



FEDERAL REPUBLIC OF NIGERIA

THE CONSTITUTION
OF THE
FEDERAL REPUBLIC OF NIGERIA

1979

THE CONSTITUTION OF THE FEDERAL
REPUBLIC OF NIGERIA



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We the People of the Federal Republic of Nigeria

HAVING firmly and solemnly resolved :

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

AND 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 :

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.

(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.

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

3.—(1) There shall be 19 States in Nigeria, that is to say, Anambra, Bauchi, Bendel, Benue, Borno, Cross River, Gongola, Imo, Kaduna, Kano, Kwara, Lagos, Niger, Ogun, Ondo, Oyo, Plateau, Rivers, and Sokoto.

(2) Each State of Nigeria named in the first column of Part I of the First Schedule to this Constitution shall consist of the area 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 the said Part I of the First Schedule opposite the State named in the first column thereof.

Part II
First
Schedule.

(4) The Federal Capital Territory shall be as defined in Part II of the said First Schedule.

(5) The provisions of this Constitution in Part I of Chapter VIII hereof shall, in relation to the Federal Capital Territory, 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.

(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.

Part I
Second
Schedule.

(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—

(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—

(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 and Ministers of the Government of the Federation or 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 and Commissioners of the Government of that State or 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 the 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 the continuance of a federal government in Nigeria.

(3) 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.

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 (f) 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 established under paragraph (a) of this subsection or to which subsection (5) (e) and (f) of this section relates.

(5) This section relates to—

(a) the Supreme Court of Nigeria;

(b) the Federal Court of Appeal;

(c) the Federal High Court;

(d) a High Court of a State;

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

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

(g) 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

(h) 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;

(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 of this Constitution; 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 ; and accordingly, the Government of every State shall ensure their existence under a Law which provides for the establishment, structure, composition, finance and functions of such councils.

(2) The person authorised by law to prescribe the area over which a local government council may exercise authority shall—

(a) define such area as clearly as practicable ; and

(b) ensure, to the extent to which it may be reasonably justifiable, that in defining such area regard is paid to—

(i) the common interest of the community in the area,

(ii) traditional association of the community, and

(iii) administrative convenience.

(3) It shall be the duty of a local government council within the State to participate in economic planning and development of the area referred to in subsection (2) of this section and to this end an economic planning board shall be established by a Law enacted by the House of Assembly of the State.

(4) The Government of a State 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.

(5) The functions to be conferred by Law upon local government councils shall include those set out in the Fourth Schedule to this Constitution.

(6) Subject to the provisions of this Constitution—

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

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

8.—(1) 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 all the States of the Federation supported by a simple majority of members of the Houses of Assembly ; and

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

(2) 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 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.

Mode of altering provisions of the Constitution.

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

(2) An Act of the National Assembly for the alteration of this Constitution, not being an Act to which section 8 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) An Act of the National Assembly for the purpose of altering the provisions of this section, section 8 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 purposes of section 8 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 44 and 45 of this Constitution.

Prohibition of State Religion.

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

Public order and public security.

11.—(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.

(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.

12.—(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.

Implement-
ation 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

13. 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 of this Constitution.

Fundamental
obligations
of Govern-
ment.

14.—(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 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 council, or any of the agencies of such government or council, and the conduct of the affairs of the government or council or such agencies shall be carried out in such manner as to recognise the diversity of the peoples within its area of authority and the need to promote a sense of belonging and loyalty among all the peoples of the Federation.

Political objectives.

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

(2) Accordingly, national integration shall be actively encouraged, whilst discrimination on the grounds of place of origin, 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 intermarriage 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 abolish all corrupt practices and abuse of power.

Economic objectives.

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

(a) 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 and equality of status and opportunity ;

(b) 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 ;

(c) without prejudice to the right of any person to participate in areas of the economy within the major sector 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 ;
 - (b) that the material resources of the community are harnessed and distributed as best as possible to serve the common good ;
 - (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, suitable and adequate food, reasonable national minimum living wage, old age care and pensions, and unemployment and sick benefits 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) the 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 ; and

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

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

(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) governmental actions shall be humane ;
- (d) exploitation of human or natural resources in any form whatsoever for reasons other than the good of the community shall be prevented ; and
- (e) the independence, impartiality and integrity of courts of law, and easy accessibility thereto shall be secured and maintained.

Social objectives.

(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 safeguarded and not endangered or abused ;

(d) there are adequate medical and health 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 and the aged are protected against any exploitation whatsoever, and against moral and material neglect ; and

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

Educational objectives.

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

(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.

Foreign policy objectives.

19. The State shall promote African Unity, as well as total political, economic, social and cultural liberation of Africa and all other forms of international co-operation conducive to the consolidation of universal peace and mutual respect and friendship among all peoples and States, and shall combat racial discrimination in all its manifestations.

Directive on Nigerian culture.

20. The State shall protect and enhance Nigerian culture.

Obligations of the mass media.

21. 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 uphold the responsibility and accountability of the Government to the people.

National ethic.

22. The National ethic shall be Discipline, Self-reliance and Patriotism.

CHAPTER III

CITIZENSHIP

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

Citizenship by birth.

(a) every person born in Nigeria 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 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.

24.—(1) Subject to the provisions of section 26 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 registration.

(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 Sixth Schedule to this Constitution.

Sixth 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.

25.—(1) Subject to the provisions of section 26 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 naturalisation.

(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 ;

(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

Sixth Schedule. (f) he has taken the Oath of Allegiance prescribed in the Sixth 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 12 months, and during the period of 20 years immediately preceding that period of 12 months has resided in Nigeria for periods amounting in the aggregate to not less than 15 years.

Avoidance of dual citizenship.

26.—(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.

27.—(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.

Persons deemed to be Nigerian citizens.

28. 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 23 (2) of this Constitution.

29.—(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.

CHAPTER IV

FUNDAMENTAL RIGHTS

30.—(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.

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

Right to dignity of human person.

(a) no person shall be subjected to 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 or the Nigeria Police Force 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.

32.—(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 kilometres, 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 in execution of a sentence imposed by an officer of the armed forces of the Federation or of the Nigeria Police Force, in respect of an offence punishable by such detention of which he has been found guilty.

33.—(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 ; and

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

(3) The proceedings of a court or the proceedings of any tribunal relating to the matters mentioned in subsection (1) of this section (including the announcement of the decisions of the court or tribunal) shall be held in public.

(4) Whenever any person is charged with a criminal offence, he shall unless the charge is withdrawn be entitled to a fair hearing in public within a reasonable time by a court or tribunal :

Provided that—

(a) a court or such a tribunal may exclude from its proceedings persons other than the 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 lives of the parties or to such extent as it may consider necessary by reason of special circumstances in which publicity would be contrary to the interests of justice ;

(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.

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

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

(6) 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 legal practitioners of his own choice ;

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

(7) 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.

(8) No person shall be held to be guilty of a criminal offence on account of any act of 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.

(9) 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.

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

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

(12) 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 therefor 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.

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

Right to private and family life.

35.—(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, and for the purposes of this subsection, "a secret society" means a society or association, not being a solely cultural or religious body that uses secret signs, oaths, rites or symbols—

(a) whose meetings or other activities are held in secret ; and

(b) whose members are under oath, obligation or other threat to promote the interest of its members or to aid one another under all circumstances without due regard to merit, fair play or justice,

to the detriment of the legitimate expectation of those who are not members.

36.—(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.

Right to freedom of expression and the press.

(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, members of the armed forces of the Federation or members of the Nigeria Police Force.

Right to peaceful assembly and association.

37. 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 Federal Electoral Commission with respect to political parties to which that Commission does not accord recognition ; and

(b) a person elected to a legislative house as a candidate who was not sponsored by any political party shall not be entitled to join or declare himself to be a member of a political party until the general election next following his election as such candidate.

Right to freedom of movement.

38.—(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.

Right to freedom from discrimination.

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

(a) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the government to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, 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, 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 to an office in the service of a body corporate established directly by any law in force in Nigeria.

40.—(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 therefor ; and

(b) gives to any person claiming such compensation a right of access for the determination of his interest in the property and the amount of compensation to 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 fundamental rights.

41.—(1) Nothing in sections 34, 35, 36, 37, and 38 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 30 or 32 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 30 of this Constitution, except in respect of death resulting from acts of war or authorise any derogation from the provisions of section 33 (8) 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 265 of this Constitution.

Special jurisdiction of High Court, and legal aid.

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

(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 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

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

CHAPTER V

THE LEGISLATURE

PART I

NATIONAL ASSEMBLY

A—Composition and Staff of National Assembly

43. 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.

44. Subject to the provisions of Chapter VIII and other provisions of this Constitution the Senate shall consist of 5 Senators from each State.

Composition of the Senate.

45. Subject to the provisions of Chapter VIII and other provisions of this Constitution the House of Representatives shall consist of 450 members.

Composition of the House of Representatives.

46.—(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

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

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

(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 is 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.

47. 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*

Oaths of
members.
Sixth
Schedule.

48.—(1) Every member of the Senate or the House of Representatives shall, before taking his seat, take and subscribe the Oath of Allegiance and the oath of membership prescribed in the Sixth Schedule to this Constitution, 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 the Deputy President of the Senate and the Speaker and the Deputy Speaker of the House of Representatives shall 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.

49.—(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, the President of the Senate shall preside, and in his absence the Speaker of the House of Representatives shall preside.

(3) In the absence of the persons mentioned in the foregoing provisions 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.

Quorum.

50.—(1) If objection is taken by any member of the Senate or of the House of Representatives present that there are present in the House of which he is a member (besides the person presiding) fewer than one-third of all the members of that House and that it is not competent for the House to transact

business, and after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-third of all the members of the House, he shall adjourn the House.

(2) The foregoing provisions of this section shall apply in relation to joint sitting of both Houses of the National Assembly as they apply in relation to a House of the National Assembly as if references to the Senate or the House of Representatives and to a member of either House are references to both Houses and to any member of the National Assembly, respectively.

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

Languages.

52.—(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 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 the foregoing provisions shall enable any rules to be made to require any member, who signifies his intention not to vote on or participate in such matter, and who does not so vote or participate, to declare any such interest.

53. 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 a term of imprisonment not exceeding 6 months or a fine not exceeding ₦1,000, or such higher term of imprisonment or a fine of a greater sum as may be prescribed for each day on which he sits or votes.

Unqualified persons sitting or voting : penalties.

54.—(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 55 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.

55.—(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 2 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 58 (3) of this Constitution.

Regulation of
procedure.

56. 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.

57. 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.

✓ 58.—(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.

Committees.

(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.

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

Sittings.

60.—(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.

(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.

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

61. Subject to the provisions of section 62 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 21 years.

62.—(1) No person shall be qualified for election 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 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) exceeding 6 months 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) within a period of less than 10 years before the date of an election to a legislative house he has been convicted and sentenced 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 ; or

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

(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.

Right of
attendance
of President.

63.—(1) 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.

(2) 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.

(3) 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.

Tenure of
seats of
members.

64.—(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—

(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 ;

(e) save as otherwise prescribed by this Constitution, he becomes 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-third of the total number of days during which the House meets in any one year ; or

(g) being a person whose election to the House was sponsored by a political party, he becomes a member of another political party before the expiration of the period for which that House was elected :

Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of 2 or more political parties or factions by one of which he was previously sponsored.

(2) 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.

D—Elections to National Assembly

65. Subject to the provisions of section 66 of this Constitution, the Federal Electoral Commission shall—

(a) divide each State of the Federation into 5 Senatorial districts for purposes of elections to the Senate ; and

(b) divide the Federation into 450 Federal constituencies for purposes of elections to the House of Representatives.

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

67.—(1) The Federal 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.

Senatorial district and Federal constituencies.

Size of Senatorial districts and Federal constituencies.

Periodical review of Senatorial districts and Federal constituencies.

Time when alteration of Senatorial district or Federal constituencies takes effect.

68. Where the boundaries of any Senatorial district or Federal constituency established under section 65 of this Constitution are altered in accordance with the provisions of section 67 hereof, 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.

