of this Constitution whose activities include canvassing for votes in support of a candidate for election to the office of President, Vice-President, Governor, Deputy Governor or membership of a legislative house or a Local Government Council.

## CHAPTER VII THE JUDICATURE

### PART I

#### FEDERAL COURTS

##### *A—The Supreme Court of Nigeria*

228.—(1) There shall be a Supreme Court of Nigeria.

(2) The Supreme Court of Nigeria shall consist of—

(a) the Chief Justice of Nigeria ; and

(b) such number of Justices of the Supreme Court, not exceeding 15, as may be prescribed by an Act of the National Assembly.

Establishment and composition of the Supreme Court of Nigeria.

229.—(1) The appointment of a person to the office of Chief Justice of Nigeria shall be made by the President in his discretion, subject to confirmation of such appointment by the Senate.

Appointment of Chief Justice of Nigeria and Justices of the Supreme Court.

(2) The appointment of a person to the office of a Justice of the Supreme Court shall be made by the President on the advice of the Federal Judicial Service Commission, subject to confirmation of such appointment by the Senate.

(3) A person shall not be qualified to hold the office of Chief Justice of Nigeria or of a Justice of the Supreme Court, unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years.

(4) 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, the functions shall be performed by a person to be designated from time to time in that behalf by the President, acting in his discretion, from among the Justices of the Supreme Court.

(5) Except with the approval of the Senate, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment, and the President shall not re-appoint a person whose appointment has lapsed.

230.—(1) The Supreme Court shall, to the exclusion of any other court, have original jurisdiction in any dispute between the Federation and a State or between States 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.

Original jurisdiction.



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

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

Appellate  
jurisdiction.

231.—(1) The Supreme Court shall have jurisdiction to the exclusion of any other court to hear and determine appeals from the Court of Appeal.

(2) An appeal shall lie from decisions of the Court of Appeal to the Supreme Court as of right in the following cases ;

(a) where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings before the Court of Appeal ;

(b) decisions in any civil or criminal proceedings on questions as to the interpretation or application of this Constitution ;

(c) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be contravened in relation to any person ;

(d) decisions in any criminal proceedings in which any person has been sentenced to death by the Court of Appeal or in which the Court of Appeal has affirmed a sentence of death imposed by any other court ; and

(e) such other cases as may be prescribed by an Act of the National Assembly.

(3) Notwithstanding the provisions of subsection (2) of this section no appeal shall lie to the Supreme Court from any decision of the Court of Appeal in respect of an interlocutory decision other than an interlocutory decision relating to the grant or refusal of an injunction.

(4) Subject to the provisions of subsections (2) and (3) of this section, an appeal shall lie from the decision of the Court of Appeal to the Supreme Court with the leave of the Court of Appeal or the Supreme Court.

(5) The Supreme Court may dispose of any application for leave to appeal from any decision of the Court of Appeal in respect of any civil or criminal proceedings in which leave to appeal is necessary after consideration of the record of the proceedings if the Supreme Court is of opinion that the interest 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 Court of Appeal conferred by this section shall be exercisable in the case of civil proceedings at the instance of a party thereto, or with the leave of the Court of Appeal 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 this Constitution and any powers conferred upon the Attorney-General of the Federation or the Attorney-General of a State to take over and continue or to discontinue such proceedings, at the instance of such other authorities or persons as may be prescribed.

(7) Any right of appeal to the Supreme Court from the decision of the Court of Appeal conferred by this section shall, subject to section 236 of this Constitution, be exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the power, practice and procedure of the Supreme Court.

232. The Supreme Court shall have jurisdiction, to the exclusion of any other court to hear and determine appeals from decisions on any question as to whether any person has been validly elected to the office of President or Vice-President, under this Constitution or as to whether the term of office of any person as President or Vice-President has ceased.

Appeals from decisions of Presidential Election Tribunals.

233.—(1) For the purpose of exercising any jurisdiction, conferred upon it by this Constitution or any law, the Supreme Court shall be duly constituted if it consists of not less than 5 Justices of the Supreme Court :

Constitution.

Provided that where the Supreme Court is sitting to consider an appeal brought under section 231 (2) (b) or (c) or section 232 of this Constitution or to exercise its original jurisdiction in accordance with section 230 thereof, the Court shall sit as a full court.

(2) In this section "full court" means all the Justices of the Supreme Court available at the time of the sitting so however that the number shall be not less than 7.

234. Without prejudice to the powers of the President or of the Governor of a State with respect to prerogative of mercy, no appeal shall lie to any other body from any determination of the Supreme Court.

Finality of determination.

235. Subject to the provisions of any Act of the National Assembly, the Chief Justice of Nigeria may make rules for regulating the practice and procedure of the Supreme Court.

Practice and procedure.

#### *B—The Court of Appeal*

236.—(1) There shall be a Court of Appeal.

(2) The Court of Appeal shall consist of—

(a) President of the Court of Appeal ; and

Establishment and composition of the Court of Appeal.

(b) such number of Justices of the Court of Appeal, not less than 15, of which not less than 3 shall be learned in Islamic law, and not less than 3 shall be learned in Customary law, as may be prescribed by an Act of the National Assembly.

237.—(1) The appointment of a person to the office of President of the Court of Appeal shall be made by the President on the advice of the Federal Judicial Service Commission subject to confirmation of such appointment by the Senate.

Appointment of President and Justices of the Court of Appeal.

(2) The appointment of a person to the office of a Justice of the Court of Appeal shall be made by the President on the recommendation of the Federal Judicial Service Commission.

(3) A person shall not be qualified to hold the office of President or of a Justice of the Court of Appeal unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 12 years.

(4) If the office of President of the Court of Appeal 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, the functions shall be performed by a person to be designated from time to time in that behalf by the President of the Federal Republic of Nigeria, acting in his discretion from among the Justices of the Court of Appeal.

(5) Except with the approval of the Senate, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment, and the President shall not re-appoint a person whose appointment has lapsed.

**Jurisdiction.**

238.—(1) Subject to the provisions of this Constitution, the Court of Appeal shall have jurisdiction, to the exclusion of any other court in Nigeria—

(a) to hear and determine appeals from the Federal High Court, including the Federal High Court in the Federal Capital Territory, High Court of a State, Sharia Court of Appeal of the Federal Capital Territory, Sharia Court of Appeal of a State, Customary Court of Appeal of the Federal Capital Territory, Customary Court of Appeal of a State and from decisions of a court-martial or other tribunals as may be prescribed by an Act of the National Assembly ;

(b) to hear and determine appeals from decisions of Governorship and Legislative Houses Election Tribunals on any question as to whether—

(i) any person has been validly elected to the office of Governor or Deputy Governor, under this Constitution,

(ii) any person has been validly elected as a member of any legislative house under this Constitution,

(iii) the term of office of any person has ceased or the seat of any such person has become vacant.

(2) The decisions of the Court of Appeal in respect of election petitions shall be final.

**Appeals as of right from a High Court.**

239.—(1) An appeal shall lie from decisions of a High Court to the Court of Appeal as of right in the following cases—

(a) final decisions in any civil or criminal proceedings before the High Court sitting at first instance ;

(b) where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings ;

(c) decisions in any civil or criminal proceedings on questions as to the interpretation or application of this Constitution.

(d) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been is being or is likely to be, contravened in relation to any person ;

(e) decisions in any criminal proceedings in which the High Court has imposed a sentence of death ;

(f) decisions made or given by the High Court—

(i) where the liberty of a person or the custody of an infant is concerned,

(ii) where an injunction or the appointment of a receiver granted or refused,

(iii) in the case of a decision determining the case of a creditor or the liability of a contributory or other officer under any enactment relating to companies in respect of misfeasance or otherwise,

(iv) in the case of a decree *nisi* in a matrimonial cause or a decision in an admiralty action determining liability, and

(v) in such other cases as may be prescribed by an Act of the National Assembly.

(2) Nothing in this section shall confer any right of appeal—

(a) from a decision of any High Court granting unconditional leave to defend an action ;

(b) from an order absolute, for the dissolution or nullity marriage in favour of any party who, having had time and opportunity to appeal from the decree *nisi* on which the order was founded, has not appealed from that decree *nisi* ; and

(c) without the leave of a High Court or of the Court of Appeal, from a decision of the High Court made with the consent of the parties or as to costs only.

240.—(1) Subject to the provisions of Section 231 of this Constitution an appeal shall lie from decisions of a High Court to the Court of Appeal with the leave of that High Court or the Court of Appeal.

Appeals with leave.

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

241. Any right of appeal to the Court of Appeal from the decisions of a High Court conferred by this Constitution—

Exercise of right of appeal from a High Court in civil and criminal matters.

(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 Court of Appeal 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 this Constitution and any powers conferred upon the Attorney-General of the Federation or the Attorney-General of a State to take over and continue or to discontinue such proceedings, at the instance of such other authorities or person as may be prescribed ;

(b) shall be exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.



Appeals from  
Sharia Court  
of Appeal.

242.—(1) An appeal shall lie from decisions of any Sharia Court of Appeal of a State to the Court of Appeal as of right in any civil proceedings before the Sharia Court of Appeal with respect to any question of Islamic law which the Sharia Court of Appeal is competent to decide.

(2) Any right of appeal to the Court of Appeal from the decisions of a Sharia Court of Appeal conferred by this section—

(a) shall be exercisable at the instance of a party thereto or, with the leave of Sharia Court of Appeal or of the Court of Appeal, at the instance of any other person having an interest in the matter ; and

(b) shall be exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

Appeals from  
Customary  
Court of  
Appeal.

243.—(1) An appeal shall lie from decision of the Customary Court of Appeal of a State to the Court of Appeal as of right in any civil proceedings before the Customary Court of Appeal with respect to any question of Customary law and such matters as may be prescribed by an Act of the National Assembly.

(2) Any right of Appeal to the Court of Appeal from the decisions of a Customary Court of Appeal conferred by this section—

(a) shall be exercisable at the instance of a party thereto or, with the leave of Customary Court of Appeal or of the Court of Appeal, at the instance of any other person having an interest in the matter ; and

(b) shall be exercised in accordance with any Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

Appeals from  
Code of  
Conduct  
Tribunal and  
other courts  
and tribunals.

244.—(1) An appeal shall lie as of right to the Court of Appeal from decisions of the Code of Conduct Tribunal established by the Fifth Schedule to this Constitution.

(2) The National Assembly may confer jurisdiction upon the Court of Appeal to hear and determine appeals from any decision of any other court of law or tribunal established by the National Assembly.

Constitution  
of Court of  
Appeal.

245. For the purpose of exercising any jurisdiction conferred upon it by the Constitution or any other law, the Court of Appeal shall be duly constituted if it consists of not less than 3 Justices of the Court of Appeal, and in the case of appeals from—

(a) a Sharia Court of Appeal, if it consists of not less than 3 Justices of the Court of Appeal learned in Islamic law : and

(b) a Customary Court of Appeal, if it consists of not less than 3 Justices of the Court of Appeal learned in Customary law.

Practice and  
procedure.

246. Subject to the provisions of any Act of the National Assembly, the President of the Court of Appeal may make rules for regulating the practice and procedure of the Court of Appeal.

*C—The Federal High Court*

247.—(1) There shall be a Federal High Court.

(2) The Federal High Court shall consist of—

(a) a Chief Judge of the Federal High Court ; and

(b) such number of Judges of the Federal High Court as may be prescribed by an Act of the National Assembly.

Establishment and composition of the Federal High Court.

248.—(1) The appointment of persons to the offices of Chief Judge and Judges of the Federal High Court shall be made by the President on the recommendation of the Federal Judicial Service commission.

Appointment of Chief Judge and Judges.

(2) A person shall not be qualified to hold the office of Chief Judge or a Judge of the Federal High Court unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 10 years.

(3) If the office of Chief Judge of the Federal High Court 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, the functions shall be performed by a person to be designated from time to time in that behalf by the President, acting in his discretion, from among the Judges of the Federal High Court.

(4) Except with the approval of the Senate, an appointment pursuant to the provisions of subsection (3) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

249.—(1) Notwithstanding anything to the contrary contained in this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court shall have and exercise jurisdiction to the exclusion of any other court in civil causes and matters—

Jurisdiction.

(a) relating to the revenue of the Government of the Federation in which the said Government or any organ thereof or a person suing or being sued on behalf of the said Government is a party ;

(b) connected with or pertaining to—

(i) the taxation of companies and other bodies established or carrying on business in Nigeria and all other persons subject to Federal taxation,

(ii) customs and excise duties,

(iii) banking, foreign exchange, currency or other fiscal measures ;

(c) arising from—

(i) the operation of the Companies Act, 1968 or any other enactments regulating the operation of companies incorporated under the Companies, Act 1968 ;

(ii) any enactment relating to copyright, patents, designs, trade marks and merchandise marks ;

(d) of Admiralty jurisdiction.

(2) The Federal High Court shall also have and exercise jurisdiction and powers in respect of criminal causes of the matter in respect of which jurisdiction is conferred by subsection (1) of this section.

Powers.

250.—(1) For the purpose of exercising any jurisdiction conferred upon it by this Constitution or as may be conferred by an Act of the National Assembly, the Federal High Court shall have all the powers of the High Court of a State.

(2) Notwithstanding subsection (1) of this section, the National Assembly may by law make provisions conferring upon the Federal High Court powers additional to those conferred by this section as may appear necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

Constitution  
practice and  
procedure.

251.—(1) The Federal High Court shall be duly constituted if it consists of at least one Judge of that court.

(2) The National Assembly may by law make provisions with respect to the practice and procedure of the Federal High Court, including the service and execution of all civil and criminal processes of the court.

*D—The Federal High Court in the Federal Capital Territory, Abuja.*

Establishment  
of the  
Federal High  
Court in the  
Federal  
Capital  
Territory,  
Abuja, etc.

252.—(1) There shall be a Federal High Court in the Federal Capital Territory, Abuja which shall consist of—

(a) a Presiding Judge of the Federal High Court ; and

(b) such number of Judges of the Federal High Court as may be prescribed by an Act of the National Assembly.

(2) The appointment of persons to the offices of the Presiding Judge and Judges of the Federal High Court shall be made by the President on the recommendation of the Federal Judicial Service Commission.

(3) A person shall not be qualified to hold the office of a Presiding Judge or a Judge of the Federal High Court unless he is qualified to practise as a legal practitioner in Nigeria and as been so qualified for a period of not less than 10 years.

(4) If the office of the Presiding Judge of the Federal High court 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, the functions shall be performed by a person to be designated from time to time in that behalf by the President, acting in his discretion, from among the Judges of the Federal High Court.

(5) Except with the approval of the Senate, an appointment pursuant to the provisions of subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment and the President shall not re-appoint a person whose appointment has lapsed.

(6) Subject to the provisions of this Constitution and in addition to such other jurisdiction as may be conferred upon it by an Act of the National Assembly, the Federal High Court in the Federal Capital Territory, shall have the same jurisdiction as provided in section 249 of this Constitution.

(7) Notwithstanding subsection (6) of this section, where by law any court established before the date when this section comes into force is empowered to exercise jurisdiction for the hearing and determination of any of the matters to which subsection (6) of this section relates, such court shall as from the date when this section comes into force be restyled "Federal High Court", and shall continue to have all the powers and exercise the jurisdiction conferred upon it by any law.

(8) Subject to the provisions of this Constitution and in addition to such other jurisdiction as may be conferred upon it by law, the Federal High Court shall have unlimited jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest, obligation, or claim is in issue or to hear and determine any criminal proceedings involving or relating to any penalty forfeiture, punishment or other liability in respect of an offence committed by any person.

(9) The reference to civil or criminal proceedings in this section includes a reference to the proceedings which originate in the Federal High Court and those which are brought before the Federal High Court to be dealt with by the court in the exercise of its appellate or supervisory jurisdiction.

(10) For the purpose of exercising any jurisdiction conferred upon it by this Constitution or as may be conferred by an Act of the National Assembly, the Federal High Court shall have all the powers of the Federal High Court pursuant to section 250 of this Constitution.

(11) Notwithstanding subsection (10) of this section, the National Assembly may by law make provisions conferring upon the Federal High Court powers additional to those conferred by this section as may appear necessary or desirable for enabling the court more effectively to exercise its jurisdiction.

(12) The Federal High Court shall be duly constituted if it consists of at least one Judge of that court.

(13) The National Assembly may by law make provisions with respect to the practice and procedure of the Federal High Court in the Federal Capital Territory (including the service and execution of all civil and criminal processes of the court); and until other provisions are made by the National Assembly, the jurisdiction hereby conferred upon the Federal High Court shall be exercised in accordance with the practice and procedure for the time being in force in relation to the Federal High Court pursuant to section 250 of this constitution.

## PART II

### STATE COURTS

#### *A—High Court of a State*

253.—(1) There shall be a High Court for each State of the Federation.

Establishment of a High Court for each State.



- (2) The High Court of a State shall consist of—
  - (a) a Chief Judge of the State ; and
  - (b) such number of Judges of the High Court as may be prescribed by a Law of the House of Assembly of the State.

Appointment  
of Chief  
Judge and  
Judges.

254.—(1) The appointment of a person to the office of Chief Judge of a State shall be made by the Governor of the State acting in his discretion subject to the confirmation of such appointment by the House of Assembly of the State.

(2) The appointment of a person to the office of a Judge of a State shall be made by the Governor of the State acting on the recommendation of the State Judicial Service Commission.

(3) A person shall not be qualified to hold office of Chief Judge of a State or a Judge of the High Court of a State unless he is qualified to practise as a legal practitioner in Nigeria and has been so qualified for a period of not less than 10 years.

(4) If the office of Chief Judge of a State 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, the functions shall be performed by a person to be designated from time to time in that behalf by the Governor of the State, acting in his discretion, from among the Judges of the High Court of the State.

(5) Except with the approval of the House of Assembly of the State an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment, and the Governor shall not re-appoint a person whose appointment has lapsed.

Jurisdiction :  
general.

255.—(1) Subject to the provisions of this constitution and in addition to such other jurisdiction as may be conferred upon it by Law, the High Court of a State shall have unlimited jurisdiction to hear and determine any civil proceedings in which the existence or extent of a legal right, power, duty, liability, privilege, interest obligation or claim is in issue or to hear and determine any criminal proceedings involving or relating to any penalty, forfeiture, punishment or other liability in respect of an offence committed by any person.

(2) The reference to civil and criminal proceedings in this section includes a reference to the proceedings which originate in the High Court of a State and those which are brought before the High Court to be dealt with by the court in the exercise of its appellate or supervisory jurisdiction.

Appeals from  
Local  
Government  
Council  
Election  
Tribunals.

256.—(1) Appeals shall lie to a competent High Court from the decisions of Local Government Council Election Tribunals established under this Constitution on any question whether any person has been validly elected as Chairman or any other member of a Local Government Council or whether the seat of any such person has become vacant.

(2) In this section "competent High Court" means the High Court of the State within which the Local Government Area concerned is situated.

257. For the purpose of exercising any jurisdiction conferred upon it under this Constitution or any law, a High Court of a State shall be duly constituted if it consists of at least one Judge of that Court. Constitution.

258. The High Court of a State shall exercise jurisdiction vested in it by this Constitution or by any law in accordance with the practice and procedure (including the service and execution of all civil and criminal processes of the court) from time to time prescribed by the House of Assembly of the State. Practice and procedure. . .

*B—Sharia Court of Appeal of a State*

259.—(1) There shall be for any State that requires it a Sharia Court of Appeal for that State. Establishment of Sharia Court of Appeal.

(2) The Sharia Court of Appeal of the State shall consist of—

(a) a Grand Kadi of the Sharia Court of Appeal ; and

(b) such number of Kadis of the Sharia Court of Appeal as may be prescribed by the House of Assembly of the State.

260.—(1) The appointment of a person to the office of Grand Kadi of the Sharia Court of Appeal of a State shall be made by the Governor of the State on the advice of the State Judicial Service Commission subject to the confirmation of such appointment by the House of Assembly. Appointment of Grand Kadi and Kadis.

(2) The appointment of a person to the office of a Kadi of the Sharia Court of Appeal of the State shall be made by the Governor of the State acting on the recommendation of the State Judicial Service Commission.

(3) A person shall not be qualified to hold office as Grand Kadi or Kadi of the Sharia Court of Appeal of a State unless—

(a) he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 10 years and has obtained a recognised qualification in Islamic law from an institution acceptable to the State Judicial Service Commission ; or

(b) he has attended and has obtained a recognised qualification in Islamic law from an institution approved by the State Judicial Service Commission and has held the qualification for a period of not less than 10 years ; and

(c) he either has considerable experience in the practice of Islamic law or he is a distinguished scholar of Islamic law.

(4) If the office of the Grand Kadi of the Sharia Court of Appeal of a State 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 holding the office has resumed those functions, the functions shall be performed by a person to be designated from time to time in that behalf by the Governor of the State, acting in his discretion, from among the Kadis of the Sharia Court of Appeal.

(5) Except with the approval of the House of Assembly of the State, an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment, and the Governor shall not re-appoint a person whose appointment has lapsed.

261. The Sharia Court of Appeal of a State shall, in addition to such other jurisdiction as may be conferred upon it by the Law of the State, exercise such appellate and supervisory jurisdiction in civil proceedings involving questions of Islamic law where all the parties are muslims. Jurisdiction.

## Constitution.

262. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any law, a Sharia Court of Appeal of a State shall be duly constituted if it consists of at least 2 Kadis of that court.

## Practice and procedure.

263. The Sharia Court of Appeal of a State shall exercise the jurisdiction vested in it by this Constitution or by any law in accordance with the practice and procedure from time to time prescribed by a Law of the House of Assembly of the State.

*C—Customary Court of Appeal of a State*

## Establishment of Customary Court of Appeal.

264.—(1) There shall be for any State that requires it a Customary Court of Appeal for the State.

(2) The Customary Court of Appeal of a State shall consist of—

(a) a President of the Customary Court of Appeal of the State ; and

(b) such number of Judges of the Customary Court of Appeal as may be prescribed by the House of Assembly of the State.

## Appointment of President and Judges.

265.—(1) The appointment of a person to the office of President of a Customary Court of Appeal shall be made by the Governor of the State on the advice of the State Judicial Service Commission subject to the confirmation of such appointment by the House of Assembly of the State.

(2) The appointment of a person to the office of a Judge of a Customary Court of Appeal shall be made by the Governor of the State acting on the recommendation of the State Judicial Service Commission.

(3) Apart from such other qualification as may be prescribed by the National Assembly, a person shall not be qualified to hold the office of a Judge of a Customary Court of Appeal of a State unless, in the opinion of the State Judicial Service Commission, he has considerable knowledge of and experience in the practice of Customary law.

(4) If the office of President of the Customary Court of Appeal of a State 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, the functions shall be performed by a person to be designated from time to time in that behalf by the Governor of the State, acting in his discretion, from among the Judges for the Customary Court of Appeal of the State.

(5) Except with the approval of the House of Assembly of the State, an appointment pursuant to subsection (4) of this section shall cease to have effect after the expiration of 3 months from the date of such appointment, and the Governor shall not re-appoint any person whose appointment has lapsed.

## Jurisdiction.

266.—(1) A Customary Court of Appeal of a State shall exercise appellate and supervisory jurisdiction in civil proceedings involving questions of customary law.

(2) For purposes of this section a Customary Court of Appeal of a State shall exercise such jurisdiction and decide such questions as may be prescribed by a Law of the House of Assembly of the State for which it is established.

267. For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any Law, a Customary Court of Appeal of a State shall be duly constituted if it consists of such number of Judges as may be prescribed by Law.

Constitution.

268. The Customary Court of Appeal of a State shall exercise jurisdiction vested in it by this Constitution or by any law in accordance with such practice and procedure as may from time to time be prescribed by a Law of the House of Assembly of the State.

Practice and procedure.

### PART III ELECTION TRIBUNALS

269.—(1) There shall be established for the Federation an election tribunal to be known as the Presidential Election Tribunal which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine—

Establishment and jurisdiction of election tribunals.

(a) petitions as to whether any person has been validly elected to the office of President or Vice-President ; and

(b) subject to the provisions of subsection (10) of section 140 of this Constitution, any question as to whether the term of office of any person as President or Vice-President has ceased.

(2) There shall be established for each State one or more election tribunals to be known as Governorship and Legislative Houses Election Tribunals which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine—

(a) petitions as to whether any person has been validly elected to the office of Governor or Deputy-Governor or as a member of any legislative house ;

(b) subject to the provision of subsection (10) of section 186 of this Constitution, any question as to whether the term of office of any person as Governor or Deputy-Governor has ceased ; and

(c) any question as to whether the seat of a member in any legislative house has become vacant.

(3) There shall also be established for each State one or more election tribunals to be known as Local Government Election Tribunals which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine—

(a) petitions as to whether any person has been validly elected as Chairman of a Local Government Council or as Councillor ; and

(b) any question as to whether the term of office of any person as Chairman of a Local Government Council has ceased ; and

(c) any question as to whether the seat of any Councillor in a Local Government Council has become vacant.

(4) The composition of the Presidential Election Tribunal, Governorship and Legislative House Election Tribunals and Local Government Election Tribunals shall be as set out in the Sixth Schedule to this Constitution.

Sixth Schedule.



PART IV  
SUPPLEMENTAL

Jurisdiction  
of State  
courts in  
respect of  
Federal  
causes.

270.—(1) Subject to the provisions of this Constitution—

(a) where by the Law of a State jurisdiction is conferred upon any court for the hearing and determination of civil causes and of appeals arising out of such causes, the court shall have like jurisdiction with respect to the hearing and determination of Federal causes and of appeals arising out of such causes ;

(b) where by the Law of a State jurisdiction is conferred upon any court for the investigation, inquiry into, or trial of persons accused of offences against the Laws of the State and with respect to the hearing and determination of appeals arising out of any such trial or out of any proceedings connected therewith, the court shall have jurisdiction with respect to the investigation, inquiry into, or trial of persons for Federal offences and the hearing and determination of appeals arising out of the trial or proceedings; and

(c) the jurisdiction conferred on a court of a state pursuant to the provisions of this section shall be exercised in conformity with the practice and procedure for the time being prescribed in relation to its jurisdiction over civil or criminal causes other than Federal causes.

(2) Nothing in the provisions of this section shall be construed as conferring jurisdiction as respects Federal causes or Federal offences upon a court presided over by a person who is not or has not been qualified to practise as a legal practitioner in Nigeria.

(3) In this section, unless the context otherwise requires—  
“cause” include matter ;

“Federal cause” means civil or criminal cause relating to any matter with respect to which the National Assembly has power to make laws ; and

“Federal offence” means an offence contrary to the provision of an Act of the National Assembly or any law having effect as if so enacted.

Enforcement  
of decisions.

271.—(1) The decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and person, and by courts with subordinate jurisdiction to that of the Supreme Court.

(2) The decisions of the Court of Appeal shall be enforced in any part of the Federation by all authorities and person, and by courts with subordinate jurisdiction to that of the Court of Appeal.

(3) The decisions of High Court and of all other courts established by this Constitution shall be enforced in any part of the Federation by all authorities and persons, and by other courts of co-ordinate or with subordinate jurisdiction to that of the High Court and those other courts, respectively.

Appointment  
of persons  
learned in  
Islamic law  
and  
Customary  
law.

272.—(1) In exercising his powers under the foregoing provisions of this Chapter in respect of appointments to the offices of Justices of the Supreme Court and Justices of the Court of Appeal, the President shall have regard to the need to ensure that there are among the holders of such offices persons learned in Islamic law and persons learned in Customary law.

(2) For the purposes of subsection (1) of this section :

(a) a person shall be deemed to be learned in Islamic law if he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years in the case of a Justice of the Supreme Court or not less than 12 years in the case of a Justice of the Court of Appeal and has in either case obtained a recognised qualification in Islamic law from an institution acceptable to the Federal Judicial Service Commission ;

(b) a person shall be deemed to be learned in Customary law if he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years in the case of a Justice of the Supreme Court or not less than 12 years in the case of a Justice of the Court of Appeal and has in either case and in the opinion of the Federal Judicial Service Commission considerable knowledge and experience in Customary law.

273. No. legal practitioner shall be qualified for appointment as a Justice of the Supreme Court or the Court of Appeal or a Judge of a High Court or a Kadi of a Sharia Court of Appeal or Judge of the Customary Court of Appeal whilst he is a member of the Federal Judicial Service Commission or a State Judicial Service Commission, and he shall remain so disqualified until a period of 3 years has elapsed since he ceased to be a member.

Disqualifica-  
tion of  
certain legal  
practitioners.

274.—(1) A person appointed to any judicial office shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed under this Constitution and has subsequently taken and subscribed the Oath of Allegiance and the Judicial Oath prescribed in the Seventh Schedule to this Constitution.

Declaration  
of assets and  
liabilities :  
oaths of  
judicial  
officers.  
Seventh  
Schedule.

(2) The oaths aforesaid shall be administered by the person for the time being authorised by law to administer such oaths.

275.—(1) A judicial officer may retire when he attains the age of 60 years, and he shall cease to hold office when he attains the age of 65 years.

Tenure of  
office and  
pension  
rights of  
judicial  
officers.

(2) Any person who has held office as a judicial officer—

(a) for a period of not less than 15 years shall, if he retires at or after the age of 60 years, be entitled to pension for life at a rate equivalent to his last annual salary plus the consolidated allowances in addition to any other retirement benefits to which he may be entitled ;

(b) for a period of less than 15 years shall, if he retires at or after the age of 60 years, be entitled to pension for life at a rate as in paragraph (a) of this subsection prorata the number of years he served as a judicial officer in relation to the period of 15 years, plus the consolidated allowances in addition to other retirement benefits to which he may be entitled under his terms and conditions of service ;

(c) in any other case, shall be entitled to such benefits as may be regulated by an Act of the National Assembly or by a Law of a House of Assembly, as the case may be.

(3) A judicial officer incapacitated in the course of his duty who is not otherwise qualified for pension under this section shall be entitled to pension for life at a rate equivalent to his last annual salary in addition to any other benefits to which he may be entitled under paragraph (c) of subsection (2) of this section.

Removal of  
the Chief  
Justice of  
Nigeria or  
the Chief  
Judge of a  
State from  
office.

276.—(1) The Chief Justice of Nigeria or the Chief Judge of a State shall not be removed from office or from his appointment before the age of retirement except in the following circumstances—

(a) in the case of the Chief Justice of Nigeria, by the President acting on an address supported by two-thirds majority of the Senate ;

(b) in the case of the Chief Judge of a State, by the Governor of the State acting on an address supported by two-thirds majority of the House of Assembly of the State ; praying that he be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or body) or for misconduct or for contravention of the Code of Conduct.

(2) An allegation of misconduct or inability to discharge the functions of his office or of contravention of the Code of Conduct against the Chief Justice of Nigeria or the Chief Judge of a State, as the case may be, shall be made in writing addressed to the President of the Senate or the Speaker of the House of Assembly of the State, as the case may be, who shall thereafter constitute a panel to be called the Investigating Panel consisting of five members all of whom shall be persons of unquestionable integrity and two of whom shall be non-members of the legal profession, to investigate the allegation.

(3) Where after investigation as provided for in subsection (2) of this section, the allegation had not been proved, no further proceedings shall be taken in respect of the matter.

(4) Save in the case of the non-members of the legal profession, a person shall not be qualified to serve as Chairman or Member of the Investigating Panel unless in the case of the Chief Justice of Nigeria, he has served as a Chief Justice of Nigeria or as a Justice of the Supreme Court or he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years, or unless in the case of the Chief Judge of a State, he has served as a Chief Justice of Nigeria, Justice of the Supreme Court, President of Justice of the Court of Appeal, Chief Judge or Judge of the High Court of a State, Grand Kadi or Kadi of a Sharia Court of Appeal or President or Judge of the Customary Court of Appeal or he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 12 years :

Provided that—

(i) in the case of the Chief Justice of Nigeria, a person who has served as a Chief Justice of Nigeria or who is a legal practitioner in Nigeria and has been so qualified for a period of not less than 15 years shall be the Chairman of the Investigating Panel, and

(ii) in the case of a Chief Judge of a State, a person who has served as Chief Justice of Nigeria, Justice of the Supreme Court, President or Justice of the Court of Appeal, a Chief Judge or a legal practitioner in Nigeria and has been so qualified for a period of not less than 12 years shall be the Chairman.

(5) The Chief Justice of Nigeria or the Chief Judge of a State, against whom an allegation of misconduct or a contravention of the Code of Conduct has been made under this section, shall be entitled to defend himself in person or by a legal practitioner of his own choice before the Investigating Panel set up under subsection (2) of this section.

(6) The Investigating Panel shall at the conclusion of the investigating in respect of the Chief Justice of Nigeria or the Chief Judge of a State submit a report of its findings to the President of the Senate or the Speaker of the House of Assembly of the State who shall immediately submit the said report to the Senate or the House of Assembly of the State for consideration, as the case may require.

(7) The Senate or the House of Assembly of the State shall within a period of not more than 60 days from the date of receipt thereof consider such report.

(8) If the report is considered and confirmed by an address supported by two-thirds majority of the Senate or the House of Assembly of the State, the President of the Senate or the Speaker of the House of Assembly shall send the decision thereof to the President or the Governor of the State who shall thereupon remove the Chief Justice of Nigeria or the Chief Judge of a State from his office, as the case may be.

(9) No proceedings or determination of the Investigating Panel or of the Senate or the House of Assembly of a State or any matter relating thereto shall be entertained or questioned in any court.

**277.**—(1) A judicial officer other than the Chief Justice of Nigeria or the Chief Judge of a State shall not be removed from his office or appointment before the age of retirement except in the following circumstances—

Removal of  
other judicial  
officers from  
office.

(a) in the case of a Justice of the Supreme Court, the President or a Justice of the Court of Appeal, the Chief Judge or a Judge of the Federal High Court, by the President acting on the recommendation of the Federal Judicial Service Commission and on an address supported by two-thirds majority of the Senate ;

(b) in the case of a Judge of the High Court of a State, the Grand Kadi or a Kadi of the Sharia Court of Appeal of a State or the President or a Judge of the Customary Court of Appeal of a State by the Governor of the State acting on the recommendation of the State Judicial Service Commission and on an address supported by a two-thirds majority of the House of Assembly of the State praying that he be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or body) or for misconduct or contravention of the Code of Conduct.

(2) An allegation of misconduct or of inability to discharge the functions of his office or of contravention of the Code of Conduct against a judicial officer other than the Chief Justice of Nigeria and the Chief Judge of a State shall be made in writing addressed to the Secretary of the appropriate Judicial Service Commission and the Chairman of that Commission shall thereafter constitute a panel to be called the Investigating Panel consisting of a Chairman and four other members all of whom shall be persons of unquestionable integrity and two of whom shall be non-members of the legal profession, to investigate the allegation.

(3) Where after investigation as provided for in subsection (2) of this section, the allegation has not been proved, no further proceedings shall be taken in respect of the matter.



(4) Save in the case of non-members of the legal profession, a person shall not be qualified to serve as Chairman or member of the Investigating Panel unless he has served or is serving as Justice of the Supreme Court, President or Justice of the Court of Appeal, or as a Chief Judge of a State or Judge of a High Court or as a Grand Kadi or Kadi of a Sharia Court of Appeal or as a President of Judge of the Customary Court of Appeal or he is a legal practitioner in Nigeria and has been so qualified for a period of not less than 15, 12 or 10 years, as appropriate.

(5) A judicial officer against whom an allegation of misconduct or of inability to discharge the functions of his office or contravention of the Code of Conduct has been made under this section shall be entitled to defend himself in person or by a legal practitioner of his own choice before the Investigating Panel set up under subsection (2) of this section.