69. For the purposes of section 66 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 of this Constitution.

Time of election to the National Assembly.

70.—(1) Elections to each House of the National Assembly shall be held on a date to be appointed by the Federal 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 stands dissolved, or where the election is to fill a vacancy occurring more than 3 months before such date not later than one month after the vacancy occurred.

Direct election and franchise.

71.—(1) Subject to the provisions of this Constitution, every Senatorial district or Federal constituency established in accordance with the provisions of this Part of this Constitution 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.

(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.

Supervision of election.

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

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

73.—(1) The National Assembly shall make provisions as respects—

(a) persons who may apply to the competent High Court for the determination of any question as to whether—

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

(ii) the term of office of any person has ceased, or

(iii) 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 such application may be made ; and

(c) powers, practice and procedure of the competent High Court in relation to any such application.

(2) In this section, "competent High Court" has the meaning assigned to it in section 237 of this Constitution.

E—Powers and Control over Public Funds

Establishment of Consolidated Revenue Fund.

74.—(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:

(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 75 of this Constitution.

(3) No moneys 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 moneys 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.

75.—(1) The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.

(2) The heads of expenditure contained in the estimates (other than expenditure charged upon the Consolidated Revenue Fund 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.

76. 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 6 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.

77.—(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.

Authorisation of expenditure from Consolidated Revenue Fund.

Authorisation of expenditure from Consolidated Revenue Fund.

Authorisation of expenditure in default of appropriations.

Contingencies Fund.

(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 as soon as possible for the purpose of replacing the amount so advanced.

Remuneration of the President and certain other officers.

78.—(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.

(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 Federal Court of Appeal, Justice of the Federal Court of Appeal, Chief Judge of the Federal High Court, Judge of the Federal High Court, the Auditor-General for the Federation and the Chairman and members of the following executive bodies, namely, the Federal Civil Service Commission, the Federal Electoral Commission, the Federal Judicial Service Commission, the Police Service Commission and the National Population 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 granted by virtue of any provision 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.

Audit of public accounts.

79.—(1) There shall be an Auditor-General for the Federation who shall be appointed in accordance with the provisions of section 80 of this Constitution.

(2) The public accounts of the Federation and of all offices, courts and authorities of the Federation, including all persons and bodies established by law entrusted with the collection and administration of public moneys and assets, shall be audited and reported on by the Auditor-General ; 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 those accounts.

(3) The Auditor-General shall submit his reports to each House of the National Assembly, and each House shall cause the reports to be considered by a committee of the House of the National Assembly responsible for public accounts.

(4) 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.

80.—(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.

Appointment of Auditor-General.

(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.

81.—(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.

Tenure of office of Auditor-General.

(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.

82.—(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 *Official Gazette* of the Government of the Federation to direct or cause to be directed an investigation into—

Power to conduct investigations.

(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 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.

83.—(1) For the purposes of any investigation under section 82 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with section 58 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 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

Establishment of House of Assembly for each State.

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

Composition of House of Assembly.

85. Subject to the provisions of this Constitution, a House of Assembly of a State shall consist of three 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 in accordance with the provisions of this Constitution.

Speaker of House of Assembly.

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

(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 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.

Staff of House of Assembly.

87. 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.

B—Procedure for Summoning and Dissolution of House of Assembly

88.—(1) Every member of a House of Assembly shall, before taking his seat in that House, take and subscribe before the House the Oath of Allegiance and the oath of membership prescribed in the Sixth 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.

Oaths of
members.
Sixth
Schedule.

(2) The Speaker and Deputy Speaker of a House of Assembly shall take and subscribe the Oath of Allegiance and the oath of membership prescribed as aforesaid before the Clerk of the House of Assembly.

89.—(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.

Presiding at
sittings.

(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.

90. If objection is taken by any member of a House of Assembly present that there are present in that House (besides the person presiding) fewer than one-third of all the members of that House and that it is not competent for the House to transact business, and after such interval as may be prescribed in the rules of procedure of the House, the person presiding ascertains that the number of members present is still less than one-third of all the members of the House, he shall adjourn the House.

Quorum.

91. 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.

Languages.

92.—(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.

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) 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 intention not to vote on or participate in such matter, and who does not so vote or participate, to declare any such interest.

Unqualified persons sitting or voting : penalties.

93. 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 a term of imprisonment not exceeding 6 months or to a fine not exceeding ₦1,000, or such higher term of imprisonment or a fine of a greater sum as may be prescribed for each day on which he sits or votes.

Mode of exercising legislative power of a State.

94.—(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.

(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.

Regulation of procedure.

95. 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.

Vacancy or participation of strangers not to invalidate proceedings.

96. 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.

Committees.

97.—(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.

(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.

Sittings.

98. A House of Assembly shall sit for a period of not less than 181 days in a year.

99.—(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.

(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.

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

100. Subject to the provisions of section 101 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 21 years. Qualifications for election.

101.—(1) No person shall be qualified for election to a House of Assembly 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 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) exceeding 6 months 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) within a period of less than 10 years before the date of an election to the House of Assembly, he has been convicted and sentenced 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 ; or

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

(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.

Right of
attendance
of Governor.

102.—(1) 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.

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

(3) 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.

Tenure of
seats of
members.

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

(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 ;

(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-third of the total number of days during which the House meets in any one year ; or

(g) being a person whose election to the House of Assembly was sponsored by a political party, he becomes a member of another political party before expiration of the period for which that House was elected :

Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of 2 or more political parties or factions by one of which he was previously sponsored.

(2) 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.

D—Elections to a House of Assembly

State con-
stituencies.

104. Subject to the provisions of section 105 of this Constitution, the Federal Electoral Commission shall divide every State in the Federation into such number of State constituencies as is equal to three times the number of Federal constituencies within that State.

105. The boundaries of each State constituency shall be such that the number of inhabitants thereof is as nearly equal to the population quota as is reasonably practicable. Size of State constituencies.
- 106.—(1) The Federal 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. Periodical review of State constituencies.
- (2) The Federal 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.
107. Where the boundaries of any State constituency established under section 104 of this Constitution are altered in accordance with the provisions of section 106 of this Constitution, that alteration shall come into effect after it has been approved by the House of Assembly and after the current life of the House. Time when alteration of State constituencies takes effect.
- 108.—(1) Elections to a House of Assembly shall be held on a date to be appointed by the Federal Electoral Commission. Time of elections to Houses of 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 of Assembly stands dissolved, or where the election is to fill a vacancy occurring more than 3 months before such date not later than one month after the vacancy occurred.
- 109.—(1) Subject to the provisions of this Constitution, every State constituency established in accordance with the provisions of this Part of this Constitution shall return one member who shall be directly elected to a House of Assembly 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 any legislative house, shall be entitled to be registered as a voter for that election.
110. The registration of voters and the conduct of elections shall be subject to the direction and supervision of the Federal Electoral Commission. Supervision of election.
- 111.—(1) The National Assembly shall make provisions as respects— Power of House of Assembly as to determination of certain questions.
- (a) persons who may apply to the competent High Court for the determination of any question as to whether—
- (i) any person has been validly elected as a member of a House of Assembly,
- (ii) the term of office of person has ceased,
- (iii) the seat in a 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 competent High Court in relation to any such application.

(2) In this section, "competent High Court" has the meaning assigned to it in section 237 of this Constitution.

E—Powers and Control over Public Funds

Establishment of Consolidated Revenue Fund.

112.—(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.

(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 113 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 in the manner prescribed by the House of Assembly.

Authorisation of expenditure from Consolidated Revenue Fund.

113.—(1) The Governor shall cause to be prepared and laid before the House of Assembly at any time before the commencement of each financial year estimates of the revenues and expenditure of the State for the next 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—

(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 appropriations.

114. 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 6 months or 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.

115.—(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.

Contingencies Fund.

(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 as soon as possible for the purpose of replacing the amount so advanced.

116.—(1) There shall be paid to the holders of the offices mentioned in this section such salaries as may be prescribed by a House of Assembly.

Remuneration of the Governor and certain other officers.

(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 and Judges of the High Court of a State, Grand Kadi and Kadis of the Sharia Court of Appeal of a State, President and Judges of the Customary Court of Appeal of a State, the Director of Audit of a State and the Chairman and members of the following bodies, that is to say, the State Electoral Commission, the State Civil Service Commission and the State Judicial 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 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.

117.—(1) There shall be a Director of Audit for each State, who shall be appointed in accordance with the provisions of section 118 of this Constitution.

Audit of public accounts.

(2) The public accounts of a State and of all offices, courts and authorities of the State, including all persons and bodies established by Law entrusted with the collection and administration of public moneys and assets, shall be audited and reported on by the Director of Audit; and for that purpose, the Director of Audit or any person authorised by him in that behalf shall have access to all books, records, returns and other documents relating to those accounts.

(3) The Director of Audit shall 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.

(4) In the exercise of his functions under this Constitution, the Director of Audit shall not be subject to the direction or control of any other authority or person.

Appointment of Director of Audit of a State.

118.—(1) The Director of Audit 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 Director of Audit 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 Director of Audit for a period exceeding 6 months.

Tenure of office of Director of Audit.

119.—(1) A person holding the office of the Director of Audit 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 Director of Audit 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 investigations.

120.—(1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the *Official 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 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.

121.—(1) For the purposes of any investigation under section 120 of this Constitution and subject to the provisions thereof, a House of Assembly or a committee appointed in accordance with section 97 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

122.—(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.

123. 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.

Election
of the
President :
general.

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

(2) An election to the said office shall be held on a date not earlier than 60 days and not later than 30 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 one of the 2 or more candidates nominated for the election is the only candidate after the close of nomination, by reason of the disqualification, withdrawal, incapacitation, disappearance or death of the other candidates, the Federal Electoral Commission shall extend the time for nomination.

(4) For the purpose of an election to the said office, 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 Presi-
dential
candidate.

125. 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-quarter 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 Presi-
dential
candidate.

126.—(1) A candidate for an election to the office of President shall be deemed to have been duly elected where, there being only 2 candidates for the election—

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

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

(2) A candidate for an election to the office of President shall be deemed to have been duly elected where, there being more than 2 candidates for the election—

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

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

(3) In default of a candidate duly elected in accordance with subsection (2) of this section there shall be a second election in accordance with subsection (4) of this section at which the only candidates shall be—

(a) a candidate who secured the highest number of votes at any election held in accordance with the said subsection (2) of this section ; and

(b) one among the remaining candidates who has a majority of votes in the highest number of States,

so however that where there are more than one candidate with a majority of votes in the highest number of States, the candidate with the highest total of votes cast at the election shall be the second candidate for the election.

(4) In default of a candidate duly elected under the foregoing subsections, the Federal Electoral Commission shall within 7 days of the result of the election held under the said subsections, arrange for an election to be held—

(a) in each House of the National Assembly ; and

(b) in the House of Assembly of every State in the Federation,

with a view to determining which of the 2 candidates shall be elected as President, and the candidate who has a simple majority of all the votes cast at such election shall be deemed to have been duly elected as President.

(5) Elections to be held in accordance with subsection (4) of this section shall be held on the same day and at the same time throughout the Federation.

127.—(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 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.

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

Disqualifications.

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

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

(2) The President shall not, during the period when he holds office, hold any other executive office or paid employment in any capacity whatsoever.

Oaths of
President.
Sixth
Schedule.

129.—(1) A person elected to the office of President shall not begin to perform the functions of that office until he has taken and subscribed the Oath of Allegiance and the oath of office prescribed in the Sixth 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
office of
Vice-
President.

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

Nomination
and election
of Vice-
President.

131.—(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 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
from
office.

132.—(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 President of the Senate shall cause the allegation to be investigated by a Committee of 7 persons who in his opinion are of high

integrity, not being members of any public service, legislative house or political party, and who shall have been nominated and, with the approval of the Senate, appointed by the President of the Senate to conduct the investigation.

(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 Committee by legal practitioners of his own choice.

(7) A Committee 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 Committee 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 Committee 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 Committee 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 Committee 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 or 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.