(6) The Investigating Panel shall at the conclusion of its investigation submit a report of its findings to the appropriate Judicial Service Commission and the Commission shall within a period of not more than 60 days from the date of the receipt thereof consider such report and if satisfied that the officer concerned be so removed, shall make appropriate recommendations to the President or the Governor of a State, who shall thereupon refer the recommendation to the Senate or the House of Assembly of the State, for consideration, as the case may require.

(7) If the recommendation is confirmed by an address supported by two-thirds majority of the Senate or the House of Assembly of the State, the President or the Governor of the State, as the case may be, shall thereupon remove the said judicial officer from his office.

(8) No proceeding or determination of the Investigating Panel or the Senate or the House of Assembly of a State or any matter relating thereto shall be entertained or questioned in any court.

278. Any person who has held office as a judicial officer shall not on ceasing to be a judicial officer for any reason whatsoever thereafter appear as a legal practitioner before any court of law or tribunal in Nigeria.

279. Except for the purposes of exercising any jurisdiction conferred by this Constitution or by any law, every court established under this Constitution shall be deemed to be duly constituted notwithstanding any vacancy in the membership of the court.

280.—(1) Every court established under this Constitution shall deliver its decision in writing not later than 90 days after the conclusion of evidence and final addresses, and furnish all parties to the cause of matter determined with duly authenticated copies of the decision within 7 days of the delivery thereof.

(2) Each Justice of the Supreme Court or of the Court of Appeal shall express and deliver his opinion in writing, or may state in writing that he adopts the opinion of any other Justice who delivers a written opinion :

Provided that it shall not be necessary for all the Justices who heard a cause or matter to be present when judgment is to be delivered, and the opinion of a Justice may be pronounced or read by any other Justice whether or not he was present at the hearing.

(3) A decision of a court consisting of more than one judge shall be determined by the opinion of the majority of its members.

Restriction  
on former  
judicial  
officers.

Vacancies.

Determina-  
tion of causes  
and matters.

(4) For the purposes of delivering its decision under this section the Supreme Court or the Court of Appeal shall be deemed to be duly constituted if at least one member of that Court sits for the purpose.

(5) The decision of a court shall not be set aside or treated as a nullity solely on the ground of non-compliance with the provisions of this section unless the court exercising jurisdiction by way of appeal from or review of that decision is satisfied that the party complaining has suffered a miscarriage of justice by reason thereof.

(6) As soon as possible after hearing and deciding any case in which it has been determined or observed that there was non-compliance with the provisions of subsection (1) of this section, the person presiding at the sitting of the court shall send a report on the case to the Chairman of the appropriate Judicial Service Commission who shall keep the Commission informed for such action as the Commission may deem fit.

281.—(1) Where any question as to the interpretation or application of this Constitution arises in any proceedings in any court of law in any part of Nigeria (other than in the Supreme Court, the Court of Appeal, or a High Court) and the court is of the opinion that the question involves a substantial question of law, the court may, and shall if any of the parties to the proceedings so requests, refer the question to a High Court having jurisdiction in that part of Nigeria; and the High Court shall—

References  
of questions  
of law.

(a) if it is of the opinion that the question involves a substantial question of law, refer the question together with its own opinion on the matter to the Court of Appeal; or

(b) if it is of the 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 or application of this Constitution arises in any proceedings in a High Court, and the court is of the 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 together with its own opinion on the matter to the Court of Appeal; and where any question is referred in pursuance to this subsection, the 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.

(3) Where any question as to the interpretation or application of this Constitution arises in any proceedings in the Court of Appeal and the court is of the 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 together with its own opinion on the matter to the Supreme Court which shall give its decision upon the question and give such directions to the Court of Appeal as it deems appropriate.

282. In this Chapter, unless the context otherwise requires, "office" when used with reference to the validity of an election to an office, includes the office of President of the Federation, Vice-President of the Federation, Governor, Deputy Governor of a State, Chairman or Vice-Chairman of a Local Government Council, but does not include the office of President of the Senate, Speaker of the House of Representatives or Speaker of a House of Assembly.

Interpreta-  
tion.

## CHAPTER VIII

### PART I

#### LOCAL GOVERNMENT COUNCILS

##### *A—Establishment*

Establishment of Local Government Council.

283.—(1) There shall be a Local Government Council for each Local Government Area in the Federation.

(2) Local Government Council shall stand dissolved at the expiration of a period of 3 years commencing from the date of the first sitting of the Council.

Division into wards and boundaries thereof.

284.—(1) Subject to the provisions of this Constitution, the National Electoral Commission shall divide each Local Government Council Area into such number of wards, not being less than 10 or more than 20, as the circumstances of each Local Government Area may require.

(2) The boundaries of each ward shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable.

Periodical reviews of wards.

285. The National Electoral Commission shall review the division of every Local Government Area into wards at intervals of not less than 10 years and may alter such wards in accordance with the provisions of section 284 of this Constitution to such extent as it may consider desirable in the light of the review.

##### *B—The Chairman and Vice-Chairman*

Establishment of office of Chairman and Vice-Chairman.

286. There shall be for each Local Government Council a Chairman and Vice-Chairman.

Qualifications of Chairman.

287. A person shall be qualified for election to the office of Chairman if—

- (a) he is citizen of Nigeria ;
- (b) he has attained the age of 25 years.

Disqualifications of Chairman.

288.—(1) A person shall not be qualified for election to the office of Chairman if—

(a) he does any act, acquires any status or suffers any disability which if he were a member of a House of Assembly would have disqualified him from membership of that House ; and

(b) he has been elected to such office at two previous elections.

(2) A Chairman shall not hold any other executive office or paid employment in any capacity whatsoever during his tenure of office.

Declaration of assets and liabilities : oaths of Chairman. Seventh Schedule.

289. A person elected to the office of Chairman shall not begin to perform the functions of that office until he has declared his assets and liabilities as prescribed in this Constitution and has subsequently taken and subscribed before the Governor of the State the Oath of Allegiance and the Oath of Office as prescribed in the Seventh Schedule to this Constitution.

Election of Chairman.

290.—(1) An election to the office of Chairman shall be held on a date to be appointed by the National Electoral Commission.

(2) An election to the said office shall be held on a date not earlier than 90 days and not later than 60 days before the expiration of the term of office of the last holder of that office.

(3) Where in an election to the office of Chairman—

(a) at the close of nomination only one candidate has been nominated, the National Electoral Commission shall extend the time for nomination ; or

(b) at the close of nomination one of the two candidates nominated for the election is the only candidate by reason of "the disqualification, withdrawal, incapacitation, disappearance, or death of the other candidate the National Electoral Commission shall extend the time for nomination, so however that where after the extension only one candidate remains validly nominated, there shall be no further extension.

(4) A candidate for election to the office of Chairman shall be deemed to have been duly elected where, being the only candidate nominated for election he has at least two-thirds of all the votes cast at the election, but where the only candidate fails to be elected in accordance with this subsection there shall be fresh nominations.

(5) A candidate for an election to the office of Chairman shall be deemed to have been duly elected where, there being 2 candidates he has a majority of the votes cast at the election.

(6) In default of a candidate being duly elected—

(a) under subsection (4) of this section, the National Electoral Commission shall, within 30 days of the declaration of results, order another or further nominations and election until the emergence of a candidate as provided for in this section ;

(b) under subsection (5) of this section by reason of a tie the National Electoral Commission shall declare as duly elected that candidate who scored the highest number of votes in a majority of wards in the Local Government Area.

(7) For the purpose of an election under this section a Local Government Area shall be regarded as one constituency.

291.—(1) In any election to which the foregoing provisions of this part of this Chapter relates a candidate for the office of Chairman shall not be deemed to have been validly nominated for such office unless he nominates another candidates as his associate for his running for the office of Chairman who is to occupy the office of Vice-Chairman ; and that candidate shall be deemed to have been duly elected to the office of Vice-Chairman if the candidate who nominated him is duly elected as Chairman in accordance with the said provisions.

Nomination  
and election  
of Vice-  
Chairman.

(2) The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualification, declaration of assets and liabilities and oaths of Chairman shall apply in relation to the office of Vice-Chairman as if references to Chairman were references to Vice-Chairman.

292.—(1) The Chairman or Vice-Chairman may be removed from office in accordance with the provisions of this section.

Removal of  
Chairman or  
Vice-Chair-  
man.

(2) Whenever a notice of any allegation in writing signed by not less than one-half of the members of the Council—

(a) is presented to the Secretary of the Local Government ;



(b) stating that the holder of such office is guilty of gross misconduct in the performance of the functions of his office, detailed particulars of which shall be specified, the Secretary of the Local Government shall within 7 days of the notice cause a copy thereof to be served on the holder of the office and on each member of the Local Government Council and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the Council.

(3) Within 14 days of the presentation of the notice, (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the Council, without the holder of the office being present at the meeting, shall resolve by motion without any debate whether or not the allegation shall be investigated.

(4) A motion of the Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all the members of the Council.

(5) Within 7 days of the passing of a motion under the foregoing provisions of this section, the Secretary of the Local Government shall inform the Chief Judge of the State who shall appoint a Panel of seven persons who in his opinion are of unquestionable integrity not being members of any public service, legislative house or political party to investigate the allegation as provided in this section.

(6) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person and be represented before the Panel by a legal practitioner of his own choice.

(7) A panel appointed under this section shall—

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

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

(8) Where the Panel reports to the Local Government Council that the allegation has not been proved no further proceedings shall be taken in respect of the matter.

(9) Where the report of the Panel is that the allegation against the holder of the office has been proved, then within 14 days of the receipt of the report the Council shall consider the report without the holder of the office being present at the meeting and if by a resolution of the Council supported by not less than two-thirds majority of all its members the report of the panel is adopted then the holder of the office shall stand removed from office as from the date of the adoption of the report.

(10) No proceedings or determination of the panel or of the local government council or any matter relating thereto shall be entertained or questioned in any court.

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

293.—(1) The Chairman or Vice-Chairman shall cease to hold office if—

Permanent incapacity of Chairman and Vice-Chairman.

(a) by a resolution passed by two-thirds majority of all the members of the Local Government Council it is declared that the Chairman or the Vice-Chairman is incapable of discharging the functions of his office; and

(b) the declaration is verified after such medical examination as may be necessary by a medical panel established under subsection (4) of this section in its report to the Secretary of the Local Government.

(2) Where the medical panel certifies in such report that in its opinion the Chairman or Vice-Chairman is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice thereof signed by the Secretary of the Local Government shall be published in the Gazette of the Government of the State.

(3) The Chairman or Vice-Chairman shall cease to hold office from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel to which this section relates shall be appointed by the Secretary of the Local Government and shall comprise three medical practitioners in Nigeria—

(a) one of whom shall be a medical practitioner of the choice of the officer concerned; and

(b) two other medical practitioners.

294.—(1) The Vice-Chairman shall hold the office of Chairman of the Council if the office of the Chairman becomes vacant by reasons of death, resignation or removal from office in accordance with section 292 or 293 of this Constitution.

Discharge of functions of Chairman.

(2) where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-Chairman is also vacant, the Secretary of the Local Government, shall hold the office of Chairman for a period of not more than 3 months, during which there shall be an election of a new Chairman, who shall hold office as provided for in section 296 (3) of this Constitution.

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

(a) by reason of death or resignation or removal in accordance with section 292 or 293 of this Constitution;

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

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

295.—(1) The Chairman shall assign to the Vice-Chairman specific responsibilities for any business of the Local Government.

Executive responsibility of Vice-Chairman or Supervisory Councillors.

(2) The Chairman shall in his discretion assign to any Supervisory Councillor of the Local Government responsibility for any business of the Local Government including the administration of any department of the Government.

(3) The Chairman shall hold regular meetings with the Vice-Chairman, all the Supervisory Councillors and other Councillors for the purpose of:

Tenure of  
office of  
Chairman.

- (a) determining the general direction of the policies of the Council ;
- (b) co-ordinating the activities of the Council ; and
- (c) generally discharging the executive functions of the Council.

296.—(1) Subject to the provisions of this Constitution, a person shall hold the office of Chairman until—

- (a) when his successor in office takes the oath of that office ;
- (b) he dies whilst holding such office ;
- (c) the date when his resignation from office takes effect ;
- (d) he otherwise ceases to hold office in accordance with the provisions of this Constitution ;
- (e) he becomes a member of a secret society ; or
- (f) the Secretary of the Local Government receives a certificate under the hand of the Chairman of the National Electoral Commission Stating that the provisions of section 304 of this Constitution have been complied with in respect of the recall of the Chairman.

(2) The Secretary to the Local Government shall give effect to subsection (1) of this section, so however that the Secretary shall first present evidence satisfactory to the Local Government Council that any of the provisions of that subsection has become applicable in respect of the Chairman.

(3) Subject to the provisions of subsection (1) of this section, the Chairman shall vacate his office at the expiration of a period of 3 years commencing from the date when—

- (a) in the case of a person first elected as Chairman under this Constitution, he took the Oath of Allegiance and the Oath of Office, and
- (b) the person last elected to that office took the Oath of Allegiance and the Oath of Office or would but for his death have taken such oaths.

Death of  
Chairman-  
elect before  
oaths of  
office.

297.—(1) If a person duly elected as Chairman dies before taking and subscribing the Oath of Allegiance and the Oath of Office, the person elected with him a Vice-Chairman shall be sworn in as Chairman who shall then nominate and with the approval of a majority of the members of the Local Government Council appoint a new Vice-Chairman from among those members.

(2) The National Electoral Commission shall conduct a bye-election to fill the vacant seat created in the ward from which the new Vice-Chairman has been appointed.

#### C—Councillors

Number of  
Councillors.

298. These shall be elected from every ward in a Local Government Area one Councillor.

Qualification  
of  
Councillors.

299. Subject to the provisions of section 301 of this Constitution, a person shall be qualified for election as a Councillor if he is a citizen of Nigeria and has attained the age of 21 years and has been educated up to at least the School Certificate Level or its equivalent.

Disqualifica-  
tions of  
Councillors.

300.—(1) No person shall be qualified for election as a Councillor if—

- (a) he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made declaration of allegiance to such a country ;
- (b) under any law in force in any part of the Federation, he is adjudged to be a lunatic or otherwise declared to be of unsound mind.

(c) he is under a sentence of death imposed on him by any court of law in Nigeria or a sentence of imprisonment for an offence involving dishonesty (by whatever name called) imposed on him by such a court or substituted by a competent authority for any other sentence imposed on him by such a court ;

(d) he has been convicted and sentenced by any court of law or tribunal established by law for an offence involving dishonesty or he has been found guilty of a contravention of the Code of Conduct ;

(e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of the Federation ;

(f) he is a person employed in the public service of the Federation or of any State ; or

(g) he is a member of a secret society.

(2) Where in respect of 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, any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or, as the case may be, the appeal lapses or is abandoned, whichever is earlier ; and for the purposes of this subsection, an "appeal" includes any application for an injunction or an order of certiorari, mandamus, prohibition or habeas corpus, or any appeal from any such application.

301. Every person elected as councillor shall before taking his seat declare his assets and liabilities as prescribed in this Constitution and subsequently take and subscribe before the Chairman of the Council the Oath of Allegiance and the Oath of Membership prescribed in the Seventh Schedule to this Constitution.

Declaration  
of assets and  
liabilities :  
oaths of  
Councillors,  
Seventh  
Schedule.

302.—(1) There shall be not less than 3 nor more than 5 offices of Supervisory Councillors for each Local Government Council.

Supervisory  
Councillors.

(2) Any appointment to the office of Supervisory Councillors shall be made by the Chairman within 30 days of taking office from among the Councillors of that Local Government Council.

303.—(1) A member of a Local Government Council shall vacate his seat in the Council—

Tenure of  
seat of  
members.

(a) if he becomes a member of a legislative house ;

(b) on the date when his letter of resignation takes effect ;

(c) if he becomes President, Vice-President, Governor, Deputy Governor or a Minister of the Government of the Federation or a Commissioner of the Government of a State ;

(d) being a person whose election was sponsored by one political party, he resigns from that party or becomes a member of the other political party before the expiration of the period for which the Local Government Council was elected ;

(e) if he becomes a member of a secret society ; or



(f) the Chairman of the Local Government Council receives a certificate under the hand of the Chairman of the National Electoral Commission stating that the provisions of section 304 of this Constitution have been complied with in respect of the recall of that member.

(2) The Chairman of the Local Government Council shall give effect to subsection (1), so however that the Chairman shall first present evidence satisfactory to the Council that any of the provisions of that subsection has become applicable in respect of that member.

#### *D—General*

Recall.

304.—(1) A member of a Local Government Council may be recalled as such a member if—

(a) there is presented to the Chairman of the National Electoral Commission a petition in that behalf signed by more than one half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member; and

(b) the petition is thereafter approved in a referendum conducted by the National Electoral Commission within 90 days of the date of the receipt of the petition by a simple majority of the votes of the persons registered to vote in that member's constituency.

(2) For the purposes of this section "member" includes Chairman and Vice-Chairman.

Presiding  
at sittings of  
Local  
Government  
Council.

305.—(1) At any sitting of the Local Government Council the Chairman shall preside and in his absence the Vice-Chairman shall preside.

(2) In the absence of both persons in subsection (1) any other member of the Council as may be elected for that purpose may preside.

Quorum.

306. The quorum of a Local Government Council shall be one-half of all members of the Local Government Council.

Voting.

307. Except as otherwise provided by this Constitution any question proposed for decision in the Local Government Council shall be determined by a simple majority of the members present and voting, and the person presiding shall have a casting vote whenever necessary to avoid an equality of votes.

### PART II

#### PUBLIC SERVICE OF A LOCAL GOVERNMENT

##### *Public Service of a Local Government*

Local  
Government  
Service.

308. There shall be a Local Government Service.

Protection of  
Pension  
rights.

309.—(1) Subject to the provisions of subsection (2) of this section the right of a person in the service of a Local Government to receive pension or gratuity shall be regulated by Law.

(2) Any benefit to which a person is entitled in accordance with or under such Law as is referred to in subsection (1) of this section shall not be withheld or altered to his disadvantage except to such extent as is permissible under any law including the Code of Conduct.