133.—(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

(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 *Official 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.

Permanent
incapacity of
President.

Official
Gazette

(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.

Discharge
of functions
of President.

134.—(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 132 or 133 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 for the unexpired term of office of the last holder of the office.

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

(a) by reason of death or resignation or removal in accordance with section 132 or 133 of this Constitution ;

(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.

Ministers of
Federal
Government.

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

(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 14 (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.

(6) An appointment to any of the offices aforesaid shall be deemed to have been made where no return has been received from the Senate within 21 working days of the receipt of nomination by the Senate.

136.—(1) The President may, in his discretion, assign to the Vice-President or 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.

Executive responsibilities of Ministers.

(2) The President shall hold regular meetings with the Vice-President and all the Ministers of the Government of the Federation for the purposes 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.

137. A Minister of the Government of the Federation shall not enter upon the duties of his office, unless he has taken and subscribed the Oath of Allegiance and the oath for the due execution of the duties of his office prescribed in the Sixth Schedule to this Constitution.

Oaths of Ministers.

Sixth Schedule.

138.—(1) There shall be an Attorney-General of the Federation who shall be a Minister of the Government of the Federation.

Attorney-General of the Federation.

(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 not less than 10 years.

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

Special Advisers.

(2) The number of such Advisers and their remuneration and allowances shall be as prescribed by law or by resolution of the National Assembly.

(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.

B—Establishment of Certain Federal Executive Bodies

- Federal Commissions and Councils. 140.—(1) There shall be established for the Federation the following bodies, namely—
- (a) Council of State ;
 - (b) Federal Civil Service Commission ;
 - (c) Federal Electoral Commission ;
 - (d) Federal Judicial Service Commission ;
 - (e) National Defence Council ;
 - (f) National Economic Council ;
 - (g) National Population Commission ;
 - (h) National Security Council ; and
 - (i) Police Service 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.
- Appointment of Chairman and members. 141.—(1) Except in the case of *ex officio* members or where other provisions are made in this Constitution, the Chairman and members of any of the bodies so established shall, subject to the provisions of this Constitution, be appointed by the President, and the appointment shall be subject to confirmation by the Senate.
- (2) In exercising his powers to appoint a person as Chairman or member of the Council of State, the National Defence Council, or the National Security Council, the President shall not be required to obtain the confirmation of the Senate.
- (3) In exercising his powers to appoint a person as Chairman or member of the Federal Electoral Commission, the Federal Judicial Service Commission or the National Population Commission, the President shall consult the Council of State.
- Tenure of office of members. 142.—(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—
- (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.

143.—(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) within the preceding 10 years, 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.

(2) Any person employed in the public service of the Federation 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 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.

144.—(1) Subject to the provisions of subsection (3) of this section 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 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.

Removal of members.

(2) This section applies to the offices of the Chairman and members of the Federal Civil Service Commission, Council of State, Federal Electoral Commission, Federal Judicial Service Commission, National Population Commission and Police Service Commission.

(3) All members of the National Population Commission shall cease to be members if the President declares a National Census Report as unreliable and the report is rejected in accordance with section 193 of this Constitution.

145.—(1) In exercising its power to make appointments or to exercise disciplinary control over persons, the Federal Civil Service Commission, the Federal Judicial Service Commission and the Federal Electoral Commission shall not be subject to the direction or control of any other authority or persons.

Independence of certain bodies.

(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 and
 decisions.

146.—(1) The quorum for a meeting of any of the bodies established by section 140 of this Constitution shall be not less than one-third of the total number of members of that body at the date of the meeting.

(2) A member of such a body shall be entitled to one vote, and a decision of the meeting may be taken and any act or thing may be done in the name of that body by a majority of the members present at the meeting.

(3) Whenever such body is assembled for a meeting, the Chairman or other person presiding shall, in all matters in which a decision is taken by vote (by whatever name such vote may be called) have a casting as well as a deliberative vote.

(4) Subject to its rules of procedure, any such body may act or take part in any decision notwithstanding any vacancy in its membership or the absence of any member.

Powers and
 procedure.

147.—(1) Subject to subsection (2) of this section, any of the bodies 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.

Inter-
 pretation.

148. 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 140 of this Constitution shall be construed as including a reference to the Chairman of that body.

C—Public Revenue

Distributable
 pool account.

149.—(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 from the personal income tax of the personnel of the armed forces of the Federation, the Nigeria Police Force, the ministry or department of government charged with responsibility for External Affairs and the residents of the Federal Capital Territory.

(2) Any amount standing to the credit of the Federation Account shall be distributed among the Federal and State governments, and the local government councils 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) The amount standing to the credit of local government councils in the Federation Account shall also be allocated to the States for the benefit of their local government councils on such terms and in such manner as may be prescribed by the National Assembly.

(5) Each State shall maintain a special account to be called "State Joint Local Government Account" into which shall be paid all allocations to the local government councils of the State from the Federation Account and from the Government of the State.

(6) Each State shall pay to local government councils in its area of jurisdiction such proportion of its total revenue 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 government councils of a State shall be distributed among the local government councils of that State on such terms and in such manner as may be prescribed by the House of Assembly of the State.

150. 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—

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

(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 prescribed a sum equal to the proportion of the net proceeds of such tax or duty that are derived from that State.

151. The Federation may make grants to a State to supplement the revenue of that State in such sum and subject to such terms and conditions as may be prescribed by the National Assembly.

Federal grants in aid of State revenue.

152. 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 collecting taxes or duties which are wholly or partly payable to the State pursuant to the

Cost of collection of certain duties.

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.

153.—(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 Consolidated Revenue Fund.

154. 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 regard to payments.

155.—(1) Where any payment falls to be made under this Part of this Chapter, the amount payable shall be certified by the Auditor-General for 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.

D—The Public Service of the Federation

Federal Civil Service Commission: power to delegate functions.

156. 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.

Presidential appointments.

157.—(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.

(2) The offices to which this section applies are, namely—

(a) Secretary to the Government of the Federation ;

(b) Head of the Civil Service of the Federation ;

(c) Ambassador, High Commissioner or other Principal Representative of Nigeria abroad ;

(d) Permanent Secretary or other Chief Executive in any ministry or department of Government of the Federation howsoever designated ; and

(e) any office on the personal staff of the President.

(3) An appointment to the office of Head of the Civil Service of the Federation shall not be made except from among members of the civil service of the Federation or of a State.

(4) 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.

(5) 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.

158. A person in the public service of the Federation shall observe and conform to the Code of Conduct.

Code of Conduct.

159.—(1) Subject to the provisions of this Constitution, the right of a person in 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.

160.—(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 interests of justice and the need to prevent abuse of legal process.

Prerogative
of mercy.

161.—(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 air-force law or convicted or sentenced by a court-martial.

PART II

STATE EXECUTIVE

A—The Governor of a State

Establishment of the office of Governor.

162.—(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.

Qualification for election as Governor.

163. 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 35 years.

Election of Governor.

164.—(1) An election to the office of Governor shall be held on a date to be appointed by the Federal Electoral Commission.

(2) An election to the said office shall be held on a date not earlier than 60 days and not later than 30 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 one of the 2 or more candidates nominated for the election is the only candidate after the close of nomination, by reason of the disqualification, withdrawal, incapacitation, disappearance or death of the other candidates, the Federal Electoral Commission shall extend the time for nomination.

(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.

(6) A candidate for an election to the office of Governor of a State 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-quarter 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.

(7) A candidate for an election to the office of Governor of a State shall be deemed to have been duly elected where, there being 2 or more candidates—

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

(b) he has not less than one-quarter of all the votes cast in each of at least two-thirds of all the local government areas in the State.

(8) In default of a candidate being duly elected in accordance with subsections (6) and (7) of this section, the Federal Electoral Commission shall within 7 days of the result of the election arrange for an election to be held in the House of Assembly of the State with a view to determining which of the 2 or more candidates shall be elected Governor, and the person who has a simple majority of votes cast at such election shall be deemed to have been duly elected as Governor of the State.

165.—(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) he took the Oath of Allegiance and oath of office in the case of a person first elected as Governor under this Constitution ; and

Tenure of
office of
Governor.

(b) the person last elected to that office took the Oath of Allegiance and 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.

Disqualifications.

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

(a) 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 ; or

(b) he has been elected to such office at any 2 previous elections.

(2) A Governor shall, during the period when he holds office, cease to hold any other executive office or paid employment in any capacity whatsoever.

Oaths of Governor. Sixth Schedule.

167.—(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 taken and subscribed the Oath of Allegiance and oath of office prescribed in the Sixth Schedule to this Constitution.

(2) The oaths aforesaid shall be administered by the Chief Judge of the High Court of the State or Grand Kadi of the Sharia Court of Appeal of the State, if any, or 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 any State.

Establishment of the office of Deputy Governor.

168.—There shall be for each State of the Federation a Deputy Governor.

Nomination and election of Deputy Governor.

169.—(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.

(2) The provisions of this Part of this Chapter relating to qualification for election, tenure of office, disqualifications and oaths of Governor shall apply in relation to the office of Deputy Governor as if references to Governor were references to Deputy Governor.

170.—(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 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 allegations 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 the members of the House of Assembly.

(5) Within 7 days of the passing of a motion under the foregoing provisions, the Speaker of the House of Assembly shall cause the allegation to be investigated by a Committee of 7 persons who in his opinion are of high integrity, not being members of any public service, legislative house or political party, and who shall have been nominated and, with the approval of the House of Assembly, appointed by the Speaker of the House to conduct the investigation.

(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 Committee by legal practitioners of his own choice.

(7) A Committee 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 Committee 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 Committee 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 Committee 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 Committee 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 or 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.

171.—(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 *Official 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.

Discharge of functions of Governor.

172.—(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 the Governor from office in accordance with section 170 or 171 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 Deputy Governor of a State is also vacant, the Speaker of the House of Assembly of the State shall hold the 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 for the unexpired term of office of the last-holder of the office.

(3) Where the office of Deputy Governor becomes vacant—

(a) by reason of death or resignation or removal in accordance with section 170 or 171 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.

173.—(1) There shall be such offices of Commissioners of the Government of a State as may be established by the Governor of the State.

Commissioners of State Government.

(2) Any appointment to the office of Commissioner of the Government of a State shall, if the nomination of any person to such office is confirmed by the House of Assembly of the State, be made by the Governor of that State, and in making any such appointment the Governor shall conform with the provisions of section 14 (4) of this Constitution.

(3) 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 on his taking the oath of office as Commissioner.

(4) 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.

(5) An appointment to the office of Commissioner under this section shall be deemed to have been made where no return has been received from the House of Assembly within 21 working days of the receipt of nomination by the House of Assembly.

174.—(1) The Governor of a State may, in his discretion, assign to the Deputy Governor or 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.

Executive responsibilities of Commissioners.

(2) The Governor of a State shall hold regular meetings with the Deputy Governor and all the Commissioners of the Government of the State for the purposes 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.

Oaths of Commissioners. Sixth Schedule.

175. A Commissioner of the Government of a State shall not enter upon the duties of his office, unless he has taken and subscribed the Oath of Allegiance and the oath for the due execution of the duties of his office prescribed in the Sixth Schedule to this Constitution.

Attorney-General of a State.

176.—(1) There shall be an Attorney-General for each State who shall be 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 not less than 10 years.

Special Advisers.

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

(2) The number of such Advisers and their remuneration and allowances shall be as prescribed by law or by resolution of the House of Assembly of the State.

(3) 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.

B—Establishment of Certain State Executive Bodies

State Commissions and Council.

178.—(1) There shall be established for each State of the Federation the following bodies, namely—

- (a) State Civil Service Commission ;
- (b) State Council of Chiefs ;
- (c) State Electoral Commission ; and
- (d) State Judicial Service Commission.

Part II Third Schedule.

(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.

Appointment of Chairman and members.

179. Except in the case of *ex officio* members or where other provisions are made in this Constitution, the Chairman 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, and the appointment shall be subject to confirmation by a resolution of the House of Assembly of the State.

Tenure of office of members.

180.—(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—

- (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.

181.—(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 a House of Assembly;

(b) within the preceding 10 years, 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.

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

182.—(1) 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 misconducts.

Removal of members.

(2) This section applies to the offices of the Chairman and members of the State Civil Service Commission, the State Electoral Commission and the State Judicial Service Commission.

183. In exercising its power to make appointments or to exercise disciplinary control over persons, the State Civil Service Commission, the State Judicial Service Commission and the State Electoral Commission shall not be subject to the direction and control of any other authority or person.

Independence of certain bodies.

184.—(1) The quorum for a meeting of any of the bodies established by section 178 of this Constitution shall not be less than one-third of the total number of members of that body at the date of the meeting.

Quorum and decisions.

(2) A member of such a body shall be entitled to one vote and a decision of the meeting may be taken and any act or thing may be done in the name of that body by a majority of the members present at a meeting.

(3) Whenever such body is assembled for a meeting, the Chairman or other person presiding shall, in all matters in which a decision is taken by vote (by whatever name such vote may be called) have a casting as well as a deliberative vote.

(4) Subject to its rules of procedure, any such body may act or take any decision notwithstanding any vacancy in its membership or the absence of any member.

Powers and procedure.

185.—(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.
State Civil Service Commission: procedure.

186. 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 178 of this Constitution shall be construed as including a reference to the chairman of that body.

C—The Public Service of a State

State Civil Service Commission: power of delegation.

187. 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.

Appointments by Governor.

188.—(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 Governor.

(2) The offices to which this section applies are, namely—

(a) Secretary to the Government of the State ;

(b) Head of the State Civil Service ;

(c) Permanent Secretary or other chief executive in any ministry or department of Government of the State, howsoever designated ; and

(d) any office on the personal staff of the Governor.

(3) An appointment to the office of Head of the Civil Service of a State shall not be made except from among the members of the civil service of any State or of the Federation.

(4) In exercising his powers of appointment under this section, the Governor shall have regard to the diversity of the people within the State and the need to promote national unity.

189. A person in the public service of a State shall observe and conform to the Code of Conduct.

Code of Con-
duct.

190.—(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.

191.—(1) The Attorney-General of a State shall have power—

Public pro-
secutions.

(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 interests of justice and the need to prevent abuse of legal process.

192.—(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 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 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.

193.—(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 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.

(5) 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 *Official Gazette* of the Government of the Federation for public information.

B—Nigeria Police Force

Establish-
ment of
Nigeria
Police Force.

194.—(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 ;

(c) the National Assembly may make provisions for branches of the Nigeria Police Force forming part of the armed forces of the Federation or for the protection of harbours, waterways, railways and airfields.

195.—(1) There shall be an Inspector-General of Police who, subject to section 196 (2) of this Constitution, shall be appointed by the President, and a Commissioner of Police for each State, who shall be appointed by the Police Service Commission.

Appoint-
ment of
Inspector-
General
and control
of Nigeria
Police Force.

(2) The Nigeria Police Force shall be under the command of the Inspector-General of Police, and any contingents of the Nigeria Police Force stationed in a State shall, subject to the authority of the Inspector-General of Police, be under the command of the Commissioner of Police of that State.

(3) 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.

(4) Subject to the provisions of this section, the Governor of a State or such Commissioner of the Government of the State as he may authorise in that behalf, 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.

(5) The question whether any, and if so what, directions have been given under this section shall not be enquired into in any court.

196.—(1) Subject to the provisions of this Constitution, the Police Service Commission 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.

Delegation
of powers
to the
Inspector-
General of
Police.

(2) Before making any appointment to the office of the Inspector-General of Police or removing him from office the President shall consult the Police Service Commission.

C—Armed Forces of the Federation

Establishment and composition of the armed forces of the Federation.

197.—(1) The Federation shall, subject to any Act of the National Assembly made in that behalf, establish, equip and maintain an Army, a Navy, an Air Force and such other branches of the armed forces of the Federation 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.

(2) The composition of the officer corps and other ranks of the armed forces of the Federation shall reflect the federal character of Nigeria.

Command and operational use.

198.—(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, Head of the Army, Head of the Navy, Head of the Air Force and Head 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.

(4) The National Assembly shall have power to make laws for the regulation of—

(a) the powers exercisable by the President as Commander-in-Chief of the Armed Forces of the Federation ; and

(b) the appointment, promotion and disciplinary control of members of the armed forces of the Federation.

Establishment of body to ensure federal character of armed forces.

199. The National Assembly shall—

(a) in giving effect to the functions specified in section 197 of this Constitution ; and

(b) with respect to the powers exercisable by the President under section 198 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 in the manner prescribed in the said section 197 of this Constitution.

200.—(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.

Compulsory
military
service.

(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

201. No association other than a political party 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.

Prohibition
of political
activities by
certain
associations.

202. No association by whatever name called shall function as a political party, unless—

Restriction
on formation
of political
parties.

(a) the names and addresses of its national officers are registered with the Federal Electoral Commission ;

(b) the membership of the association is open to every citizen of Nigeria irrespective of his place of origin, 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 only of the geographical area of Nigeria ; and

(f) the headquarters of the association is situated in the Capital of the Federation.

203.—(1) The constitution and rules of a political party shall provide—

Constitution
and rules.

(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

(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 of a political party shall be deemed to be periodical only if it is made at regular intervals 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.

204. 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.

Finances of political parties.

205.—(1) Every political party, shall at such times and in such manner as the Federal Electoral Commission may require, submit to the Federal 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.

✓ (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.

206.—(1) The Federal Electoral Commission shall in every year prepare and submit to the National Assembly a report on the accounts and balance sheet of every 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 any political party ; and if the Commission is of the opinion that proper books of accounts have not been kept by a political party, the Commission shall so report.

(3) Every member of the Commission or its duly authorised agent shall have a right of access at all times to the books and accounts and vouchers of all political parties and shall be entitled to require from the officers of the party such information and explanation as he thinks necessary for the performance of his duties under this Constitution ; and if the member of the Commission or such agent fails or is unable to obtain all the information and explanation which to the best of his knowledge and belief are necessary for the purposes of the investigations, the Commission shall state that fact in its report.

Prohibition of quasi-military organisations.

207. No 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.

208. 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 201, 205 (3) and 207 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 205 (3) of this Constitution ;

(c) for an annual grant to the Federal Electoral Commission for disbursement to political parties on a fair and equitable basis to assist them in the discharge of their functions ; and

(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 political parties observe the provisions of this Part of this Chapter.

209. 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

Interpretation.

"political party" includes any association 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 of a local government council.

CHAPTER VII

THE JUDICATURE

PART I

FEDERAL COURTS

A—The Supreme Court of Nigeria

210.—(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 of the Supreme Court of Nigeria.

211.—(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 a simple majority of the Senate.

Appointment of 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 approval of such appointment by a simple majority of 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.

Original
jurisdiction.

212.—(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.

(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.

213.—(1) The Supreme Court shall have jurisdiction to the exclusion of any other court of law in Nigeria to hear and determine appeals from the Federal Court of Appeal.

(2) An appeal shall lie from decisions of the Federal 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 Federal 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 Federal Court of Appeal or in which the Federal Court of Appeal has affirmed a sentence of death imposed by any other court ;

(e) decisions on any question whether any person has been validly elected to any office under this Constitution or to the membership of any legislative house or whether the term of office of any person has ceased or the seat of a person in a legislative house has become vacant ; and

(f) such other cases as may be prescribed by any law in force in any State.

(3) Subject to the provisions of subsection (2) of this section, an appeal shall lie from the decisions of the Federal Court of Appeal to the Supreme Court with the leave of the Federal Court of Appeal or the Supreme Court.

(4) The Supreme Court may dispose of any application for leave to appeal from any decision of the Federal 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 interests of justice do not require an oral hearing of the application.

(5) Any right of appeal to the Supreme Court from the decisions of the Federal 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 Federal 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.

(6) Any right of appeal to the Supreme Court from the decisions of the Federal Court of Appeal conferred by this section shall, subject to section 216 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 powers, practice and procedure of the Supreme Court.

214. 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 213 (2) (b) or (c) of this Constitution, or to exercise its original jurisdiction in accordance with section 212 of this Constitution, the court shall be constituted by 7 Justices.

215. 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 or person from any determination of the Supreme Court.

Finality of determinations.

216. 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 Federal Court of Appeal

217.—(1) There shall be a Federal Court of Appeal.

(2) The Federal Court of Appeal shall consist of—

(a) a President of the Federal Court of Appeal ; and

Establishment of Federal Court of Appeal.

(b) such number of Justices of the Federal Court of Appeal, not less than 15, of which not less than 3 shall be learned in Islamic personal law, and not less than 3 shall be learned in Customary law, as may be prescribed by an Act of the National Assembly.

Appointment
of Justices
of the
Federal
Court of
Appeal.

218.—(1) The appointment of a person to the office of President of the Federal Court of Appeal shall be made by the President on the advice of the Federal Judicial Service Commission subject to approval of such appointment by a simple majority of the Senate.

(2) The appointment of a person to the office of a Justice of the Federal 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 a Justice of the Federal 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 Federal 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 Federal 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.

219. Subject to the provisions of this Constitution, the Federal Court of Appeal shall have jurisdiction, to the exclusion of any other court of law in Nigeria, to hear and determine appeals from the Federal High Court, High Court of a State, Sharia Court of Appeal of a State and Customary Court of Appeal of a State.

Appeals
as of right
from a
High Court.

220.—(1) An appeal shall lie from decisions of a High Court to the Federal 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 on any question whether any person has been validly elected to any office under this Constitution, or to the membership of any legislative house or whether the term of office of any person has ceased or the seat of a person in legislative house has become vacant ;

(g) 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 is 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 any law in force in Nigeria.

(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 of 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 Federal Court of Appeal, from a decision of the High Court made with the consent of the parties or as to costs only.

221.—(1) Subject to the provisions of section 220 of this Constitution, an appeal shall lie from decisions of a High Court to the Federal Court of Appeal with the leave of that High Court or the Federal Court of Appeal.

Appeals
with leave.

(2) The Federal 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 Federal Court of Appeal is of the opinion that the interests of justice do not require an oral hearing of the application.

222. Any right of appeal to the Federal Court of Appeal from the decisions of a High Court conferred by this Constitution—

(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 Federal 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 persons as may be prescribed ;

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

(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 Federal Court of Appeal.

- Appeals from Sharia Court of Appeal of State.**
- 223.—**(1) An appeal shall lie from decisions of the Sharia Court of Appeal of a State to the Federal Court of Appeal as of right in any civil proceedings before the Sharia Court of Appeal with respect to any question of Islamic personal law which the Sharia Court of Appeal is competent to decide.
- (2) Any right of appeal to the Federal 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 the Sharia Court of Appeal or of the Federal 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 Federal Court of Appeal.
- Appeals from Customary Court of Appeal of a State.**
- 224.—**(1) An appeal shall lie from decisions of the Customary Court of Appeal of a State to the Federal 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 other matters as may be prescribed by an Act of the National Assembly.
- (2) Any right of appeal to the Federal 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 the Customary Court of Appeal or of the Federal Court of Appeal, at the instance of any other person having an interest in the matter ;
- (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 Federal Court of Appeal.
- Appeals from Code of Conduct Tribunal and other courts and tribunals, Fifth Schedule.**
- 225.—**(1) An appeal shall as of right lie from decisions of the Code of Conduct Tribunal established in the Fifth Schedule to this Constitution to the Federal Court of Appeal.
- (2) The National Assembly may confer jurisdiction upon the Federal 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 Federal Court of Appeal.**
- 226.** For the purpose of exercising any jurisdiction conferred upon it by this Constitution or any other law, the Federal Court of Appeal shall be duly constituted if it consists of not less than 3 Justices of the Federal 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 Federal Court of Appeal learned in Islamic personal law ; and
- (b) a Customary Court of Appeal, if it consists of not less than 3 Justices of Appeal learned in Customary law.
- Practice and procedure.**
- 227.** Subject to the provisions of any Act of the National Assembly, the President of the Federal Court of Appeal may make rules for regulating the practice and procedure of the Federal Court of Appeal.