(3) Pension in respect of services in the service of a Local Government shall not be taxed.

310. A person in the service of a Local Government shall observe and conform to the Code of Conduct.

Code of  
Conduct.

## CHAPTER IX

### FEDERAL CAPITAL TERRITORY, ABUJA AND GENERAL SUPPLEMENTARY PROVISIONS

#### PART I

#### FEDERAL CAPITAL TERRITORY, ABUJA

311.—(1) There shall be a Federal Capital Territory, Abuja, the boundaries of which are as defined in Part II of the First Schedule to this Constitution.

Federal  
Capital  
Territory :  
ownership of  
lands, Part  
II, First  
Schedule.

(2) The ownership of all lands comprised in the Federal capital Territory, Abuja shall vest in the Government of the Federal Republic of Nigeria.

Capital of  
the Federa-  
tion.

312. The Federal Capital Territory, Abuja, shall be the capital of the Federation and seat of the Government of the Federation.

Application  
of the Consti-  
tution.

313. The following special provisions of this Constitution shall apply to the Federal Capital Territory, Abuja—

(a) all legislative powers, executive powers and judicial powers shall respectively vest in the National Assembly, the President of the Federation and in the courts established for the Federal Capital Territory, Abuja ;

(b) all the powers referred to in paragraph (a) of this section shall be exercised in accordance with the provisions of this Constitution.

314. For the purposes of Chapter V of this Constitution the Federal Capital Territory shall constitute one Senatorial district and four Federal constituencies.

Representa-  
tions in the  
National  
Assembly.

315. A Mayoralty comprising four Area Councils shall be created for the Federal Capital Territory, Abuja, and the administrative and political structure thereof shall be as provided by an Act of the National Assembly.

Administra-  
tion of the  
Federal  
Capital  
Territory,  
Abuja.

316. The machinery for the appointment, promotion, dismissal and the exercise of disciplinary control over the judicial officers and all other staff of the courts in the Federal Capital Territory, Abuja shall be as established by an Act of the National Assembly.

Judicial  
services of  
the Federal  
Capital  
Territory,  
Abuja.

#### PART II

#### MISCELLANEOUS

317.—(1) Subject to the provisions of this Constitution, the President may by instrument published in the *Gazette* of the Government of the Federation issue a Proclamation of a State of Emergency in the Federation or any part thereof.

Procedure for  
Proclamation  
of State of  
Emergency.

(2) The President shall, immediately after the publication, transmit copies of such *Gazette* containing the Proclamation including the details of the emergency to the President of the Senate and the Speaker of the House of

Representatives, each of whom shall forthwith convene or arrange for a meeting of the House of which he is President or Speaker, as the case may be, to consider the situation and decide whether or not to pass a resolution approving the Proclamation.

(3) The President shall have power to issue a Proclamation of a State of Emergency only when—

(a) the Federation is at war ;

(b) the Federation is in imminent danger of invasion or involvement in a state of war ;

(c) there is actual breakdown of public order and public safety in the Federation or any part thereof to such extent as to require extraordinary measures to restore peace and security ;

(d) there is a clear and present danger of an actual breakdown of public order and public safety in the Federation or any part thereof requiring extra ordinary measures to avert such danger ;

(e) there is an occurrence or imminent danger of the occurrence of any disaster or natural calamity, affecting any community or section of such community in the Federation requiring extraordinary measures to deal with the situation ;

(f) there is any public danger which clearly constitutes a threat to the existence of the Federation ; or

(g) the President receives a request to do so in accordance with the provisions of subsection (4) of this section.

(4) The Governor of a State may, with the sanction of a resolution supported by two-thirds majority of the House of Assembly of the State, request the President to issue a Proclamation of a state of emergency in the State when there is in existence within the State any of the situations specified in subsection (3) (c), (d) and (e) of this section and such situation does not extend beyond the boundaries of the State.

(5) The President shall not issue a Proclamation of a state of emergency in any case to which the provisions of subsection (4) of this section apply, unless the Governor of the State fails within a reasonable time to make a request to the President to issue such Proclamation.

(6) A Proclamation issued by the President under this section shall cease to have effect—

(a) if it is revoked by the President by instrument published in the *Gazette* of the Government of the Federation ;

(b) if it affects the Federation or any part thereof and within 2 days when the National Assembly is in session, or within 10 days when the National Assembly is not in session after its publication, there is no resolution supported by two-thirds majority of all the members of each House of the National Assembly approving the Proclamation ;

(c) after a period of 6 months has elapsed since it has been in force :

Provided that the National Assembly may, before the expiration of the period of 6 months aforesaid, extend the period for the Proclamation of the state of emergency to remain in force from time to time for a further period of 6 months by resolution passed in like manner ; or

(d) at any time after the approval referred to in paragraph (b) or the extension referred to in paragraph (c) of this subsection, when each House of the National Assembly revokes the Proclamation by a simple majority of all members of each House.

318.—(1) Save as otherwise provided in this section, 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 authority or person by whom he was appointed, elected or selected

Resignations.

(2) The resignation of any person from any office established by the Constitution shall take effect when the writing signifying the resignation is received by the authority or person to whom it is addressed or by any person authorised by that authority or person to receive it.

(3) The notice of resignation of the President and of the Vice-President shall respectively be addressed to the President of the Senate and to the President.

(4) On the resignation of the President, the President of the Senate shall forthwith give notice of the resignation to the Speaker of the House of Representatives.

(5) The notice of resignation of the Governor and of the Deputy Governor of a State shall be addressed to the Speaker of the House of Assembly and the Governor of the State respectively.

(6) The notice of resignation of the President of the Senate and of the Speaker of the House of Representatives shall in each case be addressed to the Clerk of the National Assembly; the notice of resignation of the Speaker of a House of Assembly shall be addressed to the Clerk of the House of Assembly of the State.

(7) The notice of resignation of a member of a legislative house shall be addressed to the President of the Senate or, as the case may require, to the Speaker of the legislative house in question.

(8) The notice of resignation of the Chairman and of the Vice-Chairman of a Local Government Council shall respectively be addressed to the Secretary to the Local Government and the Chairman of the Local Government Council.

(9) The notice of resignation of a Councillor shall be addressed to the Chairman of the Local Government Council.

319. Notwithstanding any provisions contained in Chapter IV and subject to sections 129 and 175 of this Constitution, no citizen of Nigeria by registration or under a grant of a certificate of naturalisation shall within 10 years of such registration or grant, hold any elective or appointive office under this Constitution.

Restriction  
on certain  
citizens.

320.—(1) Notwithstanding anything to the contrary in this Constitution but subject to subsection (2) of this section—

Restriction  
on legal  
proceedings.

(a) no civil or criminal proceedings shall be instituted or continued against a person to whom this section applies during his period of office;

(b) a person to whom this section applies shall not be arrested or imprisoned during that period either in pursuance of the process of any court or otherwise; and

(c) no process of any court requiring or compelling the appearance of such a person shall be applied for or issued:



Provided that in ascertaining whether any period of limitation has expired for the purposes of any proceedings against a person to whom this section applies no account shall be taken of his period of office.

(2) The provisions of sub-section (1) of this section shall not apply to civil proceedings against a person to whom this section applies in his official capacity or to civil or criminal proceedings in which such a person is only a nominal party.

(3) This section applies to a person holding the office of President or Vice-President, Governor or Deputy Governor; and the reference in this section to "period of office" is a reference to the period during which the person holding such office is required to perform the functions of the office.

### PART III TRANSITIONAL PROVISIONS AND SAVINGS

Citizenship.

321. Notwithstanding the provisions of Chapter III but subject to section 28 of this Constitution, any person who became a citizen of Nigeria by birth, registration or naturalisation under the provisions of any previous Constitution shall continue to be a citizen of Nigeria under this Constitution.

Standing Order.

322.—(1) The provisions of this section shall have effect until the National Assembly or a House of Assembly exercises the powers conferred upon it by section 58 or 99 of this Constitution as appropriate.

(2) The Standing Orders as used by the Senate established under the former Constitution shall apply in relation to the proceedings in the Senate established under this Constitution.

(3) The Standing Orders as used by the House of Representatives established under the former Constitution shall apply in relation to the proceedings in every other legislative house.

(4) The Standing Orders shall apply in relation to a legislative house with such modifications as may be necessary to bring them into conformity with the provisions of this Constitution.

(5) In this section, the "former Constitution" refers to the Constitution of the Federal Republic of Nigeria 1979.

Special provisions in respect of first election.

323.—(1) The electoral commission established for the Federation under any law in force immediately before the date when this section comes into force shall be responsible for performing the functions conferred on the National Electoral Commission established by the provisions of this Constitution.

(2) Any person who before the coming into force of this Constitution was elected to any elective office mentioned in this Constitution in accordance with the provisions of any law in force immediately before the coming into force of this Constitution shall be deemed to have been duly elected to that office under this Constitution.

System of revenue allocation

324. Until the coming into force of an Act of the National Assembly in that behalf the provisions of any existing law relating to revenue allocation shall continue to apply.

Debts.

325. Any debt of the Federation or of a State or of a Local Government which immediately before the date when this section comes into force was

charged on the revenue and assets of the Federation or on the revenue and assets of a State or on the revenue and assets of a Local Government shall as from the date when this section comes into force, continue to be so charged.

326.—(1) Subject to this provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it in to conformity with the provisions of this Constitution and shall be deemed to be—

Existing law.

(a) an Act of the National Assembly to the extent that it is a law with respect to any matter on which the National Assembly is empowered by this Constitution to make laws ; and

(b) a Law made by a House of Assembly to the extent that it is a law with respect to any matter on which a House of Assembly is empowered by this Constitution to make laws.

(2) The appropriate authority may at any time by order make such modifications in the text of any existing law as the appropriate authority considers necessary or expedient to bring that law into conformity with the provisions of this Constitution.

(3) Nothing in this Constitution shall be construed as affecting the power of a court of law or any tribunal established by law to declare invalid any provision of an existing law on the ground of inconsistency with the provision of any other law, that is to say—

(a) any other existing law ;

(b) a Law of a House of Assembly ;

(c) an Act of the National Assembly ; or

(d) any provision of this Constitution.

(4) In this section, the following expression have the meanings assigned to them, respectively—

(a) “appropriate authority” means—

(i) the President, in relation to the provisions of any Law of the Federation,

(ii) the Governor of a State, in relation to the provisions of any existing law deemed to be a Law made by the House of Assembly of that State, or

(iii) any person appointed by any law to revise or rewrite the laws of the Federation or of a State;

(b) “existing law” means any law and includes any rule of law or any enactment or instrument whatsoever which is in force immediately before the date when this section comes into force or which having been passed or made before that date comes into force after that date ; and

(c) “modification” includes addition, alteration, omission or repeal.

(5) Nothing in this Constitution shall invalidate the following enactment that is to say—

(a) the National Youth Service Corps Act 1973;

(b) the National Security Agencies Decree 1986;

(c) the Land Use Act 1978;

and the provisions of those enactments shall continue to apply and have full effect in accordance with their tenor and to the like extent as any other

1973 No. 24.

1986 No. 19.

1978 No. 6.

Part I,  
Second  
Schedule.

Existing  
offices,  
courts and  
authorities.

provisions forming part of this Constitution and shall not be altered or repealed except in accordance with the provisions of section 10 (2) of this Constitution.

(6) Without prejudice to subsection (5) of this section, the enactments mentioned in the said subsection shall hereafter continue to have effect as Federal enactments and as if they related to matters included in the Exclusive Legislative List set out in Part I of the Second Schedule to this Constitution.

327.—(1) Any office, court of law or authority which immediately before the date when this section comes into force was established and charged with any function by virtue of any other Constitution or law shall be deemed to have been duly established and shall continue to be charged with such function until other provisions are made, as if the office, court of law or authority was established and charged with the function by virtue of this Constitution or in accordance with the provisions of a law made thereunder.

(2) Any person who immediately before the date when this section comes into force holds office by virtue of any other Constitution or law in force immediately before the date when this section comes into force shall be deemed to be duly appointed to that office by virtue of this Constitution or by any authority by whom appointments to the office fall to be made in pursuance of this Constitution.

(3) Notwithstanding the provisions of subsection (2) of this section, any person holding such office, a member of a court of law or authority, who would have been required to vacate such office, or where his membership of such court of law or authority would have ceased, but for the provision of the said subsection (2) of this section, shall at the expiration of the period prescribed therefor after the date when this section comes into force vacate such office or, as the case may be, his membership of such court of law or authority shall cease, accordingly.

(4) The foregoing provisions of this section are without prejudice to the exercise of such powers as may be conferred by virtue of this Constitution or a law upon any authority or person to make provisions with respect to such matters as may be prescribed or authorised by this Constitution or such law, including the establishment and abolition of offices, courts of law or authorities, and with respect to the appointment of persons to hold office or to be members of courts of law or authorities and their removal from such offices, courts of law or authorities.

328.—(1) Without prejudice to the generality of section 326 of this Constitution, any property, right, privilege, liability or obligation which immediately before the date when this section comes into force was vested in, exercisable or enforceable by or against—

(a) the former authority of the Federation as representative or trustee for the benefit of the Federation; or

(b) any former authority of a State as representative or trustee for the benefit of the State;

(c) any former authority of a local government as representative or trustee for the benefit of the Local Government Area, shall on the date when this section comes into force and without further assurance than the provisions hereof vest in, or become exercisable or enforceable by or against the President and Government of the Federation, the Governor and

Succession  
of property,  
rights,  
liabilities  
and obliga-  
tions.

Government of the State, and the Chairman and the Local Government, as the case may be.

(2) For the purposes of this section—

(a) the President and Government of the Federation, and the Governor and Government of a State, and the Chairman and Local Government, shall be deemed, respectively, to be successors to the said former authority of the Federation, former authority of the State and former authority of the Local Government in question; and

(b) references in this section to “former authority of the Federation” “former authority of a State” and “former authority of a Local Government” include references to the former Government of the Federation, the former Government of a State, and the former Local Government, or person any who exercised any authority on its behalf.

#### PART IV

##### INTERPRETATION, CITATION AND COMMENCEMENT

329.—(1) In this Constitution, unless it is otherwise expressly provided or the context otherwise requires—

Interpreta-  
tion.

“Act” or “Act of the National Assembly” means any law made by the National Assembly and includes any law which takes effect under the provisions of this Constitution as an Act of the National Assembly;

“appointment” or its cognate expression includes promotion, appointment on promotion or transfer or confirmation of appointment; “authority” includes government;

“Area Council” means each of the 4 Administrative Areas within the Federal Capital Territory Abuja subordinate to the mayoralty;

“belong to” or its grammatical expression when used with references to a person in a State refers to a person either of whose parents or any of whose grand parents was a member of a community indigenous to that State;

“bye-law” means enactment of a Local Government Council whose source is a State Law;

“Chairman” or “Vice-Chairman” when used with reference to a Local Government means Chairman or Vice-Chairman of the Local Government Council;

“civil service of the Federation” means service of the Federation in a civil capacity as staff of the office of the President, the Vice-President, a ministry or department of the Government of the Federation assigned with the responsibility for any business of the Government of the Federation;

“civil service of the State” means service of the government of a State in a civil capacity as staff of the office of the Governor, the Deputy Governor or a ministry or department of the Government of the State assigned with the responsibility for any business of the Government of the State;

“Code of Conduct” refers to the Code of Conduct contained in the Fifth Schedule to this Constitution;

“Commissioner” means a Commissioner of the Government of a State;

“Concurrent Legislative List” means the List matters set out in the first column in Part II of the Second Schedule to this Constitution with respect to which the National Assembly and a House of Assembly may make laws to the extent prescribed, respectively, opposite thereto in the second column thereof;

Part II,  
Second  
Schedule



"Councillor" means a member of a Local Government Council ;

"decision" means, in relation to a court, any determination of that court and includes judgment, decree, order, conviction, sentence or recommendation ;

"enactment" means provisions of any law or subsidiary instrument ;

"Exclusive Legislative List" means the list in Part I of the Second Schedule to this Constitution in respect of which only the National Assembly is empowered to legislate ;

"existing law" has the meaning assigned to it in section 326 of this Constitution ;

"federal character of Nigeria" refers to the distinctive desire of the people of Nigeria to promote national unity, foster national loyalty and give every citizen of Nigeria a sense of belonging to the nation as expressed in section 15 (3) and (4) of this Constitution ;

"Federation" means the Federal Republic of Nigeria ;

"financial year" means any period of 12 calendar months beginning on the first day of January in any year or such other date as the National Assembly may prescribe ;

"function" includes power and duty ;

"government" includes the Government of the Federation, or of any State, or a Local Government or any person who exercises power or authority on its behalf ;

"Governor" or "Deputy Governor" means the Governor of a State or a Deputy Governor of a State ;

"High Court" means the Federal High Court or the High Court of a State or the Federal High Court in the Federal Capital Territory, Abuja ;

"House of Assembly" means the House of Assembly of a State ;

"Islamic Law" means—

(a) any question of Islamic Personal Law regarding a marriage concluded in accordance with that law, including a question relating to the validity or dissolution of such a marriage or a question that depends on such a marriage and relating to family relationship or the guardianship of an infant ;

(b) where all the parties to the proceedings are moslems any question of Islamic Personal law regarding a marriage, including the validity or dissolution of that marriage, or regarding family relationship, a founding or the guardianship of an infant ;

(c) any question of Islamic Personal law regarding a *wakf*, gift, will or succession where the endower, donor, testator or deceased person is a moslem ; or

(d) any question Islamic Personal law regarding an infant, prodigal or person of unsound mind who is a moslem or the maintenance or guardianship of a moslem who is physically or mentally infirm ;

(e) civil proceedings involving other Islamic law where all the parties are muslims.

"judicial office" means the office of Chief Justice of Nigeria or a Justice of the Supreme Court or the President or Justice of the Court of Appeal, the office of the Chief Judge, a Judge of a High Court, a Grand Kadi or Kadi of a Sharia, Court of Appeal, or President or a Judge of the Customary Court of Appeal and a reference to a "judicial officer" is a reference to the holder of any such office ;

"Law" means a law enacted by a House of Assembly ;

"legislative house" or "House" means the Senate, House of Representatives or a House of Assembly ;

"member" when used with reference to any commission or other bodies established by this Constitution includes the Chairman of that commission or body and when used with reference to a Local Government Council includes the Chairman and Vice-Chairman of the Local Government Council ;

"Minister" means a Minister of the Government of the Federation ;

"National Assembly" means the Senate and the House of Representatives ;

"oath" includes affirmation ;

"Oath of Allegiance" means the Oath of Allegiance prescribed in the Seventh Schedule to this Constitution ;

"Oath of Office" means the appropriate Oath of Office prescribed in the Seventh Schedule to this Constitution ;

"office" when used with reference to the validity of an election means any office the appointment to which is by election under this Constitution ;

"population quota"—

(a) when used with reference to a Senatorial district means the number obtained by dividing the number of the inhabitants of the State by the number of districts into which that State is divided under section 69 (a) of this Constitution ;

(b) when used with reference to a Federal constituency means the number obtained by dividing the number of the inhabitants of Nigeria by the number of Federal Constituencies into which Nigeria is divided under section 69 (b) of this Constitution ; and

(c) when used with reference to a State constituency means the number obtained by dividing the number of the inhabitants of a State by the number of State constituencies into which that State is divided under section 110 of this Constitution ;

"power" includes function and duty ;

"prescribed" means prescribed by or under this Constitution or any other law ;

"President" or "Vice-President" means the President or Vice-President of the Federal Republic of Nigeria ;

"public service of the Federation" means the service of the Federation in any capacity in respect of the Government of the Federation, and includes service as—

(a) Clerk or other staff of the National Assembly or of each House of the National Assembly ;

(b) member or staff of the Supreme Court, the Court of Appeal, the Federal High Court, the High Court, the Sharia Court of Appeal and the Customary Court of Appeal of the Federal Capital Territory as established pursuant to Part I of Chapter IX of this Constitution or other courts established for the Federation by this Constitution and by the National Assembly ;

(c) member or staff of any commission or authority established for the Federation by this Constitution or by an Act of the National Assembly ;

(d) staff of any statutory corporation established by an Act of the National Assembly ;

(e) staff of any educational institution established or financed principally by the Government of the Federation ;

(f) staff of any company or enterprise in which the Government of the Federation or its agency owns controlling shares or interest ; and

(g) members or officers of the armed forces of the Federation or the Nigeria Police Force or other government security services established by law ;

“public service of a State” means the service of the State in any capacity in respect of the government of the State and includes service as—

(a) clerk or other staff of a House of Assembly ;

(b) member or staff of the High Court, the Sharia Court of Appeal, Customary Court of Appeal or other courts established for a State by this Constitution or by a House of Assembly ;

(c) member or staff of any commission or authority established for the State by this Constitution or by a Law of a House of Assembly ;

(d) staff of any Local Government Council or statutory corporation established by a Law of a House of Assembly ;

(e) staff of any educational institution established or financed principally by a government of a State ; and

(f) staff of any company or enterprise in which the government of a State or its agency holds controlling shares or interest ;

“secret society” includes any association, group or body or persons (whether registered or not) :

(a) that uses secret signs, oaths, rites or symbols and which is formed to promote a cause, the purpose or part of the purpose of which is to foster the interest of its members and to aid one another under any circumstances without due regard to merit, fairplay or justice to the detriment of the legitimate interest of those who are not members ;

(b) the membership of which is incompatible with the function or dignity of any public office under this Constitution, and whose members are sworn to observe oaths of secrecy ; and

(c) the activities of which are not known to the public at large, the names of whose members are kept secret and whose meetings and other activities are held in secret ;

“State” when used otherwise than in relation to one of the component parts of the Federation includes government ; and

“Supervisory Councillor” means a member of a Local Government Council who holds an executive portfolio in the Council ;

“Traditional Council” includes Emirate Council and means a body constituted as such by the law of a State and presided over by a Traditional Ruler and which consists of such members as may be prescribed by that law ;

“Traditional Ruler” means the person who by virtue of his ancestry occupies the throne or stool of an area or has been appointed or elected to it in accordance with the customs, traditions and usages of the area and has traditional authority over the people of that area or any other person who, prior to the commencement of this Constitution, has been elected or appointed by instrument or order of the Government to exercise traditional authority over an area or community in the State recognised as such by the Government of a State ;

(2) wherever it is provided that any authority or person has power to make, recommend or approve an appointment to an office, such power shall be construed as including the power to make, recommend or approve a person for such appointment, whether on promotion or otherwise, or to act in any such office.

(3) In this Constitution, references to a person holding an office shall include references to a person acting in such office.

(4) The Interpretation Act 1964 shall apply for the purpose of interpreting the provisions of this Constitution. 1964 No. 1.

330. This Constitution may be cited as the Constitution of the Federal Republic of Nigeria 1989. Citation.

331. The provisions of this Constitution shall come into force on the 1st day of October, 1992. Commence-  
ment.



## SCHEDULES

### FIRST SCHEDULE

Section 3

#### PART I

#### STATES OF THE FEDERATION

<i>State</i>	<i>Local Government Areas</i>	<i>State Capitals/ Headquarters</i>
AKWA IBOM ..	Abak, Eket, Etinan, Ekpe-Atai, Essien-udim, Ikono, Ikot-Abasi, Ikot-Ekpene, Itu, Mkpato-Enin, Mbo, Nsit-Ubium, Oron, Okobo, Onna, Oruk-Anam, Ukanafun, Uyo, Uquod-Ibeno, Uruan.	UYO
ANAMBRA ..	Abakaliki, Aguata, Awgu, Anambra, Anaocha, Awka, Enugu, Ezeagu, Ezza, Idemili, Igbo-Etiti, Igbo-Eze, Ihiala, Ikwo, Ishielu, Isi-Uzo, Izzi, Njikoka, Nkanu, Nnewi, Nsukka, Ogbaru, Ohaukwu, Oji-River, Onitsha, Orumba, Oyi, Udi, Uzo-Uwani.	ENUGU
BAUCHI ..	Akko, Alkaleri, Bauchi, Balanga, Biliri/Kaltungo, Darazo, Dass, Dukku, Gamawa, Gombe, Itas/Gadau, Jama'are, Katagum, Misau, Nafada, Ningi, Shira, Tafawa-Balewa, Toro Yamatu/Deba.	BAUCHI
BENDEL ..	Agbazilo, Akoko-Edo, Aniocha, Bomadi, Burutu, Etsako, Ethiope, Ika, Isoko, Ndokwa, Okpe, Okpebho, Oredo, Orhionmwon, Oshimili, Ovia, Owan, Sapele, Ughelli, Warri.	BENIN-CITY
BENUE ..	Ado, Ankpa, Bassa, Dekina, Gboko Gwer, Guma, Idah, Katsina-Ala, Kwande, Konshisha, Makurdi, Ofu, Oju, Okpokwu, Olamaboro, Otukpo, Ushongo, Vandeikya.	MAKURDI
BORNO ..	Askira/Uba, Bade, Bama, Biu, Damaturu, Damboa, Dikwa, Fika, Fune, Geidam, Gujba, Gwoza, Kaga, Konduga, Kukawa, Machina-Yusufari, Maiduguri, Mobbar, Monguno, Nangere, Ngala, Nguru, Shani, Yunusari.	MAIDUGURI
CROSS RIVER ..	Akamkpa, Calabar, Ikom, Obudu, Obubra, Odukpani, Ogoja, Ugep.	CALABAR

GONGOLA	..	Bali, Fufore, Ganye, Gombi, Gashaka, Guyuk, Hong, Jalingo, Karim-Lamido, Mayo-Belwa, Maiha, Michika, Mubi, Numan, Sardauna, Song, Takum, Wukari, Yola, Yorro, Zing.	YOLA
IMO	..	Aba, Aboh-Mbaise, Afikpo Ahiazu-Mbaise, Arochukwu, Bende, Ehime Mbano, Ezinihitte, Ideato, Ihitte/Uboma, Ikeduru, Ikwuano/Umuahia, Isiala Ngwa, Isiala Mbano, Isu, Isuikwuato, Mbaitoli, Ngor-Okpala, Nkwerre, Obioma/Ngwa, Obowo, Ohafia, Ohaji/Egbeme/Oguta, Ohaozara, Onicha, Okigwe, Orlu, Oru, Owerri, Ukwu.	OWERRI
KADUNA	..	Birnin-Gwari, Chukun, Igabi, Ikara, Jema'a, Kachia, Kaduna, Kaura, Kauru, Lere, Soba, Zango Katab, Zaria.	KADUNA
KANO	..	Albasu, Babura, Bagwa, Bebeji, Bichi, Birnin Kudu, Biriniwa, Bunkure, Dala, Dawakin Kudu, Dawakin Tofa, Dambatta, Dutse, Gabasawa, Garki, Gaya, Gezawa, Gwarzo, Gwaram, Gumel, Hadeija, Jahun, Kabo, Kafin Hausa, Kano, Karaye, Kazaure, Kiri Kasamma, Kiyawa, Kumbotso, Kura, Maigatari, Malam Maduri, Minijibir, Nassarawa, Rano, Rimin Gado, Ringim, Roni, Shanono, Sumaila, Takai, Tsanyawa, Tundun Wada, Ugongo, Wudil.	KANO
KATSINA	..	Batsari, Bakori, Bindawa, Daura, Dutsinma, Faskari, Funtua, Ingawa, Jibia, Kaita, Kankia, Kankara, Katsina, Malumfashi, Mani, Mashi, Musawa, Rimi, Safana, Zango.	KATSINA
KWARA	..	Asa, Borgu, Edu, Ifelodun, Ilorin, Irepodun, Kaiama, Kogi, Moro, Okehi, Okene, Oyi, Oyun, Yagba.	ILORIN
LAGOS	..	Agege, Badagry, Ibeju/Lekki, Epe, Eti-Osa, Ikeja, Ikorodu, Lagos Island, Lagos Mainland, Mushin, Ojo, Shomolu.	IKEJA
NIGER	..	Agai, Chanchaga, Gbako, Kontagora, Lapai, Lavun, Magama, Rafi, Shiroro, Suleja.	MINNA
OGUN	..	Abeokuta, Ado-odo/Ota, Egbado North, Egbado South, Ifo, Ijebu-Ode, Ijebu North, Ijebu East, Obafemi Owode, Odeda, Ogun Waterside, Remo.	ABEOKUTA

ONDO .. ..	Ado-Ekiti, Akoko-North, Akoko-South, Akure, Ekiti-East, Ekiti-West, Ekiti South-West, Idanre/Ifedore, Ido/Osi, Ifesowapo, Ikale, Ikere, Ikole, Ijero, Ilaje, Irepodun/Ifelodun Isokan, Moba, Ondo, Ose, Owo, Oye.	AKURE
OYO .. ..	Afijio, Aiyedade, Aiyedire, Akinyele, Atakumosa, Boripe, Ede, Egbeda, Egbedore, Ejigbo, Ibadan, Ibarapa, Ido, Ifelodun, Ifedapo, Ifeloju, Ife Central, Ife North, Ife South, Ila, Ilesha, Iseyin, Irewole, Irepo, Irepodun, Iwo, Kajola, Lagelu, Obokun, Odo Otin, Ogbomosho, Ogo Oluwa, Ona-Ara, Ola Oluwa, Olorunda, Oluyole, Orellope, Oriade Orire, Osogbo, Oyo, Surulere.	IBADAN
PLATEAU ..	Akwanga, Awe, Barikin Ladi, Bassa Doma, Jos, Kanam, Keffi, Lafia, Langtang, Mangu, Nassarawa Pankshin, Guan/Pan, Shendam, Wase.	JOS
RIVERS ..	Ahoada, Asari-Tori, Bonny, Brass, Degema, Etche, Gokana/Tai/Elembe, Ikwere, Khana/Oyigbo, Obio/Akpor, Okrika, Port Harcourt, Sagbama, Yenagoa.	PORT HARCORT
SOKOTO ..	Anka, Argungu, Arewa-Dandi, Bagudo, Birnin-Kebbi, Bodinga, Bunza Bungudu, Dange-Shuni, Gada, Goronyo, Gummi, Gusau, Gwadabawa, Illela, Isa, Jega, Kaura Namoda, Kware, Maiyama, Maradun, Rabah, Sabon Birni, Sakaba Wasugu, Silame, Sokoto, Suru, Talata Mafara, Tambawal, Tangaza, Tauri, Tsafe, Wamakko, Wurno, Yabo, Zurmi, Zuru.	SOKOTO

## PART II

### DEFINITION OF FEDERAL CAPITAL TERRITORY, ABUJA

Sections 2, 3  
and 311.

The definition of the boundaries of the Federal Capital Territory, Abuja referred to under Chapters I and VIII of this Constitution is as follows—

Starting from the village called Izom on 7° E Longitude and 9° 15' Latitude, project a straight line westwards to a point just north of Lehu on the Kemi River ; then project a line along 6° 47½'E southwards passing close to the villages called Semasu, Zui and Bassa down to a place a little

west of Abaji in Kwara State ; thence project line along parallel  $8^{\circ} 27\frac{1}{2}'$  N Latitude to Ahinza village  $7^{\circ} 6'E$  (on the Kanama River) ; thence project a straight line to Buga village on  $8^{\circ} 30'N$  Latitude and  $7^{\circ} 20'E$  Longitude thence draw a line northwards joining the villages of Odu, Karshi and Karu. From Karu the line shall proceed along the boundary between the Niger and Plateau States as far as Kawu ; thence the line shall proceed along the boundary between Kaduna and Niger States up to a point just north of Bwari village ; thence the line goes straight to Zuba village and thence straight to Izom.

## SECOND SCHEDULE

### LEGISLATIVE POWERS

#### *Section 4*

#### PART I

#### EXCLUSIVE LEGISLATIVE LIST

#### *Item*

1. Accounts of the Government of the Federation, and of offices, courts and authorities thereof, including audit of those accounts.
2. Arms, ammunition and explosives.
3. Aviation, including airports, safety of aircraft and carriage of passengers and goods by air.
4. Awards of national titles of honour, decorations and other dignities
5. Bankruptcy and insolvency.
6. Banks, banking, bills of exchange and promissory notes.
7. Borrowing of moneys within or outside Nigeria for the purposes of the Federation or of any State.
8. Census, including the establishment and maintenance of machinery for continuous and universal registration of births and deaths throughout Nigeria.
9. Construction, alteration and maintenance of such roads as may be declared by the National Assembly to be Federal Trunk Roads.
10. Citizenship, naturalisation and aliens.
11. Commercial and industrial monopolies, combines and trusts.
12. Control of capital issues.
13. Copyright.
14. Currency, coinage and legal tender.
15. Customs and excise duties.
16. Defence.
17. Deportation of persons who are not citizens of Nigeria.
18. Diplomatic, consular and trade representation.
19. Drugs and poisons.
20. Designation of securities in which trust funds may be invested.
21. Election to the offices of President and Vice-President or Governor and Deputy Governor, and any other office to which a person may be elected under this Constitution, including election to a Local Government Council.



22. Evidence.
23. Export Duties.
24. Exchange control.
25. External affairs.
26. Extradition..
27. Fingerprints, identification and criminal records.
28. Fishing and Fisheries other than fishing and fisheries in rivers, lakes waterways, ponds and other inland waters within Nigeria.
29. Immigration into and emigration from Nigeria.
30. Implementation of treaties relating to matters on this List.
31. Incorporation, regulation and winding-up of bodies corporate, other than co-operative societies, Local Government Councils and bodies corporate established directly by any Law enacted by a House of Assembly of a State.
32. Insurance.
33. Labour, including trade unions, industrial relations ; conditions, safety and welfare of labour ; industrial disputes ; prescribing a national minimum wage for the Federation or any part thereof ; and industrial arbitrations.
34. Legal proceedings between Governments of States or between the Government of the Federation and Government of any State or any other authority or person.
35. Maritime shipping and navigation, including—
  - (a) shipping and navigation on tidal waters ;
  - (b) shipping and navigation on the River Niger and its effluents and on any such other inland waterways as may be designated by the National Assembly to be an international waterway or to be an inter-State waterway ;
  - (c) lighthouses, lightships, beacons and other provisions for the safety of shipping and navigation ;
  - (d) such ports as may be declared by the National Assembly to be Federal ports (including the constitution and powers of ports authorities for Federal ports).
36. Meteorology.
37. Mines and minerals, including oil fields, oil mining, geological surveys and natural gas.
38. National parks being such areas in a State as may with the consent of the Government of that State be designated by the National Assembly as national parks.
39. Naval, military and air forces, including any other branch of the armed forces of the Federation.

40. Nuclear energy.
41. Passports and visas.
42. Patents, trade marks, trade or business names, industrial designs and merchandise marks.
43. Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public funds of the Federation.
44. Police and other security services established by law.
45. Posts, telegraphs and telephones.
46. Powers of the National Assembly, and the privileges and immunities of its members.
47. Prisons.
48. Professional occupations as may be designated by the National Assembly.
49. Public debt of the Federation.
50. Public holidays.
51. Public relations of the Federation.
52. Public service of the Federation, including the settlement of disputes between the Federation and officers of such service.
53. Quarantine.
54. Railways.
55. Regulation of political parties.
56. Service and execution in a State 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 a court of law established by the House of Assembly of that State.
57. Taxation of incomes, profits and capital gains, except as otherwise prescribed by this Constitution.
58. The establishment and regulation of authorities for the Federation or any part thereof—
  - (a) to promote and enforce the observance of the Fundamental Objectives and Directive Principles of State Policy contained in this Constitution ;
  - (b) to identify, collect, preserve or generally look after ancient and historical monuments and records and archaeological sites and remains declared by the National Assembly to be of national significance or national importance ;

- (c) to administer museums and libraries other than museums and libraries established by the Government of a State ;
  - (d) to regulate tourist traffic ; and
  - (e) to prescribe minimum standards of education at all levels.
59. The formation, annulment and dissolution of marriages other than marriages under Islamic law and customary law including matrimonial causes relating thereto.
60. Trade and commerce, and in particular—
- (a) trade and commerce between Nigeria and other countries, including import of commodities into and export of commodities from Nigeria, trade and commerce between the Federal Government and the State and trade and commerce between the States ;
  - (b) establishment of a purchasing authority with power to acquire for export or sale in world markets such agricultural produce as may be designated by the National Assembly ;
  - (c) inspection of produce to be exported from Nigeria and the enforcement of grades and standards of quality in respect of produce so inspected ;
  - (d) establishment of a body to prescribe and enforce standards of goods and commodities offered for sale ;
  - (e) control of the prices of goods and commodities designated by the National Assembly as essential goods or commodities ; and
  - (f) registration of business names.
61. Traffic on Federal trunk roads.
62. Water from such sources as may be declared by the National Assembly to be sources affecting more than one State.
63. Weights and measures.
64. Wireless, broadcasting and television other than broadcasting and television provided by the Government of a State ; allocation of wavelengths for wireless, broadcasting and television transmission.
65. Any other matter with respect to which the National Assembly has power to make laws in accordance with the provisions of this Constitution.
66. Any matter incidental or supplementary to any matter mentioned in this List.