C—The Federal High Court

228.—(1) There shall be a Federal High Court.

Establishment of the 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.

229.—(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 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.

230.—(1) 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 shall have jurisdiction—

Jurisdiction.

(a) in such matters connected with or pertaining to the revenue of the Government of the Federation as may be prescribed by the National Assembly ; and

(b) in such other matters as may be prescribed as respects which the National Assembly has power to make laws.

(2) Notwithstanding subsection (1) 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 (1) 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.

- Powers.** 231.—(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.** 232. The Federal High Court shall be duly constituted if it consists of at least one Judge of that court.
- Practice and procedure.** 233. 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); 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 a High Court of a State or to any other court with like jurisdiction.

PART II

STATE COURTS

A—High Court of a State

- Establishment of a High Court for each State.** 234.—(1) There shall be a High Court for each State of the Federation.
- (2) The High Court of a State shall consist of—
- (a) a Chief Judge of the High Court 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.** 235.—(1) The appointment of a person to the office of Chief Judge of the High Court of a State shall be made by the Governor of the State on the advice of the State Judicial Service Commission subject to the approval of such appointment by a simple majority of the House of Assembly of the State.
- (2) The appointment of a person to the office of a Judge of a High Court 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 a Judge of the High Court of a State unless he is qualified to practice 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 the High Court 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.

236.—(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.

Jurisdiction :
general.

(2) The reference to civil or 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.

237.—(1) Without prejudice to the generality of the provisions of section 236 of this Constitution, the competent High Court shall, to the exclusion of any other court, have original jurisdiction to hear and determine any question whether any person has been validly elected to any office or to the membership of any legislative house, or whether the term of office of any person has ceased or the seat of a person in a legislative house has become vacant.

Jurisdiction
as to certain
proceedings.

(2) In this section, "competent High Court" means—

(a) in any case involving the office of President or Vice-President, the Federal High Court and on the coming into force of section 262 of this Constitution the High Court of the Federal Capital Territory established pursuant to section 263 of this Constitution ;

(b) in any case involving any other office, the High Court of the State as respects which such office is established under this Constitution ; and

(c) in any case involving the membership of or the seat of a person in a legislative house, the High Court of the State where the Senatorial district, Federal constituency or State constituency of that member or person is located.

238. 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.

239. 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

240.—(1) There shall be for any State that requires it a Sharia Court of Appeal for that State.

Establish-
ment 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.

Appointment
of Grand
Kadi and
Kadis.

241.—(1) The appointment of a person to the office of the 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 approval of such appointment by a simple majority of the House of Assembly.

(2) The appointment of a person to the office of a Kadi of the Sharia Court of Appeal 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 as a Kadi of the Sharia Court of Appeal of a State unless—

(a) he has attended and has obtained a recognised qualification in Islamic personal 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

(b) he either has considerable experience in the practice of Islamic personal law or he is a distinguished scholar of Islamic personal law.

(4) If the office of the Grand Kadi of the Sharia Court of Appeal of a State is vacant or if a 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 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.

Jurisdiction.

242.—(1) 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 personal law which the court is competent to decide in accordance with the provisions of subsection (2) of this section.

(2) For the purposes of subsection (1) of this section, the Sharia Court of Appeal shall be competent to decide—

(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 ;

(d) any question of 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 ; or

(e) where all the parties to the proceedings (whether or not they are moslems) have requested the court that hears the case in the first instance to determine that case in accordance with Islamic personal law, any other question.

243. 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.

Constitution.

244. 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 the House of Assembly of the State.

Practice and procedure.

C—Customary Court of Appeal of a State

245.—(1) There shall be for any State that requires it a Customary Court of Appeal for the State.

Establishment of Customary Court of Appeal.

(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 be prescribed by the House of Assembly of the State.

246.—(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 approval of such appointment by a simple majority of the House of Assembly of the State.

Appointment of President and Judges.

(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 qualifications as may be prescribed by the National Assembly, a person shall not be qualified to hold office of a Judge of 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 of 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 a person whose appointment has lapsed.

247.—(1) A Customary Court of Appeal of a State shall exercise appellate and supervisory jurisdiction in civil proceedings involving questions of Customary law.

Jurisdiction

(2) For the purposes of this section a Customary Court of Appeal of a State shall exercise such jurisdiction and decide such questions as may be prescribed the House of Assembly of the State for which it is established.

Constitution.

248. 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 for a sitting of the court.

Practice and procedure.

249. The Customary Court of Appeal of a State shall exercise the 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.

PART III

SUPPLEMENTAL

Jurisdiction of State courts in respect of Federal causes.

250.—(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 like 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, except in so far as other provisions have been made by the operation of sections 263 and 264 of this Constitution 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” includes 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 provisions of an Act of the National Assembly or any law having effect as if so enacted.

Enforcement of decisions.

251.—(1) The decisions of the Supreme Court shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Supreme Court.

(2) The decisions of the Federal Court of Appeal shall be enforced in any part of the Federation by all authorities and persons, and by courts with subordinate jurisdiction to that of the Federal Court of Appeal.

(3) The decisions of a 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 law with subordinate jurisdiction to that of the High Court and those other courts, respectively.

252.—(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 Federal 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 personal law and persons learned in Customary law.

Appointment of persons learned in Islamic personal law and Customary law.

(2) For the purposes of any appointment pursuant to the provisions of this Chapter, except where otherwise provided—

(a) a person shall be deemed to be learned in Islamic personal law—

(i) if he has attended and has obtained a recognised qualification in Islamic personal law from an institution approved by the Federal Judicial Service Commission and has held the qualification for a period of not less than 15 years, and

(ii) if, in the opinion of the Federal Judicial Service Commission, he has considerable experience in the practice of Islamic personal law or he is a distinguished scholar of Islamic personal law ; and

(b) a person shall be deemed to be learned in Customary law if, in the opinion of the Federal Judicial Service Commission (apart from such other qualifications as may be prescribed by the National Assembly) he has considerable knowledge of and experience in the practice of Customary law.

253. No legal practitioner shall be qualified for appointment as a Justice of the Supreme Court or the Federal Court of Appeal or a Judge of a High Court or a Kadi of a Sharia Court of Appeal or a 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.

Disqualification of certain legal practitioners.

254.—(1) A person appointed to any judicial office shall not begin to perform the functions of that office until he has taken and subscribed the Oath of Allegiance and the Judicial Oath prescribed in the Sixth Schedule to this Constitution.

Oaths of judicial officers. Sixth Schedule.

(2) The oaths aforesaid shall be administered by the person for the time being authorised by law to administer such oaths.

255.—(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 the age of 65 years be entitled to pension for life at a rate equivalent to his last annual salary in addition to any other retirement benefits to which he may be entitled ;

(b) for a period less than 15 years, shall if he retires at the age of 65 years be entitled to pension for life at a rate *pro rata* the number of years he

served as a judicial officer in relation to the period of 15 years, or to the pension and other retirement benefits to which he is entitled under his terms and conditions of service, if any, whichever is higher ; and

(c) in any other case, shall be entitled to such pension and other retirement benefits as may be regulated by an Act of the National Assembly or by a Law of a House of Assembly.

(3) Nothing in this section or elsewhere in this Constitution shall preclude the application of the provisions of any law that provides for pensions, gratuities and other retirement benefits for persons in the public service of the Federation or of a State.

Removal of
judicial
officers from
office.

256—(1) A judicial officer shall not be removed from his office or appointment before his age of retirement except in the following circumstances—

(a) in the case of—

(i) Chief Justice of Nigeria, by the President acting on an address supported by two-thirds majority of the Senate,

(ii) Chief Judge of the High Court of a State, Grand Kadi of a Sharia Court of Appeal or President of a Customary Court of Appeal of a State, by the governor 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 of body) or for misconduct or contravention of the Code of Conduct ;

(b) in any case, other than those to which paragraph (a) of this subsection applies, by the President or, as the case may be, the Governor acting on the recommendation of the Federal Judicial Service Commission or the State Judicial Service Commission that the judicial officer be so removed for his inability to discharge the functions of his office or appointment (whether arising from infirmity of mind or of body) or for misconduct or contravention of the Code of Conduct.

(2) 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 or act as a legal practitioner before any court of law or tribunal in Nigeria.

Vacancies.

257. Except for the purposes of exercising any jurisdiction conferred by this Constitution or by any other law, every court established under this Constitution shall be deemed to be duly constituted notwithstanding any vacancy in the membership of the court.

Determina-
tion of
causes and
matters.

258.—(1) Every court established under this Constitution shall deliver its decision in writing not later than 3 months after the conclusion of evidence and final addresses, and furnish all parties to the cause or matter determined with duly authenticated copies of the decision on the date of the delivery thereof.

(2) Each Justice of the Supreme Court or of the Federal 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.

259.—(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 Federal Court of Appeal, or a High Court) and the court is of 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 opinion that the question involves a substantial question of law, refer the question to the Federal Court of Appeal ; or

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

(2) Where any question as to the interpretation or application of this Constitution arises in any proceedings in a High Court, and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Federal Court of Appeal ; and where any question is referred in pursuance of 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 Federal Court of Appeal and the court is of opinion that the question involves a substantial question of law, the court may, and shall if any party to the proceedings so requests, refer the question to the Supreme Court which shall give its decision upon the question and give such directions to the Federal Court of Appeal as it deems appropriate.

260. 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 and Governor or Deputy Governor of a State, but does not include the office of President of the Senate, Speaker of the House of Representatives, Speaker of a House of Assembly or any office not established by this Constitution.

Interpretation.

CHAPTER VIII

FEDERAL CAPITAL TERRITORY AND GENERAL SUPPLEMENTARY PROVISIONS

PART I

FEDERAL CAPITAL TERRITORY

261.—(1) There shall be a Federal Capital Territory the boundaries of which are as defined in Part II of the First Schedule to this Constitution.

(2) The ownership of all lands comprised in the Federal Capital Territory shall vest in the Government of the Federal Republic of Nigeria.

Federal Capital Territory : ownership of lands. Part II First Schedule.

Capital of the Federation.

262. The Federal Capital Territory shall be the Capital of the Federation and seat of the Government of the Federation.

Application of Constitution.

263. The provisions of this Constitution shall apply to the Federal Capital Territory as if it were one of the States of the Federation ; and accordingly—

(a) all the legislative powers, the executive powers and the judicial powers vested in a House of Assembly, the Governor of a State and in the courts of a State shall, respectively, vest in the National Assembly, the President of the Federation, and in the courts which by virtue of the foregoing provisions are courts established for the Federal Capital Territory ;

(b) all the powers referred to in paragraph (a) of this section shall be exercised in accordance with the provisions of this Constitution ; and

(c) the provisions of this Constitution pertaining to the matters aforesaid shall be read with such modifications and adaptations as may be reasonably necessary to bring them into conformity with the provisions of this section.

Adaptation of certain references.

264. Without prejudice to the generality of the provisions of section 263 of this Constitution, in its application to the Federal Capital Territory, this Constitution shall be construed as if—

(a) under the provisions of Chapter V of this Constitution the Federal Capital Territory were a Senatorial district from which one member of the Senate shall be elected ;

(b) the Federal Capital Territory were a Federal constituency from which at least one member of the House of Representatives shall be elected ;

(c) references to the Governor, Deputy Governor and the executive council of a State (howsoever called) were references to the President, Vice-President and the executive council of the Federation (howsoever called) respectively ;

(d) references to the Chief Judge and Judges of the High Court of a State were references to the Chief Judge and Judges of the High Court, which by operation of this Part is established for the Federal Capital Territory ; and

(e) references to persons, offices and authorities of a State were references to the persons, offices and authorities of the Federation with like status, designations and powers, respectively ; and in particular, as if references to the Attorney-General, Commissioners and the Director of Audit of a State were references to the Attorney-General, Ministries and the Auditor-General of the Federation with like status, designations and powers.