PART II

Section 4

CONCURRENT LEGISLATIVE LIST  
*Extent of Federal and State Legislative Powers*

*Item*

A—Allocation of revenue, etc.

1. Subject to the provisions of this Constitution, the National Assembly may by an Act make provisions for—

- (a) the division of public revenue
  - (i) between the Federation and the States,
  - (ii) among the States of the Federation,
  - (iii) between the States and Local Government,
  - (iv) among the Local Government in the States ; and

- (b) grants or loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public funds of the Federation for the imposition of charges upon the revenue and assets of the Federation for any purpose notwithstanding that it relates to a matter with respect to which the National Assembly is not empowered to make laws.

2. Subject to the provisions of this Constitution, any House of Assembly may make provisions for grants or loans from and the imposition of charges upon the revenue and assets of that State for any purpose notwithstanding that it relates to a matter with respect to which the National Assembly is empowered to make laws.

B—Antiquities and monuments.

3. The National Assembly may make laws for the Federation or any part thereof with respect to such antiquities and monuments as may, with the consent of the State in which such antiquities and monuments are located, be designated by the National Assembly as National Antiquities or National Monuments, but nothing in this paragraph shall preclude a House of Assembly from making Laws for the State or any part thereof with respect to antiquities and monuments not so designated in accordance with the foregoing provisions.

C—Archives.

4. The National Assembly may make laws for the Federation or any part thereof with respect to the archives and public records of the Federation.
5. A House of Assembly may, subject to paragraph 4 hereof, make Laws for that State or any part thereof with respect to archives and public record of the Government of the State;
6. Nothing in paragraphs 4 and 5 hereof shall be construed as enabling any laws to be made which do not preserve the archives and records which are in existence at the date of commencement of this Constitution, and which are kept by authorities empowered to do so in any part of the Federation.



D—Collection of taxes.

7. In the exercise of its powers to impose any tax or duty on—

(a) capital gains, incomes or profits of persons other than companies ; and

(b) documents or transactions by way of stamp duties, the National Assembly may, subject to such conditions as it may prescribe, provide that the collection of any such tax or duty or the administration of the law imposing it shall be carried out by the Government of a State or other authority of a State.

8. Where an Act of the National Assembly provides for the collection of tax or duty on capital gains, incomes or profit or the administration of any law by an authority of a State in accordance with paragraph 7 hereof, it shall regulate the liability of persons to such tax or duty in such manner as to ensure that such tax or duty is not levied on the same person by more than one State.

9. A House of Assembly may, subject to such conditions as it may prescribe, make provisions for the collection of any tax, fee or rate or for the administration of a Law providing for such collection by a Local Government Council.

10. Where a Law of a House of Assembly provides for the collection of tax, fee or rate or for the administration of such Law by a Local Government Council in accordance with the provisions hereof it shall regulate the liability of persons to the tax, fee or rate in such manner as to ensure that such tax, fee or rate is not levied on the same person in respect of the same liability by more than one Local Government.

E—Electric power.

11. The National Assembly may make laws for the Federation or any part thereof with respect to—

(a) electricity and the establishment of electrical power stations ;

(b) the generation and transmission of electricity in or to any part of the Federation ;

(c) the regulation of the right of any person or authority to dam up or otherwise interfere with the flow of water from sources in any part of the Federation ;

(b) the participation of the Federation in any arrangement with another country for the generation, transmission and distribution of electricity for any area partly within and partly outside the Federation ;

(e) the promotion and the establishment of a national grid system ; and

(f) the regulation of the right of any person or authority to use, work or operate any plant, apparatus, equipment or work designed for the supply or use of electrical energy.

12. A House of Assembly may make Laws for the State with respect to—

(a) electricity and the establishment in that State of electric power stations ;

(b) the generation, transmission and distribution of electricity to areas not covered by a national grid system within that State ; and

(c) the establishment within that State of any authority for the promotion and management of electric power stations established by the State.

13. In the foregoing provisions of this item, unless the context otherwise requires, the following expressions have the meanings respectively assigned to them—

“distribution” means the supply of electricity from a station to the ultimate consumer ;

“management” includes maintenance, repairs or replacement ;

“power station” means an assembly of plant or equipment for the creation or generation of electrical energy ; and

“transmission” means the supply of electricity from a power station to a sub-station or from one sub-station to another sub-station, and the reference to a “sub-station” herein is a reference to an assembly of plant, machinery or equipment for distribution of electricity.

F—Exhibition  
of cinematograph  
films.

14. The National Assembly may make laws for the establishment of an authority with power to carry out censorship of cinematograph films and to prohibit or restrict the exhibition of such films ; and nothing herein shall—

(a) preclude a House of Assembly from making provision for a similar authority for that State ; or

(b) authorise the exhibition of a cinematograph film in a State without the sanction of the authority established by the Law of that State for the censorship of such films.

G—Industrial;  
commercial or  
agricultural  
development.

15. The National Assembly may make laws for the Federation or any part thereof with respect to—

(a) the health, safety and welfare of persons employed to work in factories, offices or other premises or in inter-state transportation and commerce including the training, supervision and qualification of such persons ;

(b) the regulation of ownership and control of business enterprises throughout the Federation for the purpose of promoting, encouraging or facilitating such ownership and control by citizens of Nigeria ;

(c) the establishing of research centres for agricultural studies ; and

(d) the establishment of institutions and bodies for the promotion or financing of industrial, commercial or agricultural projects.

16. Subject to the provisions of this Constitution a House of Assembly may make Laws for the State with respect to industrial, commercial or agricultural development of that State.

17. Nothing in the foregoing paragraphs of this item shall be construed as precluding a House of Assembly from making Laws with respect to any of the matters referred to in the foregoing paragraphs.

18. For the purposes of the foregoing paragraphs of this item, the word "agricultural" includes fishery.

H—Scientific and  
technological  
research.

19. The National Assembly may make laws to regulate or co-ordinate scientific and technological research throughout the Federation.

20. Nothing herein shall preclude a House of Assembly from establishing or making provisions for an institution or other arrangement for the purpose of scientific and technological research.

I—Stamp  
Duties.

21. A House of Assembly may, subject to paragraph 7 hereof, make Laws for the imposition and regulation of Stamp Duties on documents, or transactions.

J—Statistics.

22. The National Assembly may make laws for the Federation or any part thereof with respect to statistics so far as the subject matter relates to—

(a) any matter upon which the National Assembly has power to make laws ; and

- (b) the organisation of a co-ordinated scheme of statistics for the Federation or any part thereof on any matter whether or not it has power to make laws with respect thereto.

23. A House of Assembly may make Laws for the State with respect to statistics and on any matter other than that referred to in sub-paragraph (a) of paragraph 22 of this item.

K—Trigonometrical, cadastral and topographical surveys.

24. The National Assembly may make laws for the Federation or any part thereof with respect to trigonometrical, cadastral and topographical surveys.

25. A House of Assembly may, subject to paragraph 24 hereof, make Laws for the State or any part thereof with respect to trigonometrical, cadastral and topographical surveys.

L—University technological and post primary institution.

26. The National Assembly shall have power to make laws for the Federation or any part thereof with respect to university education, technological education or such professional education as may from time to time be designated by the National Assembly.

27. The power conferred on the National Assembly under paragraph 26 of this item shall include power to establish an institution for the purpose of university, post-primary, technological or professional education.

28. Subject as herein provided, a House of Assembly shall have power to make Laws for the State with respect to the establishment of an institution for purposes of university, professional or technological education.

29. Nothing in the foregoing paragraph of this item shall be construed so as to limit the powers of a House of Assembly to make Laws for the State with respect to technical, vocational, post-primary, primary or other forms of education, including the establishment of institutions for the pursuit of such education.



PART III  
SUPPLEMENTAL AND INTERPRETATION

1. Where by this Schedule the National Assembly is required to designate any matter or thing or to make any declaration, it may do so either by an Act of the National Assembly or by a resolution passed by both Houses of the National Assembly.

2. In this Schedule, references to incidental and supplementary matters include, without prejudice to their generality, references to—

- (a) offences ;
- (b) the jurisdiction, powers, practice and procedure of courts of law ; and
- (c) the acquisition and tenure of land.

THIRD SCHEDULE

PART I

FEDERAL EXECUTIVE BODIES

Section 151

*A—Code of Conduct Bureau*

Code of  
Conduct.  
Bureau.

1. The Code of Conduct Bureau shall comprise a Chairman and nine other members, each of whom at the time of appointment, shall not be less than 50 years of age and subject to provisions of section 159 of this Constitution shall vacate his office on attaining the age of 70 years.

2. The Bureau shall establish such offices in each State of the Federation as it may require for the discharge of its functions under this Constitution.

3. The Bureau shall have power—

(a) to receive declarations by public officers made under paragraph 12 of Part I of the Fifth Schedule to this Constitution ;

(b) to examine the declarations in accordance with the requirements of the Code of Conduct or any law ;

(c) to retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as may be prescribed by law ;

(d) to ensure compliance and where appropriate enforce the provisions of the Code of Conduct or any law relating thereto ;

(e) to receive complaints about breach or non-compliance with the provisions of the Code of Conduct or any law in relation thereto, investigate the complaint and, where appropriate, refer such matters to the Code of Conduct Tribunal ; and

(f) to appoint, promote, dismiss and exercise disciplinary control over the staff of the Code of Conduct Bureau in accordance with the provisions of an Act of the National Assembly enacted in that behalf ;

(g) to carry out such other functions as may be conferred upon it by the National Assembly.

4. The terms and conditions of service of the staff of the Code of Conduct Bureau shall be the same as those provided for public officers in the civil service of the Federation.

### *B—Council of State*

5.—(1) The Council of State shall comprise the following persons, namely—

- (a) the President, who shall be the Chairman ;
- (b) the Vice-President, who shall be the Deputy Chairman ;
- (c) all former Presidents of the Federation and all former Heads of the Government of the Federation ;
- (d) all former Chief Justices of Nigeria who are citizens of Nigeria ;
- (e) the President of the Senate ;
- (f) the Speaker of the House of Representatives ;
- (g) all the Governors of the States of the Federation ;
- (h) the Attorney-General of the Federation ; and
- (i) one person from each State who shall, as respects that State, be appointed by the Council of Chiefs of the State from among themselves.

(2) A person shall not be a member under sub-paragraph (1) (c) or (d) if

- (a) he vacated office by reason of impeachment; or
- (b) he was convicted by the Code of Conduct Tribunal for violating any of the provisions of the Code of Conduct ; or
- (c) he was convicted by any court or tribunal for any crime amounting to a felony.

6. The Council shall have power—

- (a) to advise the President in the exercise of his powers with respect to—
  - (i) the National Population Census and compilation, publication and keeping of records and other information concerning the same;
  - (ii) prerogative of mercy;
  - (iii) award of National Honours;
  - (iv) the National Electoral Commission (including the appointment of members of that Commission),
  - (v) the Federal Judicial Service Commission (including the appointment of members, other than *ex-officio* members of that Commission),
  - (vi) the National Population Commission (including the appointment of members of that Commission) ; and
- (b) to advise the President whenever requested to do so on the maintenance of public order within the Federation or any part thereof and on such other matters as the President may direct.

### *C—Federal Civil Service Commission*

7. The Federal Civil Service Commission shall comprise a Chairman and not more than 9 other members who shall, in the opinion of the President, be persons of unquestionable integrity and sound political judgment.

Federal  
Civil  
Service  
Commission

8. The Commission shall, without prejudice to the power vested in the President, the Code of Conduct Bureau, the Federal Judicial Service Commission, the National Electoral Commission, the National Population Commission, the Public Complaints Commission, have the functions ascribed to it by the existing law on the Civil Service. Specifically the Commission shall—

(a) set up general and uniform guidelines for appointments, promotion and discipline ;

(b) monitor the activities of each Ministry or Extra-Ministerial Department to ensure that the guidelines are strictly and uniformly adhered to ; and

(c) serve as a review body for all petitions from Ministries or Extra-Ministerial Departments in respect of appointments, promotion and discipline.

*D—Federal Judicial Service Commission*

9. The Federal Judicial Service Commission shall comprise the following members, namely—

(a) the Chief Justice of Nigeria, who shall be the Chairman ;

(b) the President of the Court of Appeal ;

(c) the Attorney-General of the Federation ;

(d) the Chief Judge of the Federal High Court ;

(e) 2 persons, each of whom has been qualified to practise as a legal practitioner in Nigeria for a period of not less than 15 years, from a list of not less than 4 persons so qualified recommended by the Nigerian Bar Association ; and

(f) 2 other persons, not being legal practitioners, who in the opinion of the President are of unquestionable integrity.

10. The Commission shall have power—

(a) to advise the President in nominating persons for appointment, subject to the approval of the Senate, as respects appointments to the office of—

(i) a Justice of the Supreme Court (but not including the office of Chief Justice of Nigeria), and

(ii) the President of the Court of Appeal ;

(b) to recommend to the President persons for appointment to the office of—

(i) a justice of the Court of Appeal,

(ii) the Chief Judge and Judges of the Federal High Court, and

(iii) Chairman and members of the Code of Conduct Tribunal established under this Constitution ;

(c) to recommend to the President the removal from office of the judicial officers specified in sub-paragraphs (a) and (b) of this paragraph and to exercise disciplinary control over such judicial officers ; and

Federal  
Judicial  
Service  
Commission.

(d) to appoint, dismiss and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrars of the Supreme Court, the Court of Appeal, and the Federal High Court and all other members of the staff of the judicial service of the Federation not otherwise specified in this Constitution and of the Federal Judicial Service Commission.

*E—National Boundaries Commission*

11. The Commission shall comprise the following members, that is—

Composition of the Commission.

- (a) the Vice-President, who shall be the Chairman ;
- (b) the Minister of Defence ;
- (c) the Inspector-General of Police ;
- (d) the Attorney-General of the Federation and Minister of Justice ;
- (e) the Minister of External Affairs ;
- (f) the Minister of Internal Affairs ;
- (g) the Minister of Works and Housing ;
- (h) the Minister of National Planning ;
- (i) the Director-General of the National Intelligence Agency ;
- (j) the Governor, or Governors as the case may be, of any State or States of the areas in dispute ;
- (k) two other members to be appointed by the President from the public or private sector ; and
- (l) any other Minister who may be co-opted from time to time when matters affecting his area arise.

12. The functions of the Commission shall be—

(a) to deal with, determine and intervene in any boundary dispute that may arise between Nigeria and any of her neighbours or between any two States of the Federation with a view to settling such disputes ;

Function of the Commission.

(b) to advise the Federal Government on issues affecting Nigeria's borders with any neighbouring countries ;

(c) to entertain any recommendations from any Committee set up by the Commission and advise the Federal Government on such recommendations ; and

(d) to do such other things connected with boundary matters as the President may, from time to time direct.

*F—National Defence Council*

13. The National Defence Council shall comprise the following members, namely—

National Defence Council.

- (a) the President, who shall be the Chairman ;
- (b) the Vice-President, who shall be the Deputy Chairman ;
- (c) the Minister of the Government of the Federation responsible for defence ;
- (d) the Chief of Defence Staff ;



- (e) the Chief of Army Staff ;
- (f) the Chief of Naval Staff ;
- (g) the Chief of Air Staff ; and
- (h) such other members not exceeding 3 as the President may appoint.

14. The Council shall have power to advise the President on matters relating to the defence of the sovereignty and territorial integrity of Nigeria.

*G—National Economic Council*

National  
Economic  
Council.

15. The National Economic Council shall comprise the following members, namely—

- (a) the Vice-President, who shall be the Chairman ;
- (b) the Governor of each State ;
- (c) the Governor of the Central Bank of Nigeria established under the Central Bank of Nigeria Act, or any enactment replacing that Act ;
- (d) the Chairmann of the National Revenue and Fiscal Commission ; and
- (e) the Minister of the Government of the Federation responsible for economic development.

16. The National Economic Council shall have power to advise the President concerning the economic affairs of the Federation, and in particular on measures necessary for the co-ordination of the economic planning efforts or economic programmes of the various governments of the Federation.

*H—National Electoral Commission*

National  
Electoral  
Commission

17. The National Electoral Commission shall comprise a Chief National Electoral Commissioner, who shall be the Chairman and eight other members who in the opinion of the President shall be persons of unquestionable integrity and who shall not have been involved in party politics.

18. The Chairman shall not be less than 45 years of age and the other members shall not be less than 40 years of age, but no person above the age of 70 years shall be appointed Chairman or member of the Commission.

19. The President, on the recommendation of, and in order to assist the Commission, shall appoint from each State of the Federation a person to be known as State Electoral Commissioner who shall be a person of unquestionable integrity and who shall not be less than 40 years of age and not more than 70 years of age and who shall not have been involved in party politics.

20. The Commission shall have power—

- (a) to organise, conduct and supervise all elections to the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and the House of Assembly of each of the States of the Federation and Chairman and members of Local Government Councils;

(b) to provide guidelines, rules and regulations for the emergence, recognition and registration of the two political parties ;

(c) to monitor the organisation and operations of the two political parties including their financing ;

(d) to arrange for the annual examination and auditing of the funds and accounts of the political parties and to publish a report on such examination and audit for public informations ;

(e) to arrange for the registration of persons qualified to vote and for the maintenance and revision of the register of voters ;

(f) to delegate any of its powers to any State Electoral Commissioner ;

(g) to carry out such other functions as may be conferred upon it by an Act of the National Assembly ;

(h) to appoint, dismiss and exercise disciplinary control over its staff as may be prescribed by an Act of the National Assembly ; and

(i) to ensure that all Electoral Commissioners, Electoral and returning officers take and subscribe the Oaths of office prescribed by law.

#### *I—National Population Commission*

21. The National Population Commission shall comprise the following members, namely—

National  
Population  
Commission.

(a) a Chairman ; and

(b) one person from each State of the Federation.

22. The Commission shall have power—

(a) to undertake periodical enumeration of population by sample surveys, censuses or through other means ;

(b) to establish and maintain a machinery for continuous and universal registration of births and deaths throughout the Federation ;

(c) to advise the President on population problems ;

(d) to publish and provide information and data on population for the purpose of facilitating economic and development planning ; and

(e) to appoint and train or arrange for the appointment and training of enumerators or other staff of the Commission.

#### *J—National Primary Education Commission*

23. The Commission shall comprise a Chairman and the following other members, that is—

Member-  
ship of the  
Commission.

(a) one representative of the Federal Ministry of Education ;

(b) five members representing the States and the Federal Capital Territory, Abuja in rotation ;

(c) one representative of the National Educational Research and Development Council ;

(d) one representative of the Federal Ministry of Finance and Economic Development ;

(e) three other members appointed on personal merit representing a variety of interests ; and

Functions  
of the  
Commission.

(f) the Executive Secretary of the Commission who shall be an ex-officio member of the Commission.

24. The Commission shall—

(a) prescribe the minimum standards of primary education throughout Nigeria ;

(b) inquire into and advise the Federal Government on the funding of primary education in Nigeria ;

(c) receive the National Primary Education Fund as established by an Act of the National Assembly from the Federal Government and allocate the fund to the appropriate body designated by each State and the Federal Capital Territory, Abuja, and to any agency responsible for special Federal Government sponsored primary school projects in accordance with such formula as the National Assembly may, from time to time, prescribe ;

(d) collate, after consultation with all the State Governments, periodic master plans for a balanced and co-ordinated development of primary education in Nigeria and such plans shall include—

(i) proposals to the Federal Government for equal and adequate primary education opportunity in Nigeria ;

(ii) proposals to the Federal Government on the basic national curriculum and syllabus to be pursued by primary schools in Nigeria to ensure that they are fully adequate to national needs and objectives ;

(e) collate, analyse and publish information relating to primary education in Nigeria ;

(f) publish a comprehensive list of primary school teachers in each State of the Federation and ensure a regular personnel audit ; and

(g) carry out such other activities as are conducive to the discharge of its functions under this Constitution.

*K—Revenue Mobilisation Allocation and Fiscal Commission*

Revenue  
Mobilisation  
Allocation  
and Fiscal  
Commission.

25. The Revenue Mobilisation Allocation and Fiscal Commission shall comprise a Chairman and one member from each State of the Federation who in the opinion of the President are persons of unquestionable integrity with requisite qualifications and experience.

26. The Commission shall have power—

(a) to monitor the accruals to and disbursement of revenue from the Federation Account ;

(b) to review from time to time the revenue allocation formulae and principles in operation to ensure conformity with changing realities ;

(c) to advise the Federal, State and Local Governments on fiscal efficiency and methods by which their revenue can be increased ;

(d) to determine the remuneration appropriate for political office holders, including the President, Vice-President, Governors, Deputy Governors, Ministers, Commissioners, Special Advisers, Legislators, Chairmen, Vice-Chairmen and Councilors of Local Government Councils ;

(e) to make recommendations as provided for under sections 82, 122 and 160 (8) of this Constitution ; and

(f) to discharge such other functions as may be conferred on the Commission by this Constitution or any other Act of the National Assembly.

*L—National Security Council*

27. The National Security Council shall comprise the following members, namely—

National  
Security  
Council.

(a) the President who shall be the Chairman ;

(b) the Vice-President who shall be the Deputy Chairman ;

(c) the Chief of Defence Staff ;

(d) the Minister of the Government of the Federation charged with the responsibility for internal affairs ;

(e) the Minister of the Government of the Federation charged with responsibility for defence ;

(f) the Minister of the Government of the Federation charged with responsibility for external affairs ;

(g) the Co-ordinator of the National Security Agencies ;

(h) the Inspector-General of Police ; and

(i) not more than 3 other persons as the President may in his discretion appoint.

28. The Council shall have power to advise the President on matters relating to public security including matters relating to any organisation or agency established by law for ensuring the security of the Federation.

*M—The Nigeria Police Council*

29. The Nigeria Police Council shall comprise the following members, namely—

Nigeria  
Police  
Council.

(a) a Chairman ; and

(b) such number of other persons, not less than 7 and not more than 9 as may be prescribed by an Act of the National Assembly.

30. The Council shall have power—

(a) to advise the President on the appointment of the Inspector-General of Police ;

(b) to appoint and promote persons to offices (other than the office of the Inspector-General of Police) in the Nigeria Police Force ; and

(c) to dismiss and exercise disciplinary control over persons holding any office referred to in sub-paragraph (b) of this paragraph.



*N—Public Complaints Commission*

Public  
Complaints

31. The Public Complaints Commission shall comprise a Chief Commissioner and one Commissioner for each State of the Federation and the Federal Capital Territory, Abuja.

32. The Chief Commissioner and Commissioners shall be persons of unquestionable integrity who shall not have been involved in party politics.

33. The Chief Commissioner shall not be less than 50 years of age and the Commissioners shall not be less than 40 years of age at the time of appointment, but no person above the age of 70 years shall be appointed as Chief Commissioner or Commissioner of the Commission.

34. The Chief Commissioner shall co-ordinate the work of all the Commissioners, but each Commissioner shall have power, either on his own initiative or following complaints lodged before him by any person, to investigate any administrative action taken by—

- (a) any department or Ministry of the Federal or any State Government ;
- (b) any department of any Local Government ;
- (c) any statutory corporation or public institution set up by any government in the Federation ;
- (d) any company incorporated under or pursuant to the Companies Act 1968 whether owned by any government aforesaid or by private individuals in Nigeria or otherwise howsoever ; or
- (e) any officer or servant of any of the aforementioned bodies.

35.—(1) In the discharge of his functions under this Constitution, a Commissioner shall have the power to compel the attendance of any person so required to give evidence, supply information or produce documents.

(2) Any person who fails to comply with such order of the Commission shall be guilty of contempt and triable in a court of law for that offence in addition to any other offence provided in any Act of the National Assembly.

36.—(1) No Commissioner shall investigate any matter—

- (a) that is pending before the Council of State, the Federal or State Executive Councils ;
- (b) that is pending before any court of law or tribunal established by law ;
- (c) relating to anything done or purported to be done in respect of any member of the armed forces or the Nigeria Police or other security agencies in accordance with and in respect of Acts of the National Assembly setting them up ;
- (d) in which the complainant has not in the opinion of the Commissioner exhausted all available administrative procedures ;
- (e) subject to sub-paragraph (d) of this paragraph, relating to any act done or in respect of which the complaint is lodged later than twenty-four months after the date of the act or thing done from which the complaint arises ; or
- (f) in which the complainant has no personal interest.

(2) For the purpose of sub-paragraph (1) (a) of this paragraph, a notice signed by the Secretary to the Government of the Federation or of a State to the Commissioner certifying that the matter is pending before any of the bodies mentioned in that paragraph shall be conclusive as to the pendency of the matter.

(3) In any case, were the Commissioner decides not to investigate the complaint thereof he shall state the reason therefor to the complainant and reflect it in his record.

37. The Commission shall have power to appoint, dismiss and exercise disciplinary control over its staff as may be prescribed by an Act of the National Assembly.

38. The terms and conditions of service of the staff of the Public Complaints Commission shall be the same as those provided for public officers in the civil service of the Federation.

39. The National Assembly may by law confer on the Chief Commissioner or the Commissioners such additional powers as may appear necessary for more effective discharge of the functions conferred on them by this Constitution.

## PART II

### STATES EXECUTIVE BODIES

### Section 195

#### *A—State Civil Service Commission*

1. A State Civil Service Commission shall comprise a Chairman and not less than 2 and not more than 4 other persons who shall, in the opinion of the Governor, be persons of unquestionable integrity and sound political judgment.

Civil Service  
Commission  
of a State.

2. The Commission shall, without prejudice to the power vested in the Governor and in the Judicial Service Commission, have the functions ascribed to it by the existing law on the Civil Service. More specifically the Commission shall :

(i) set up general and uniform guidelines for appointments, promotion and discipline ;

(ii) monitor the activities of each Ministry or Extra-Ministerial Department to ensure that the guidelines are strictly and uniformly adhered to ; and,

(iii) serve as a review body for all petitions from Ministries or Extra-Ministerial Departments in respect of appointments, promotion and discipline.

#### *B—State Council of Chiefs*

3. A Council of Chiefs shall comprise a Chairman and such number of persons as may be prescribed by Law.

Council of  
Chiefs of  
a State.

4. The Council shall have power to advise the Governor on any matter relating to customary law or cultural affairs, inter-communal relations and chieftaincy matters.

5. The Council shall also have power to advise the Governor whenever requested to do so on—

(a) the maintenance of public order within the State or any part thereof ;  
and

(b) such other matters as the Governor may direct.

*C—State Judicial Service Commission*

State  
Judicial  
Service  
Commission.

6. A State Judicial Service Commission shall comprise the following members, namely—

(a) the Chief Judge of the State, who shall be the Chairman ;

(b) the Attorney-General of the State ;

(c) the Grand Kadi of the Sharia Court of Appeal of the State, if any ;

(d) the President of the Customary Court of Appeal of the State, if any ;

(e) two members who are legal practitioners and who have been qualified to practise as legal practitioners in Nigeria for a period of not less than 10 years ; and

(f) two other persons not being legal practitioners who in the opinion of the Governor are of unquestionable integrity.

7. The Commission shall have power :

(a) to advise the Governor on the appointment of a person to the office of—

(i) the Grand Kadi of the Sharia Court of Appeal if any, and

(ii) the President of the Customary Court of Appeal if any, subject to the confirmation of such appointment by the House of Assembly of the State ;

(b) to recommend to the Governor of the State, persons for appointment to the office of—

(i) a Judge of the High Court of a State,

(ii) a Kadi of the Sharia Court of Appeal of a State if any,

(iii) a Judge of the Customary Court of Appeal of a State if any ;

(c) subject to the provisions of this Constitution, to recommend to the Governor the removal from office of the Judicial officers specified in sub-paragraphs (a) and (b) of this paragraph and to exercise disciplinary control over such officers ;

(d) to appoint, promote and exercise disciplinary control over the Chief Registrar of the High Court, the Chief Registrars of the Sharia Court of Appeal and the Customary Court of Appeal, the Magistrates, the Judges and members of the District and Area Courts, if any, and all other members of the staff of the Judicial Service of the State not otherwise specified in this Constitution and of the State Judicial Service Commission ; and

(e) to control and disburse all moneys, capital and recurrent, for the judicial services of a State.

*D—Local Government Service Commission*

8. The Local Government Service Commission shall comprise the Chairman and not less than 2 and not more than 4 members who shall, in the opinion of the Governor, be persons of unquestionable integrity and sound political judgment.

State Local  
Government  
Service  
Commission.

9. The Commission shall have the functions ascribed to it by the existing law on the Civil Service as applicable to Local Governments. More specifically, the Commission shall—

(i) set up general and uniform guidelines for appointments, promotion and discipline ;

(ii) monitor the activities of each Local Government to ensure that the guidelines are strictly and uniformly adhered to ; and,

(iii) serve as a review body for all petitions from Local Governments in respect of appointments, promotions and discipline.

FOURTH SCHEDULE

PART I

FUNCTIONS OF A LOCAL GOVERNMENT

Section 7

1. The main functions of a Local Government Council are as follows—

(a) the formulation of economic planning and development schemes for the Local Government Area ;

(b) collection of rates, radio and television licenses ;

(c) establishment and maintenance of cemeteries, burial grounds and homes for the destitute or infirm ;

(d) licensing of bicycles, trucks (other than mechanically propelled trucks), canoes, wheel barrows and carts ;

(e) establishment, maintenance and regulation of slaughter houses, slaughter slabs, markets, motor parks and public conveniences ;

(f) construction and maintenance of roads, streets, street lightings, drains, parks, gardens, open spaces, or such public facilities as may be prescribed from time to time by the House of Assembly of a State ;

(g) naming of roads and streets and numbering of houses ;

(h) provision and maintenance of public conveniences, sewage and refuse disposal ;

(i) registration of all births, deaths and marriages ;

(j) assessment of privately owned houses or tenements for the purpose of levying such rates as may be prescribed by the House of Assembly of a State ;

(k) control and regulation of—

(i) out-door advertising and hoarding,

(ii) movement and keeping of pets of all descriptions,

Functions  
of Local  
Government  
Council.



- (iii) shops and kiosks,
- (iv) restaurants, bakeries and other places for sale of food to the public,
- (v) laundries ; and
- (l) licensing, regulation and control of the sale of liquor.

2. The functions of a Local Government shall include participation of such Local Government in the government of a State as respects the following matters, namely—

- (a) the provision and maintenance of primary, adult and vocational education ;
- (b) the development of agriculture and natural resources, other than the exploitation of minerals ;
- (c) the provision and maintenance of health services ; and
- (d) such other functions as may be conferred up on a Local Government by the House of Assembly of the State.

## PART II

### FUNCTIONS OF A TRADITIONAL COUNCIL

#### Section 8

Functions  
of Traditional  
Council.

1. The functions of a Traditional Council shall consist of—

- (a) giving general advice to the Local Government Council concerning;
- (b) advising the Local Government Council concerned on proposed development plans;
- (c) assisting in the collection of taxes as may be required ;
- (d) advising on religious matters where appropriate ;
- (e) promoting and advising on arts and culture ;
- (f) subject to the Law of the State, dealing with and advising on chieftaincy matters and traditional titles and offices;
- (g) deliberating and expressing opinions to any organisation on any matter which it deems to be of importance to the area as a whole or which may be referred to it by the government or other organisation;
- (h) assisting in the mobilisation of human and material resources towards self-reliance, community development and welfare within the area ; and
- (i) such other functions as the Local Government Council may from time to time refer to it.

2. Nothing in this Schedule shall be construed as conferring any executive, legislative or judicial powers on a Traditional Council.

## FIFTH SCHEDULE

Sections 64,  
105, 170, 171  
207, 208, 276,  
329.

### PART I

#### CODE OF CONDUCT FOR PUBLIC OFFICERS

##### General

Conflict of  
interest with  
duty.

1. A public officer shall not put himself in a position where his personal interest conflicts with his duties and responsibilities.

2. Without prejudice to the generality of the foregoing paragraph, a public officer shall not—

Restrictions  
on specified  
officers.

(a) receive or be paid the emoluments of any public office at the same time as he receives or is paid the emoluments of any other public office; or

(b) engage or participate in the management or running of any private business, profession or trade but nothing in this sub-paragraph shall apply to any officer who is not employed on full-time basis; or

(c) live above his legitimate income.

3. The President, Governor, Vice-President, Deputy Governor, the Chief Justice of Nigeria, Justices of the Supreme Court, the President and Justices of the Court of Appeal, Ministers of the Government of the Federation and Commissioners of the Government of the States, members of the National Assembly and of the Houses of Assembly of the States, Secretaries to the Government of the Federation and the States, the Chief Judge of the Federal High Court, the Chief Judge of a State, the Inspector-General of Police and the Deputy Inspector-General of police, Chairmen, Vice-Chairmen and Councilors of Local Government Council Areas, the Commissioner of police of a State, the Chief of Defence Staff, the Chief of Army Staff, the Chief of Naval Staff, the Chief of Air staff, all armed forces Divisional Commanders and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate bank accounts in any country outside Nigeria.

Prohibition  
of foreign  
accounts.

4. The President, Vice-President, Governor, Deputy Governor, Ministers of the Government of the Federation, Commissioners of the Government of the State, Special Advisers to the President, Special Advisers to the State Governors, members of the National Assembly and of the Houses of Assembly of the States, Chairmen, Vice-Chairmen and Councilors of Local Government Councils and such other public officers or persons as the National Assembly may by law prescribe shall not, during the tenure of their offices, acquire or take on any property of the State in which they exercise jurisdiction, sell such property or exchange it with any property belonging to them.

Prohibition  
of certain  
property  
transaction.

5. A public officer shall not, after his retirement from public service and while receiving pension from public funds, accept more than one remunerative position as Chairman, director or employee of a company owned or controlled by the Government or public authority or receive any other remuneration from public funds in addition to his pension and the emolument of such one remunerative position.

Retired  
public  
officers.

6.—(1) Public officers who have held offices to which this paragraph applies are prohibited from service or employment in foreign companies or foreign enterprises.

Prohibition  
of certain  
public  
officers.

(2) This paragraph applies to the office of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.

7.—(1) A public officer shall not ask for or accept any property or benefit of any kind for himself or any other person on account of anything done, being done, to be done or omitted to be done by him in the discharge of his duties.

Gifts of  
benefits.

(2) For the purposes of sub-paragraph (1) of this paragraph, the receipt by a public officer of any gifts or benefits from commercial firms, business enterprises or persons who have contracts with the government shall be presumed to have been received in contravention of the said sub-paragraph unless the contrary is proved.