PART II

MISCELLANEOUS PROVISIONS

Procedure for declaration of state of emergency.

265.—(1) Subject to the provisions of this Constitution, the President may by instrument published in the *Official Gazette* of the Government of the Federation issue a Proclamation of a state of emergency in the Federation or any part thereof.

(2) The President shall immediately after the publication transmit copies of the *Official Gazette* of the Government of the Federation containing the Proclamation 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 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 extraordinary measures to avert the same ;
- (e) there is an occurrence of imminent danger, or the occurrence of any disaster or natural calamity, affecting the community or a section of the community in the Federation ;
- (f) there is any other 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, 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 *Official 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 the members of each House.

Resignations.

266.—(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.

(2) The resignation of any person from any office established by this Constitution shall take effect when the writing signifying the resignation is received by the 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 respectively be addressed to the Speaker of the House of Assembly and the Governor of the State.

(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, and 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.

Restrictions of legal proceedings.

267.—(1) Notwithstanding anything to the contrary in this Constitution, but subject to subsection (2) of this section—

(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 subsection (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

268. Notwithstanding the provisions of Chapter III of this Constitution but subject to section 26 thereof, any person who became a citizen of Nigeria by birth, registration or naturalisation under the provisions of any other Constitution shall continue to be a citizen of Nigeria under this Constitution

Citizenship.

269.—(1) Until the National Assembly or a House of Assembly has exercised its powers to initiate legislation in accordance with the provisions of section 47 or 87 of this Constitution, the Clerk or other staff of a legislative house shall be appointed, as respects each House of the National Assembly by the Federal Civil Service Commission, and as respects a House of Assembly by the State Civil Service Commission.

Staff of legislative houses.

(2) In exercising its powers under the provisions of this section, the Federal Civil Service Commission shall consult, as appropriate, the President of the Senate or the Speaker of the House of Representatives, and a State Civil Service Commission shall consult the Speaker of the House of Assembly of the State.

270.—(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 56 or 95 of this Constitution as appropriate.

Standing Orders.

(2) The Standing Orders of 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 of 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 Federation, 1963.

1963 No. 2

Special provisions in respect of first election.

271.—(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 Federal 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.

272. Pending any Act of the National Assembly for the provision of a system of revenue allocation between the Federation and the States, among the States, between the States and local government councils and among the local government councils in the States, the system of revenue allocation in existence for the financial year beginning from 1st April, 1978 and ending on 31st March, 1979 shall, subject to the provisions of this Constitution and as from the date when this section comes into force, continue to apply :

Provided that where functions have been transferred under this Constitution from the Government of the Federation to the States and from the States to local government councils the appropriations in respect of such functions shall also be transferred to the States and the local government councils, as the case may require.

Debts.

273. Any debt of the Federation or of a State 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 shall, as from the date when this section comes into force, continue to be so charged.

Existing law.

274.—(1) Subject to the provisions of this Constitution, an existing law shall have effect with such modifications as may be necessary to bring it into conformity with the provisions of this Constitution and shall be deemed to be—

(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 changes 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 expressions 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 enactments, that is to say—

(a) the National Youth Service Corps Decree 1973 ;

1973 No. 24

(b) the Public Complaints Decree 1975 ;

1975 No. 31

(c) the Nigerian Security Organisation Decree 1976 ;

1976 No. 16

(d) the Land Use Decree 1978,

1978 No. 6

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 provisions forming part of this Constitution and shall not be altered or repealed except in accordance with the provisions of section 9 (2) of this Constitution.

275.—(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.

Existing
offices,
courts and
authorities.

(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 that office fall to be made in pursuance of this Constitution.

(3) Notwithstanding 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 provision 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 offices or to be members of courts of law or authorities and their removal from such offices, courts of law or authorities.

Succession to property, rights, liabilities and obligations.

276.—(1) Without prejudice to the generality of section 274 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,

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, and the Governor and Government of the State, 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 shall be deemed, respectively, to be successors to the said former authority of the Federation and former authority of the State in question ; and

(b) references in this section to “former authority of the Federation” and “former authority of a State” include references to the former Government of the Federation and the former Government of a State, a local government authority, or any person who exercises any authority on its behalf.

PART IV

INTERPRETATION, CITATION AND COMMENCEMENT

Interpretation.

277.—(1) In this Constitution, unless it is otherwise expressly provided or the context otherwise requires—

“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 appointment on promotion and transfer or confirmation of appointment ;

“authority” includes government ;

“belong to” or its grammatical expression when used with reference 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 ;

"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 ;

Fifth Schedule.

"Commissioner" means a Commissioner of the Government of a State ;

"Concurrent Legislative List" means the List of 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.

"decision" means, in relation to a court, any determination of that court and includes judgment, decree, order, conviction, sentence or recommendation ;

"enactment" means provision of any law or a subsidiary instrument ;

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

Part I
Second
Schedule.

"existing law" has the meaning assigned to it in section 274 of this Constitution ;

"federal character of Nigeria" refers to the distinctive desire of the peoples 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 14 (3) and (4) of this Constitution ;

"financial year" means any period of 12 months beginning on the first day of April in any year or such other date as the National Assembly may prescribe ;

"function" include power and duty ;

"government" includes the Government of the Federation, or of any State, or of a local government council 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 ;

"House of Assembly" means the House of Assembly of a State ;

"judicial office" means the office of Chief Justice of Nigeria or a Justice of the Supreme Court or the President or Justice of the Federal Court of Appeal, the office of the Chief Judge or a Judge of a High Court, a Grand Kadi or Kadi of the Sharia Court of Appeal of a State, or President or a Judge of the Customary Court of Appeal of a State ; 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" 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 ;

"Minister" means a Minister of the Government of the Federation ;

"National Assembly" means the Senate and the House of Representatives established by this Constitution ;

"oath" includes affirmation ;

Sixth
Schedule.

"Oath of Allegiance" means the Oath of Allegiance prescribed in the Sixth 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 a State by the number of districts into which that State is divided under section 65 (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 65 (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 104 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 Federal Court of Appeal, the Federal High Court, the High Court of the Federal Capital Territory as established pursuant to Part I of Chapter VIII 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 share or interest, and

(g) members or officers of the armed forces of the Federation or the Nigeria Police Force ;

“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, the 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 ; and

“State” when used otherwise than in relation to one of the component parts of the Federation includes government.

(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 purposes of interpreting the provisions of this Constitution. 1964 No. 1.

278. This Constitution may be cited as the Constitution of the Federal Republic of Nigeria, 1979. Citation.

279.—(1) The provisions of this Constitution, except section 262 thereof, shall come into force on 1st day of October, 1979. Commencement.

(2) The provisions of section 262 of this Constitution shall come into force on a date to be specified by the President by order and confirmed by the resolution of each of the Houses of the National Assembly.

SCHEDULES

Section 3.

FIRST SCHEDULE

PART I

STATES OF THE FEDERATION

<i>State</i>	<i>Area</i>	<i>State Headquarters</i>
ANAMBRA	Abakaliki, Aguata, Anambra, Awgu, Awka, Ezeagu, Enugu, Ezza, Idemili, Igbo-Etiti, Igbo-Eze, Ihiala, Ikwo, Ishielu, Isi-Uzo, Njikoka, Nkanu, Nnewi, Nsukka, Oji-River, Onitsha, Udi, Uzo-Uwani.	ENUGU
BAUCHI	Bauchi, Darazo, Toro, Alkaleri, Tafawa Balewa, Akko, Dukku, Gombe, Tangale-Waja, Shira, Katagum, Gamawa, Misau, Ningi, Jama'are, Dass.	
BENDEL	Oshimili, Oredo, Okpebho, Isoko, Ethiope, Bomadi, Burutu, Okpe, Warri, Orhionmwon, Ovia, Etsako, Ika, Agbazilo, Owan, Ughelli, Aniocha, Akoko-Edo, Ndokwa.	BENIN CITY
BENUE	Ankpa, Bassa, Dekina, Gboko, Gwer, Idah, Katshina-Ala, Kwande, Makurdi, Oju, Okpokwu, Otukpo, Vandeikya.	MAKURDI
BORNO	Bade, Fika, Biu, Askira/Uba, Ngala, Bama, Gwoza, Geidam, Kukawa, Nguru, Konduga, Maiduguri (Metropolitan), Damaturu, Fune, Gujiba, Damboa, Monguno, Kaga.	MAIDUGURI
CROSS RIVER	Calabar Municipality, Abak, Ukanafun, Akamkpa, Odukpani, Eket, Etinan, Ikom, Ikot-Abasi, Ikot-Ekpene, Itu, Ikono, Obubra, Ogoja, Obudu, Oron, Uyo.	CALABAR
GONGOLA	Yola, Gombi, Song, Mayo-Belwa, Fufore, Bali, Jalingo, Karim-Lamido, Zing, Guyuk, Numan, Michika, Mubi, Ganye, Sardauna, Takum, Wukari.	YOLA
IMO	Aba, Aboh-Mbaise, Afikpo, Ahiazu-Mbaise, Arochukwu/Ohafia, Bende, Etiti, Ideato, Isiala-Ngwa, Mbaitoli/Ikeduru, Mbano, Nkwerre/Isu, Obioma-Ngwa, Ohaji/Egbema/Oguta, Ohazara, Isuikwuato/Okigwe, Orlu, Oru, Owerri, Ukwa, Ikwuano/Umuahia.	OWERRI

The Constitution of the Federal Republic of Nigeria

<i>State</i>	<i>Area</i>	<i>State Headquarters</i>
KADUNA	.. Katsina, Dutsin-Ma, Funtua, Daura, Mani, Malunfashi, Kankiya, Zaria, Ikara, Saminaka, Kachia, Jema'a, Birnin-Gwari, Kaduna.	KADUNA
KANO	.. Kano (Metropolitan), Dambatta, Ringim, Minjibir, Gezawa, Bichi, Dawakin-Tofa, Gwarzo, Tudun-Wada, Rano, Wudil, Dawakin-Kudu, Dutse, Jahun, Birnin-Kudu, Gaya, Hadejia, Keffin-Hausa, Gumel, Kazaura.	KANO
KWARA	.. Asa, Borgu, Edu, Ifelodun, Ilorin, Irepodun, Kogi, Moro, Okehi, Okene, Oyi, Oyun.	ILORIN
LAGOS	.. Lagos-Island, Lagos-Mainland, Shomolu, Mushin, Epe, Badagry, Ikorodu, Ikeja.	IKEJA
NIGER	.. Abuja, Agaie, Lapai, Chanchaga, Gbako, Lavun, Mariga, Magama, Rafi.	MINNA
OGUN	.. Abeokuta, Odeda, Obafemi-Owode, Ifo-Otta, Egbado-North, Egbado-South, Ijebu-Ode, Ijebu-North, Ijebu-East, Ijebu-Remo.	ABBEOKUTA
ONDO	.. Akoko-North, Akoko-South, Akure, Ekiti-Central, Ekiti-East, Ekiti-North, Ekiti-South, Ekiti South-West, Ekiti-West, Ero, Idanre/Ifedore, Ifesowapo, Ijero, Ikale, Ilaje-Ese-Odo, Ondo, Owo.	AKURE
OYO	.. Irepo, Obokun, Atakunmosa, Ifelodun, Iwo, Odo-Otin, Oshogbo, Ejigbo, Akinyele, Ifedapo, Kajola, Lagelu, Irepodun, Ibarapa, Ede, Iseyin, Ibadan Municipal, Irewole, Oluyole, Ila, Ilesha, Ogbomosho, Oranmiyan, Oyo.	IBADAN
PLATEAU	.. Akwanga, Awe, Bassa, Jos, Barikin-Ladi, Kanam, Keffi, Lafia, Langtang, Mangu, Nasarawa, Pankshin, Shendam, Wase.	JOS
RIVERS	.. Port Harcourt, Bonny, Bori, Ikwerre/Etche, Degema, Brass, Ahoada, Yenagoa, Sagbama.	PORT HARCOURT
SOKOTO	.. Argungu, Birnin-Kebbi, Bunza, Bagudo, Anka, Silame, Bodinga, Gwadbawa, Gummi, Gusau, Kaura-Namoda, Isa, Sokoto, Talata-Mafara, Wurno, Yabo, Yauri, Zuru, Jega.	SOKOTO

Sections 2, 3,
and 261.

PART I

DEFINITION OF FEDERAL CAPITAL TERRITORY

The definition of the boundaries of the Federal Capital Territory 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° 47' 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 a line along parallel 8° 27½' N Latitude to Ahinza village 7° 6' E (on the Kanama River) ; thence project a straight line to Buga village on 8° 30' N Latitude and 7° 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 Gwari village ; thence the line goes straight to Zuba village and thence straight to Izom.

Section 4.

SECOND SCHEDULE

LEGISLATIVE POWERS

PART I

Item EXCLUSIVE LEGISLATIVE LIST

1. Accounts of the Government of the Federation, and of offices, courts and authorities thereof, including audit of those accounts.
2. Aviation, including airports, safety of aircraft and carriage of passengers and goods by air.
3. Arms, ammunition and explosives.
4. Bankruptcy and insolvency.
5. Banks, banking, bills of exchange and promissory notes.
6. Borrowing of moneys within or outside Nigeria for the purposes of the Federation or of any State.
7. Census, including the establishment and maintenance of machinery for continuous and universal registration of births and deaths throughout Nigeria.
8. Construction, alteration and maintenance of such roads as may be declared by the National Assembly to be Federal trunk roads.
9. Citizenship, naturalisation and aliens.
10. Commercial and industrial monopolies, combines and trusts.
11. Control of capital issues.
12. Copyright.
13. Currency, coinage and legal tender.
14. Customs and excise duties.

Item EXCLUSIVE LEGISLATIVE LIST—*continued*

15. Defence.
16. Deportation of persons who are not citizens of Nigeria.
17. Diplomatic, consular and trade representation.
18. Drugs and poisons.
19. Designation of securities in which trust funds may be invested.
20. 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, excluding election to a local government council or any office in such council.
21. Export duties.
22. Evidence.
23. Exchange control.
24. External affairs.
25. Extradition.
26. Fingerprints, identification and criminal records.
27. Fishing and fisheries other than fishing and fisheries in rivers, lakes, waterways, ponds and other inland waters within Nigeria.
28. Immigration into and emigration from Nigeria.
29. Implementation of treaties relating to matters on this List.
30. 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.
31. Insurance.
32. 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.
33. Legal proceedings between Governments of States or between the Government of the Federation and Government of any State or any other authority or person.
34. Maritime shipping and navigation, including—
 - (a) shipping and navigation on tidal waters ;
 - (b) shipping and navigation on the River Niger and its affluents and on any such other inland waterway as may be 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 ;

Item *EXCLUSIVE LEGISLATIVE LIST—continued*

- (d) such ports as may be declared by the National Assembly to be Federal ports (including the constitution and powers of port authorities for Federal ports.)
35. Meteorology.
 36. Mines and minerals, including oil fields, oil mining, geological surveys and natural gas.
 37. 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.
 38. Naval, military and air forces including any other branch of the armed forces of the Federation.
 39. Nuclear energy.
 40. Passports and visas.
 41. Patents, trade marks, trade or business names, industrial designs and merchandise marks.
 42. Pensions, gratuities and other like benefits payable out of the Consolidated Revenue Fund or any other public funds of the Federation.
 43. Police
 44. Posts, telegraphs and telephones.
 45. Powers of the National Assembly, and the privileges and immunities of its members.
 46. Prisons.
 47. Professional occupations as may be designated by the National Assembly.
 48. Public debt of the Federation.
 49. Public relations of the Federation.
 50. Public service of the Federation including the settlement of disputes between the Federation and officers of such service.
 51. Quarantine.
 52. Railways.
 53. Regulation of political parties.
 54. 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.
 55. Stamp duties.
 56. Taxation of incomes, profits and capital gains, except as otherwise prescribed by this Constitution.
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Item EXCLUSIVE LEGISLATIVE LIST—continued

57. 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 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.
58. The formation, annulment and dissolution of marriages other than marriages under Islamic law and customary law including matrimonial causes relating thereto.
59. 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, 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.
60. Traffic on Federal trunk roads.
61. Trigonometrical, cadastral and topographical surveys.
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 wave-lengths 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 elsewhere in this list.

Section 4

PART II

CONCURRENT LEGISLATIVE LIST

<i>Item</i>	<i>Extent of Federal and State Legislative Powers</i>
A—Allocation of revenue, etc.	<p>1. Subject to the provisions of this Constitution, the National Assembly may by an Act make provisions for—</p> <p style="margin-left: 2em;">(a) the division of public revenue—</p> <p style="margin-left: 4em;">(i) between the Federation and the States,</p> <p style="margin-left: 4em;">(ii) among the States of the Federation,</p> <p style="margin-left: 4em;">(iii) between the States and local government councils,</p> <p style="margin-left: 4em;">(iv) among the local government councils in the States ; and</p> <p style="margin-left: 2em;">(b) grants or loans from and the imposition of charges upon the Consolidated Revenue Fund or any other public funds of the Federation or 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.</p> <p>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 any of the public funds of that State or 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.</p>
B—Antiquities and monuments.	<p>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.</p>
C—Archives.	<p>4. The National Assembly may make laws for the Federation or any part thereof with respect to the archives and public records of the Federations.</p>

CONCURRENT LEGISLATIVE LIST—Continued

- | <i>Item</i> | <i>Extent of Federal and State Legislative Powers</i> |
|-------------------|--|
| | 12. Nothing in paragraph 11 hereof shall preclude a House of Assembly from making Laws with respect to elections to a local government council in addition to but not inconsistent with any law made by the National Assembly. |
| F—Electric power. | 13. The National Assembly may make laws for the Federation or any part thereof with respect to— <ul style="list-style-type: none"> (a) electricity and the establishment of electrical power stations ; (b) the generation and transmission of electricity in or to any part of the Federation and from one State to another State ; (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 ; (d) 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 ; and (e) the promotion and the establishment of a national grid system. |
| | 14. A House of Assembly may make Laws for the State with respect to— <ul style="list-style-type: none"> (a) electricity and the establishment in that State of electric power stations ; (b) the generation, transmission and distribution of electricity within that State ; (c) the regulation of the right of any person or authority (other than the Government of the Federation or its agency) to use, work or operate any plant, apparatus, equipment or work designed for the supply or use of electrical energy ; (d) the establishment within that State of any authority for the promotion and management of electric power stations established by the State ; and (e) the participation by that State in any arrangement with one or more States of the Federation to set up an agency to direct the operation of a combined transmission or distribution system for any area over which those States have power to make Laws. |

CONCURRENT LEGISLATIVE LIST—*continued**Item**Extent of Federal and State Legislative Powers*

15. 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 sub-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 a assembly of plant, machinery or equipment for distribution of electricity.
- G—Exhibition of cinematograph films.
16. 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.
- H—Industrial, commercial or agricultural development.
17. 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 establishment 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.

CONCURRENT LEGISLATIVE LIST—*continued**Item**Extent of Federal and State Legislative Powers*

18. Subject to the provisions of this Constitution a House of Assembly may make Laws for that State with respect to industrial, commercial or agricultural development of the State.
19. 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.
20. For the purposes of the foregoing paragraphs of this item, the word "agricultural" includes fishery.
- I—Scientific and technological research.
21. The National Assembly may make laws to regulate or co-ordinate scientific and technological research throughout the Federation.
22. 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.
- J—Statistics.
23. 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.
24. A House of Assembly may make Laws for the State with respect to statistics and on any matter other than that referred to in paragraph 23 (a) of this item.
- K—University, technological and post-primary education.
25. 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.
26. The power conferred on the National Assembly under paragraph 25 of this item shall include power to establish an institution for the purposes of university, post-primary, technological or professional education.
27. 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.

CONCURRENT LEGISLATIVE LIST—*continued**Item* *Extent of Federal and State Legislative Powers*

28. Nothing in the foregoing paragraphs 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

(ESTABLISHED BY SECTION 140)

A—Council of State

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. The Council shall have power—
 - (a) to advise the President in the exercise of his powers with respect to the National Population Census and compilation, publication and keeping of records and other information concerning the same, Prerogative

of Mercy, Award of National Honours, the Federal Electoral Commission (including the appointment of members of that Commission), the Federal Judicial Service Commission (including the appointment of members, other than *ex officio* members of that Commission) and 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.

B—Federal Civil Service Commission

3. 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.

4—(1) The Commission shall, without prejudice to the powers vested in the President the Federal Judicial Service Commission, the National Population Commission and the Police Service Commission, have power—

(a) to appoint persons to offices in the Federal civil service; and

(b) to dismiss and exercise disciplinary control over persons holding such offices.

(2) The Commission shall not exercise any of its powers under sub-paragraph (1) of this paragraph in respect of such offices of heads of divisions of ministries or of departments of the government of the Federation as may from time to time be designated by an order made by the President except after consultation with the Head of the Civil Service of the Federation.

C—Federal Electoral Commission

5. The Federal Electoral Commission shall comprise the following members, namely—

(a) a Chairman, who shall be appointed from among members specified in sub-paragraphs (b) and (c) of this paragraph;

(b) one member from each of the States of the Federation; and

(c) not more than 5 additional members who shall be appointed on their merit.

6. The Commission shall have power—

(a) to organise, undertake 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;

(b) to arrange for the annual examination and auditing of the funds and accounts of political parties, and to publish a report on such examination and audit for public information;

(c) to arrange for the registration of persons qualified to vote and for the maintenance and revision of the register of voters; and

(d) to ensure that the register of voters is prepared and maintained in such form as to facilitate its use for the purpose of elections to local government councils.

D—Federal Judicial Service Commission

7. The Federal Judicial Service Commission shall comprise the following members, namely—

Federal
Judicial
Service
Commission

- (a) the Chief Justice of Nigeria, who shall be Chairman ;
- (b) the President of the Federal Court of Appeal ;
- (c) the Attorney-General of the Federation ;
- (d) 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
- (e) 2 other persons, not being legal practitioners, who in the opinion of the President are of unquestionable integrity.

8. 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 Federal Court of Appeal ;

(b) to recommend to the President persons for appointment to the office of—

(i) a Justice of the Federal Court of Appeal,

(ii) the Chief Judge of the Federal High Court,

(iii) Judges of the Federal High Court, and

(iv) Chairman and members of the Code of Conduct Tribunal established under the Fifth Schedule to this Constitution ;

Fifth
Schedule.

(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

(d) to appoint, dismiss and exercise disciplinary control over the Chief Registrars and Deputy Chief Registrars of the Supreme Court, the Federal Court of Appeal and the Federal High Court.

E—National Defence Council

9. The National Defence Council shall comprise the following members, namely—

National
Defence
Council.

(a) the President who shall be Chairman ;

(b) the Vice-President who shall be Deputy Chairman ;

(c) the Minister of the Government of the Federation responsible for defence ;

(d) the Chief of Defence Staff ;

(e) the Head of the Army ;

(f) the Head of the Navy ;

(g) the Head of the Air Force ; and

(h) such other members as the President may appoint.

10. The Council shall have power to advise the President on matters relating to the defence of the sovereignty and territorial integrity of Nigeria.

F—National Economic Council

National
Economic
Council.

11. The National Economic Council shall comprise the following members, namely—

- (a) the Vice-President who shall be Chairman ;
- (b) the Governor of each State ; and
- (c) the Governor of the Central Bank of Nigeria established under the Central Bank of Nigeria Act, or any enactment replacing that Act.

Cap. 30
Laws of the
Federation
1958.

12. 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.

G—National Population Commission

National
Population
Commission.

13. The National Population Commission shall comprise the following members, namely—

- (a) a Chairman ; and
- (b) one person from each State of the Federation.