(3) A public officer shall only accept personal gifts or benefits from relatives or personal friends to such extent and on such occasions as are recognised by custom :

Provided that any gift or donation to a public officer on any public or ceremonial occasion shall be treated as gifts to the appropriate institution represented by the public officer, and accordingly the mere acceptance or receipt of any such gift shall not be treated as a contravention of this provision.

Restriction  
on loans, or  
benefits to  
certain  
public  
officers.

8. The President or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of the Government of a State, Chairman, Vice-Chairman or Supervisory Councillor of a Local Government Council or any public parastatal shall not accept—

(a) a loan, except from government or its agencies, a bank, building society or other financial institution recognised by law ; and

(b) any benefit of whatever nature from any company, contract or, businessman, or nominee or agent of such person :

Provided that the head of a public corporation or of a university or any other body established by law may, subject to the rules and regulations of the body, accept a loan from such body.

Bribing  
public  
officers.

9. No person shall offer a public officer any property, gifts or benefits of any kind as an inducement or bribe for the granting of any favour or the discharge in his favour of the public officer's duties.

Abuse of  
office.

10. A public officer shall not do or direct to be done in abuse of his office any arbitrary act prejudicial to the rights of any other person knowing that such act is unlawful or contrary to any state policy or public morality.

Member-  
ship of  
societies.

11. A public officer shall not be a member of, belong to, or take part in any society the membership of which is incompatible with the functions or dignity of his office.

Declaration  
of assets.

12.—(1) Subject to the provisions of sections 26 (1) (c), 27 (2) (f), 50, 92, 134, 137, 139, 146, 149, 180, 183, 185, 192, 274, 289 and 301 of this Constitution every public officer shall within 3 months after the coming into force of this Code or immediately after taking office and thereafter—

(a) at the end of every four years ; and

(b) at the end of his term of office ; submit to the Code of Conduct Bureau a written declaration of all his properties, assets and liabilities and those of his spouse and unmarried children under the age of 18 years.

(2) Any statement in such declaration that is found to be false by any authority or person authorised in that behalf to verify it shall be deemed to be a breach of this Code.

(3) Any property or assets acquired by a public officer after any declaration under this Constitution and which is not fairly attributable to income, gift, or loan approved by this Code shall be deemed to have been acquired in breach of this Code unless the contrary is proved.

13. Any allegation that a public officer has committed a breach of or has not complied with the provisions of this Code shall be made to the Code of Conduct Bureau.

Allegation  
on breach  
of Code

14. A public officer who does any act prohibited by this Code through a nominee, trustee, or other agent shall be deemed *ipso facto* to have committed a breach of this Code.

Agents and  
nominees.

15. In its application to public officers—

Exemptions.

(a) members of legislative houses and of Local Government Councils shall be exempt from the provisions of paragraph 5 of this Code; and

(b) the National Assembly may by law exempt any cadre of public officers from the provisions of paragraph 5 of this Code if it appears to it that their position in the public service is below the rank which it considers appropriate for the application of that provision.

#### *Code of Conduct Tribunal*

16.—(1) There shall be established a tribunal to be known as Code of Conduct Tribunal which shall consist of a Chairman and two other persons.

Code of  
Conduct  
Tribunal.

(2) The Chairman shall be a person who has held or is qualified to hold office as a Judge of a superior court of record in Nigeria and shall receive such remuneration as may be prescribed by law.

(3) The Chairman and members of the Code of Conduct Tribunal shall be appointed by the President in accordance with the recommendation of the Federal Judicial Service Commission.

(4) The National Assembly may by law confer on the Code of Conduct Tribunal such additional powers as may appear to it to be necessary to enable the Code of Conduct Tribunal more effectively to discharge the functions conferred on it by this Schedule.

17.—(1) The tenure of office of the staff of the Code of Conduct Tribunal shall, subject to the provisions of this Code, be the same as that provided for in respect of officers in the civil service of the Federation.

Staff

(2) The power to appoint and dismiss the staff of the Code of Conduct Tribunal and to exercise disciplinary control over them shall vest in the Code of Conduct Tribunal and shall be exercisable in accordance with the provisions of an Act of the National Assembly enacted in that behalf.

18.—(1) Subject to the provisions of this paragraph, a person holding the office of Chairman or member of the Code of Conduct Tribunal shall vacate his office when he attains the age of 65 years.

Vacation of  
office by  
Chairman  
and member  
of Tribunal.

(2) A person who has held office as Chairman or member of the Code of Conduct Tribunal for a period of not less than 10 years shall, if he retires at the age of 65 years, be entitled to pension for life at a rate equivalent to his last annual salary in addition to other retirement benefits to which he may be entitled.



(3) A person holding the office of Chairman or member of the Code of Conduct Tribunal shall not be removed from his office or appointment by the President except upon an address supported by two-thirds majority of each House of the National Assembly praying that he be so removed for inability to discharge the functions of the office in question (whether arising from infirmity of mind or body) or for misconduct or for contravention of this Code.

(4) A person holding the office of Chairman or member of the Code of Conduct Tribunal shall not be removed from office before reaching retiring age save in accordance with the provisions of this paragraph.

19.—(1) Where the Code of Conduct Tribunal finds a public officer guilty of contravention of any of the provisions of this Code it shall impose upon that officer any of the punishment specified under sub-paragraph (2) of this paragraph and such other punishment as may be prescribed by an Act of the National Assembly.

(2) The punishment which the Code of Conduct Tribunal may impose shall include any of the following—

(a) vacation of office or seat in any legislative house ;

(b) disqualification from membership of a legislative house and from holding any public office for a period not exceeding 10 years and

(c) seizure and forfeiture to the State of any property acquired in abuse or corruption of office.

(3) The sanctions mentioned in sub-paragraph (2) hereof shall be without prejudice to the penalties that may be imposed by any law where the conduct is also a criminal offence.

(4) Where the Code of Conduct Tribunal gives a decision as to whether or not a person is guilty of a contravention of any of the provision of this Code, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Court of Appeal from the decisions of the Code of Conduct Tribunal conferred by sub-paragraph (4) hereof shall be exercised in accordance with the provisions of an Act of the National Assembly and rules of court for the time being in force regulating the powers, practice and procedure of the Court of Appeal.

(6) Nothing in these paragraphs shall prejudice the prosecution of a public officer punished under this paragraph or preclude such officer from being prosecuted or punished for an offence in a court of law.

#### *Interpretation*

Interpretation.

20. In this Code, unless the context otherwise requires—

“assets” includes any property, movable and immovable, incomes instant and contingent, owned by a person ;

“business” means any profession, vocation or trade and includes any adventure or concern in the nature of trade or commerce ;

“child” includes a step-child, a lawfully adopted child, a child born out of wedlock and any child to whom any individual stands in place of a parent ;

"emolument" means any salary, wage, overtime or leave pay, commission, fee, bonus, gratuity, benefit, advantage (whether or not that advantage is capable of being turned into money or money's worth), allowance, pension or annuity paid, given or granted in respect of any employment or office ;

"foreign companies" or "foreign enterprises" means companies or enterprises in which the controlling shares are owned by persons other than the Government, its agencies or citizens of Nigeria or policy of which is determined by any person or organisation outside Nigeria ;

"liabilities" includes responsibility according to law to satisfy a debt, duty or obligation quantifiable in monetary value, instant and contingent ;

"public officer" means a person holding any of the offices specified in Part II of this Schedule ; and

"public office" shall not include the chairmanship or membership of ad hoc tribunals, commissions or committees.

## PART II

### PUBLIC OFFICERS FOR THE PURPOSES OF THE CODE OF CONDUCT

1. The President of the Federation.
2. The Vice-President of the Federation.
3. The President and Deputy President of the Senate, Speaker and Deputy Speaker of the House of Representatives, Speakers and Deputy Speakers of Houses of Assembly of States, and all members and staff of legislative houses.
4. Governors and Deputy Governors of States.
5. Chief Justice of Nigeria, Justices of the Supreme Court, President and Justices of the Court of Appeal, all other judicial officers and all staff of courts of law.
6. Attorney-General of the Federation and Attorney-General of each State.
7. Ministers of the Government of the Federation, Commissioners of the Governments of the States and Special Advisers.
8. Chief of Defence Staff, Chief of Army Staff, Chief of Naval Staff, Chief of Air Staff and all other members of the Armed Forces of the Federation.
9. Inspector-General of Police, and all other members of the Nigeria Police Force and other government security services established by law.
10. Secretary to the Government, Director-General and all other persons in the civil service of the Federation or of the States.
11. Ambassadors, High Commissioners and other officers of Nigerian Missions abroad.
12. Chairmen, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
13. Chairmen, Vice-Chairmen, members and staff of Local Governments.
14. Chairmen and members of the boards or other governing bodies and staff of statutory corporations and of companies in which either the Federal or State Government has controlling shares or interest.

15. All staff of universities, colleges and other educational institutions owned and financed by the Federal or State Governments or Local Governments.
16. Chairmen, members and staff of permanent commissions or councils appointed on full time basis.
17. Any other category of officers as the National Assembly may prescribe on the recommendation of the Code of Conduct Bureau.

## SIXTH SCHEDULE

### ELECTION TRIBUNALS

#### *A—Presidential Election Tribunal*

Presiden-  
tial Election  
Tribunal.

1.—(1) The Presidential Election Tribunal shall consist of a Chairman and 6 other members all of whom shall be persons of unquestionable integrity who have not been involved in party politics.

(2) The Chairman shall be a person who has held office or is qualified to hold office of a Justice of the Supreme Court.

(3) Three of the other members shall be persons who have held office or are qualified to hold office of a Justice of the Supreme Court and the remaining 3 members shall be non-members of the legal profession.

(4) The Chairman and other members shall be appointed by the Chief Justice of Nigeria.

#### *B—Governorship and Legislative Houses Election Tribunal*

Governor-  
ship and  
Legislative  
Houses  
Election  
Tribunal.

2.—(1) A Governorship and Legislative Houses Election Tribunal shall consist of a Chairman and 4 other members all of whom shall be persons of unquestionable integrity who have not been involved in party politics.

(2) The Chairman shall be a person who has held or is qualified to hold office of a Justice of the Court of Appeal.

(3) Two of the other members shall be persons who have held or are qualified to hold office of a Judge of a High Court and the remaining 2 members shall be non-members of the legal profession.

(4) The Chairman and members shall be appointed by the President of the Court of Appeal.

#### *C—Local Government Council Election Tribunals*

Local  
Government  
Council  
Election  
Tribunals.

3.—(1) A Local Government Council Election Tribunal shall consist of a Chairman and 2 other members all of whom shall be persons of unquestionable integrity who have not been involved in party politics.

(2) The Chairman shall be a person who has held office or is qualified to hold office of a Judge of a High Court.

(3) One of the members shall be a legal practitioner who has been so qualified for a period of not less than 5 years and the other one shall be a non-member of the legal profession.

(4) The Chairman and other members shall be appointed by the Chief Judge of the State concerned.

## SEVENTH SCHEDULE

### OATHS

#### OATH OF ALLEGIANCE

I,..... do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.

So help me God.

Sections  
26 (1) (c),  
27 (2) (f),  
50, 92, 134,  
137, 139,  
146, 149,  
180, 183,  
185, 192,  
274, 289  
and 301.

#### OATH OF OFFICE OF PRESIDENT

I,.....do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria ; that as President of the Federal Republic of Nigeria, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria ; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria ; that I will not allow my personal interest to influence my official conduct or my official decisions ; that I will to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria ; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria ; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will ; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as President of the Federal Republic of Nigeria, except as may be required for the due discharge of my duties as President ; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God.

#### OATH OF OFFICE OF GOVERNOR OF A STATE AND CHAIRMAN OF A LOCAL GOVERNMENT COUNCIL

I,.....do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria ; that as the Governor of.....State/Chairman of.....Local Government Council, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria ; that I will strive to preserve the Fundamental Objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria ; that I will exercise the authority vested in me as Governor/Chairman so as not to



impede or prejudice the authority lawfully vested in the President of the Federal Republic of Nigeria/Governor of.....State and so as not to endanger the continuance of Federal Government in Nigeria ; that I will not allow my personal interest to influence my official conduct or my official decisions; that I will to the best of my ability, preserve, protect and defend the Constitution of the Federal Republic of Nigeria ; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria ; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will ; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Governor of.....State/Chairman of.....Local Government Council, except as may be required for the due discharge of my duties as Governor/Chairman ; and that I will devote myself to the service and well-being of the people of Nigeria.

So help me God.

**OATH OF OFFICE OF VICE-PRESIDENT, DEPUTY GOVERNOR,  
MINISTER OR COMMISSIONER OR SPECIAL ADVISER OR  
VICE-CHAIRMAN OF A LOCAL GOVERNMENT COUNCIL**

I,.....do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria, that as Vice-President of the Federal Republic of Nigeria/Deputy Governor of.....State/Minister of the Government of the Federation/Commissioner of the Government of.....State/Special Adviser to...../Vice-Chairman of.....Local Government Council, I will discharge my duties to the best of my ability, faithfully and in accordance with the Constitution of the Federal Republic of Nigeria and the law, and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria ; that I will strive to preserve the Fundamental objectives and Directive Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria ; that I will not allow my personal interest to influence my official conduct or my official decisions ; that I will to the best of my ability preserve, protect and defend the Constitution of the Federal Republic of Nigeria ; that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria ; that in all circumstances, I will do right to all manner of people, according to law, without fear or favour, affection or ill-will ; that I will not directly or indirectly communicate or reveal to any person any matter which shall be brought under my consideration or shall become known to me as Vice-President of the Federal Republic of Nigeria/Deputy Governor of.....State/Minister of the Government of the Federation/Commissioner of the Government of.....State/Special Adviser to...../Vice-Chairman of.....Local Government Council, except as may be required for the due discharge of my duties.

So help me God.

OATH OF A MEMBER OF THE NATIONAL ASSEMBLY OR OF A STATE  
HOUSE OF ASSEMBLY OR OF A LOCAL GOVERNMENT COUNCIL

"I,.....do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria ; that as a Member of the Senate/House of Representatives/..... House of Assembly/..... Local Government Council, I will perform my functions honestly to the best of my ability, faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the law, and the rules of the Senate/House of Representatives/..... House of Assembly/Local Government Council and always in the interest of the sovereignty, integrity, solidarity, well-being and prosperity of the Federal Republic of Nigeria, that I will strive to preserve the Fundamental Objectives and Directives Principles of State Policy contained in the Constitution of the Federal Republic of Nigeria ; and that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria ; and that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria.

So help me God.

JUDICIAL OATH

"I,.....do solemnly swear/affirm that I will be faithful and bear true allegiance to the Federal Republic of Nigeria ; that as Chief Justice of Nigeria/Justice of the Supreme Court/President/Justice of the Court of Appeal/Chief Judge/Judge of the Federal High Court/....., I will discharge my duties and perform my functions honestly, to the best of my ability and faithfully in accordance with the Constitution of the Federal Republic of Nigeria and the law, that I will abide by the Code of Conduct contained in the Fifth Schedule to the Constitution of the Federal Republic of Nigeria, that I will not allow my personal interest to influence my official conduct or my official decision ; that I will do right to all manner of people without fear or favour, affection or ill-will ; that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.

So help me God.

MADE at Lagos this 3rd day of May 1989

GENERAL I. B. BABANGIDA,  
*President, Commander-in-Chief  
of the Armed Forces,  
Federal Republic of Nigeria*

EXPLANATORY NOTE

*(This note does not form part of this Decree but is intended to explain its purport)*

The Decree promulgates the Constitution of the Federal Republic of Nigeria 1989 to come into force on the 1st October, 1992.

The Decree also contains provisions for the continuing governance of Nigeria by Decrees during the transition period.

**CONSTITUENT ASSEMBLY (DISSOLUTION)  
DECREE 1989**



**Decree No. 13**

[3rd May 1989]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decree as follows :—

1.—(1) The Constituent Assembly established by the Constituent Assembly Decree 1988 is hereby dissolved.

Dissolution  
of Consti-  
tuent  
Assembly.  
1988 No. 14.

(2) Accordingly, the Constituent Assembly Decree 1988 is hereby repealed and the Constituent Assembly (Amendment) Decree 1988 is consequentially repealed.

1988 No. 24.

(3) The repeal of the enactments specified in subsection (2) of this section shall not affect anything done under or pursuant to the said enactments.

2. This Decree may be cited as the Constituent Assembly (Dissolution) Decree 1989.

Citation.

MADE at Lagos this 3rd day of May 1989.

GENERAL I. B. BABANGIDA,  
*President, Commander-in-Chief  
of the Armed Forces,  
Federal Republic of Nigeria*

**EXPLANATORY NOTE**

*(This note does not form part of the above Decree but  
is intended to explain its purport)*

The Decree dissolves the Constituent Assembly and accordingly, repeals the Constituent Assembly Decree 1988, as amended.



**TRANSITION TO CIVIL RULE (LIFTING OF BAN ON POLITICS)  
DECREE 1989**



**Decree No. 14**

[3rd May 1989]

Commence-  
ment.

THE FEDERAL MILITARY GOVERNMENT hereby decree as follows :—

1.—(1) The ban on the formation of political parties and associations imposed under the Political Parties (Dissolution) Decree 1984 is hereby lifted.

Lifting of  
ban on  
politics.  
1984 No. 9.

(2) Accordingly, sections 1 (2), 3, 4, 5 and 6 of the Political Parties (Dissolution) Decree 1984 are hereby repealed.

(3) The repeal of the sections specified in subsection (2) of this section shall not affect anything done under or pursuant to the said sections.

2. This Decree may be cited as the Transition to Civil Rule (Lifting of Ban on Politics) Decree 1989.

Citation.

MADE at Lagos this 3rd day of May 1989.

GENERAL I. B. BABANGIDA,  
*President, Commander-in-Chief  
of the Armed Forces,  
Federal Republic of Nigeria*

**EXPLANATORY NOTE**

*(This note does not form part of the above Decree but  
is intended to explain its purport)*

The Decree lifts the ban on the formation of political parties and associations and to this end, accordingly, repeals certain sections of the Political Parties (Dissolution) Decree 1984.