14. The Commission shall have power—

- (a) to undertake periodical enumeration of population through sample surveys, censuses or otherwise ;
- (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.

H—National Security Council

National
security
Council.

15. The National Security Council shall comprise the following members, namely—

- (a) the President who shall be Chairman ;
- (b) the Vice-President who shall be 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 the responsibility for defence ;

- (f) the Minister of the Government of the Federation charged with the responsibility for External Affairs ;
- (g) the head of Nigerian Security Organisation established by law ;
- (h) the Inspector-General of Police ; and
- (i) such other persons as the President may in his discretion appoint.

16. 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.

I—Police Service Commission

17. The Police Service Commission shall comprise the following members, namely—

Police Service Commission

- (a) a Chairman ; and
- (b) such number of other persons, not less than 7 but not more than 9, as may be prescribed by an Act of the National Assembly.

18. The Commission shall have power—

- (a) to advise the President on the appointment of the Inspector-General of Police ;
- (b) to appoint 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.

Civil Service Commission of a State

PART II

STATES EXECUTIVE BODIES

(ESTABLISHED BY SECTION 178)

A—State Civil Service Commission

1. A State Civil Service Commission shall comprise a Chairman and not less than two and not more than four other persons who shall, in the opinion of the Governor, be persons of unquestionable integrity and sound political judgment.

2.—(1) The Commission shall have power without prejudice to the powers vested in the State Judicial Service Commission and in the Governor—

- (a) to appoint persons to offices in the State civil service ; and
- (b) to dismiss and exercise disciplinary control over persons holding such offices.

(2) The Commission shall not exercise any of its powers under sub-paragraph (1) of this paragraph in respect of such offices of heads of divisions of ministries or of departments of the government of the State as may from time to time be designated by an order made by the Governor except after consultation with the Head of the Civil Service of the State.

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 of the House of Assembly of the State

The 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, intercommunal 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 order matters as the Governor may direct.

C—State Electoral Commission

State
Electoral
Commission.

6. A State Electoral Commission shall comprise the following members, namely—

- (a) a Chairman ; and
- (b) not less than 5 but not more than 7 other persons.

7. The Commission shall have power—

- (a) to organise, undertake and supervise all elections to local government councils within the State ;
- (b) to tender such advice as it may consider necessary to the Federal Electoral Commission on the compilation of the register of voters in so far as that register is applicable to local government elections in the State.

D—State Judicial Service Commission

State
Judicial
Service
Commission.

8. A State Judicial Service Commission shall comprise the following members, namely—

- (a) the Chief Judge of the High Court 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) one member, who is a legal practitioner, and who has been qualified to practise as a legal practitioner in Nigeria for not less than 10 years ; and
- (f) one other person, not being a legal practitioner, who in the opinion of the Governor is of unquestionable integrity.

9. The Commission shall have power subject to such conditions as may be prescribed—

(a) to advise the Governor in nominating persons for appointment, subject to the approval of the House of Assembly of the State as respects appointments of—

- (i) the Chief Judge of the High Court of the State,
- (ii) the Grand Kadi of the Sharia Court of Appeal of the State, if any, and
- (iii) the President of the Customary Court of Appeal of the State, if any ;

- (b) to advise the Governor on the appointment of—
 - (i) Judges of the High Court of the State,
 - (ii) Kadis of the Sharia Court of Appeal of the State, if any, and
 - (iii) Judges of the Customary Court of Appeal of the State, if any ;
- (c) to recommend to the Governor the removal from office of the judicial officers specified in sub-paragraph (b) of this paragraph and to exercise disciplinary control over such officers ; and
- (d) to appoint, dismiss and exercise disciplinary control over the Chief Registrar and Deputy Chief Registrar of the High Court, the Chief Registrars of the Sharia Court of Appeal and Customary Court of Appeal magistrates, judges and members of Area Courts and Customary Courts.

FOURTH SCHEDULE

Section 7.

FUNCTIONS OF LOCAL GOVERNMENT COUNCIL

1. The main functions of a local government council are as follows—
 - (a) the consideration and the making of recommendations to a State commission on economic planning or any similar body on—
 - (i) the economic development of the State, particularly in so far as the areas of authority of the council and of the State are affected, and
 - (ii) proposals made by the said commission or body ;
 - (b) collection of rates, radio and television licences ;
 - (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 markets, motor parks and public conveniences ;
 - (f) construction and maintenance of roads, streets, drains and other public highways, parks, 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 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 ; and
 - (k) control and regulation of—
 - (i) out-door advertising and hoardings,
 - (ii) movement and keeping of pets of all descriptions,

- (iii) shops and kiosks,
- (iv) restaurants and other places for sale of food to the public, and
- (v) laundries.

2. The functions of a local government council shall include participation of such council in the Government of a State as respects the following matters, namely—

- (a) the provision and maintenance of primary 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 on a local government council by the House of Assembly of the State.

Sections 62,
101, 158,
159, 189,
256, and 227.

FIFTH SCHEDULE

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.
- Restrictions on specified officers.** 2. Without prejudice to the generality of the foregoing paragraph, a public officer shall not—
- (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 public officer who is not employed on full-time basis.
- Prohibition of foreign accounts.** 3. The President, Vice-President, Governor, Deputy Governor, 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 and such other public officers or persons as the National Assembly may by law prescribe shall not maintain or operate a bank account in any country outside Nigeria.
- Retired public officers.** 4. 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.
- Certain retired public officers.** 5.—(1) Retired public officers who have held offices to which this paragraph applies are prohibited from service or employment in foreign companies or foreign enterprises.
- (2) This paragraph applies to the office of President, Vice-President, Chief Justice of Nigeria, Governor and Deputy Governor of a State.

The Constitution of the Federal Republic of Nigeria

6.—(1) A public officer shall not ask for or accept any property or benefits of any kind for himself or any other person on account of anything done or omitted to be done by him in the discharge of his duties. Gifts or benefits of any kind.

(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 donations 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.

7. The President or Vice-President, Governor or Deputy Governor, Minister of the Government of the Federation or Commissioner of the Government of a State, or any other public officer who holds office of a Permanent Secretary or head of any public corporation, university, or other parastatal organisation shall not accept— Restrictions on loans, gifts or benefits to certain public officers.

(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, contractor, or businessman, or the nominee or agent of such person :

Provided that the head of a public corporation or of a university or other parastatal organisation may, subject to the rules and regulations of the body, accept a loan from such body.

8. No person shall offer a public officer any property, gift or benefit 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. Bribery of public officers.

9. 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 government policy. Abuse of powers.

10. 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. Members of societies.

11.—(1) Every public officer shall within 3 months after the coming into force of this Code of Conduct or immediately after taking office and thereafter— Declaration of assets.

(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, or unmarried children under the age of 21 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 required by sub-paragraph (1) (a) of this paragraph 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.

Allegations of breach of Code.

12. 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.

Agents and nominees.

13. 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.

Exemptions.

14. In its application to public officers—

(a) members of legislative houses shall be exempt from the provisions of paragraph 4 of this Code ; and

(b) the National Assembly may by law exempt any cadre of public officers from the provisions of paragraphs 4 and 11 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 those provisions.

Code of Conduct Bureau

Code of Conduct Bureau.

15.—(1) There shall be established a Code of Conduct Bureau whose functions shall be—

(a) to receive declarations by public officers made under paragraph 11 of this Schedule ;

(b) to retain custody of such declarations and make them available for inspection by any citizen of Nigeria on such terms and conditions as the National Assembly may prescribe ;

(c) to examine the declarations and ensure that they comply with the requirements of this Code and of any law for the time being in force ; and

(d) to receive complaints about non-compliance with or breach of this Code and where it considers it necessary to do so, to refer such complaints, unless the person concerned makes a written admission of such breach or non-compliance, to the Code of Conduct Tribunal.

(2) The Code of Conduct Bureau shall consist of not less than 9 members who shall be responsible to the National Assembly, and the Chairman and members of which shall be appointed by the President, subject to the approval of the Senate.

(3) The National Assembly may by law confer on the Code of Conduct Bureau such additional powers as may appear to it to be necessary to enable it more effectively to discharge the functions conferred on it in this Schedule.

16.—(1) The tenure of office of members and staff of the Code of Conduct Bureau 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. Members and staff.

(2) The power to appoint members of staff of the Code of Conduct Bureau and to exercise disciplinary control over them shall vest in the Senate, and shall be exercisable in accordance with the provisions of an Act of the National Assembly enacted in that behalf.

Code of Conduct Tribunal

17.—(1) There shall be established a tribunal to be known as Code of conduct Tribunal which shall consist of a Chairman and 2 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 it more effectively to discharge the functions conferred on it in this Schedule.

18.—(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 the staff of the Code of Conduct Tribunal and to exercise disciplinary control over them shall vest in the members of 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.

19.—(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 70 years. Tenure of office of Chairman and members.

(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 70 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 retiring age save in accordance with the provisions of this section.

20.—(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 punishments specified under sub-paragraph (2) of this paragraph and such other punishment as may be prescribed by the National Assembly. Powers.

(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 as the case may be ;
- (b) disqualification from membership of a legislative house and from the holding of 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 provisions of this Code, an appeal shall lie as of right from such decision or from any punishment imposed on such person to the Federal Court of Appeal at the instance of any party to the proceedings.

(5) Any right of appeal to the Federal 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 Federal Court of Appeal.

(6) Nothing in this paragraph 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.

(7) The provisions of this Constitution relating to prerogative of mercy shall not apply to any punishment imposed in accordance with the provisions of this paragraph.

Interpretation

Interpreta-
tion.

21. In this Code, unless the context otherwise requires—

“business” means any profession, vocation or trade and includes—

- (a) any adventure or concern in the nature of trade ; and
- (b) farming ;

“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 ;

“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 OFFICES 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, Speakers and Deputy Speakers of the House of Representatives and 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 Federal 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 and Commissioners of the Government of the States.
8. Chief of Defence Staff, Head of the Army, Navy, Air Force and all members of the armed forces of the Federation.
9. Inspector-General of Police, Deputy Inspector-General of Police and all members of the Nigeria Police Force.
10. Secretary to the Government, Head of the Civil Service, Permanent Secretaries 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. Chairman, members and staff of the Code of Conduct Bureau and Code of Conduct Tribunal.
13. Chairmen and members and staff of local government councils.
14. Chairmen and members of the Boards or other governing bodies and staff of statutory corporations and of companies in which the Federal or State Government has controlling interest.
15. All staff of universities, colleges and institutions owned and financed by the Federal or State Governments or local government councils.
16. Chairmen, members and staff of permanent commissions or councils appointed on full time basis.

Sections
24 (1) (c),
25 (2) (f),
48, 88, 127,
129, 131,
137, 165,
167, 169, 175
and 254.

SIXTH SCHEDULE
OATHS
OATH OF ALLEGIANCE

I, do solemnly swear 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.

OATH OF OFFICE OF PRESIDENT.

I, do solemnly swear 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

I, do solemnly swear that I will be faithful and bear true allegiance to the Federal Republic of Nigeria ; that as the Governor of State, 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 so as not to impede or prejudice the authority lawfully vested in the President of the Federal Republic of Nigeria 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, except as may be required for the due discharge of my duties as Governor ; 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

I, _____ do solemnly swear 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, 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/Deputy Governor/Minister/Commissioner except as may be required for the due discharge of my duties as Vice-President/Deputy Governor/Minister/Commissioner.

So help me God.

OATH OF A MEMBER OF THE NATIONAL ASSEMBLY OR
OF A HOUSE OF ASSEMBLY

I,do solemnly swear 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, 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 rules of the Senate/House of Representatives/.....House of Assembly 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 ; 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 of the Constitution of the Federal Republic of Nigeria.

So help me God.

JUDICIAL OATH

I,do solemnly swear 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 Federal Court of Appeal/Chief Judge/Judge of.....State/Grand Kadi/Kadi of.....State/President/Judge of the Customary Court of Appeal of.....State, 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 decisions ; that I will preserve, protect and defend the Constitution of the Federal Republic of Nigeria.

So help me God.