

PROVISIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA 1999 (AS AMENDED) ON BUDGETING

Mode of Exercising Federal Legislative Power: Money Bills

59. (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 two months from the commencement of a financial year, the President of the Senate shall within fourteen days thereafter arrange for and convene a meeting of the joint finance committee to examine the bill with a view to resolving the differences between the two Houses.

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

(4) Where the President, within thirty 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 62(3) of this Constitution.

Committees

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

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

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

E - Powers and Control over Public Funds at the Federal Level

Establishment of Consolidated Revenue Fund

80. (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 81 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.

Authorization of Expenditure from Consolidated Revenue Fund

81. (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) Any amount standing to the credit of the

(a) Independent National Electoral Commission

(b) National assembly

(c) Judiciary

in the Consolidated Revenue Fund of the Federation shall be paid directly to the said bodies respectively; in the case of the Judiciary, such amount shall be paid to the National Judicial Council for disbursement to the heads of the courts established for the Federation and the State under section 6 of this Constitution.

(4) If in respect of any financial year it is found that –

(a) the amount appropriated by the Appropriation Act for any purpose is insufficient; or

(b) 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.

Authorization of Expenditure in default of Appropriation

82. 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 in 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 months or until the coming into operation of the Appropriate Act, whichever is the earlier:

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

Contingencies Fund

83. (1) The National Assembly may by law make provisions for the establishment of a Contingencies Fund for the Federation and for authorising the President, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet the need.

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

Remuneration of President and Certain other Officers

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

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

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

(5) Any person who has held office as President or Vice-President shall be entitled to pension for life at a rate equivalent to the annual salary of the incumbent President or Vice-President:

Provided that such a person was not removed from office by the process of impeachment or for breach of any provisions of this Constitution.

(6) Any pension granted by virtue of subsection (5) of this section shall be a charge upon the Consolidated Revenue Fund of the Federation.

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

(8) The recurrent expenditure of the Independent National Electoral Commission, in addition to the salaries and allowances of the Chairman and members, shall be a charge upon the Consolidated Revenue Fund of the Federation.

Audit of Public Accounts

85. (1) There shall be an Auditor-General for the Federation who shall be appointed in accordance with the provisions of section 86 of this Constitution.

(2) The public accounts of the Federation and of all offices and courts of the Federation shall be audited and reported on to the Auditor-General who shall submit his reports to the National Assembly; and for that purpose, the Auditor-General or any person authorised

by him in that behalf shall have access to all the books, records, returns and other documents relating to those accounts.

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

(a) provide such bodies with -

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

(ii) guidelines on the level of fees to be paid to external auditors; and

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

(4) The Auditor-General shall have power to conduct checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by an Act of the National Assembly.

(5) The Auditor-General shall, within ninety days of receipt of the Accountant-General's financial statement, submit his reports under this section 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.

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

Appointment of Auditor-General

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

(2) The 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 six months.

Tenure of Office of Auditor-General

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

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

Power to Conduct Investigations

88. (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 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 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 to –

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

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

Powers as to Matters of Evidence

89. (1) For the purposes of any investigation under section 88 of this Constitution and subject to the provisions thereof, the Senate or the House of Representatives or a committee appointed in accordance with section 62 of this Constitution shall have power to –

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

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

(c) summon any person in Nigeria to give evidence at any place or produce any document or other thing in his possession or under his control, and 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) 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 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, refused 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.

E - Powers and Control over Public Funds at the State Level

Establishment of Consolidated Revenue Fund

120. (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 121 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 a 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

121. (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.

(3) Any amount standing to the credit of the judiciary in the Consolidated Revenue Fund of the State shall be paid directly to the heads of the courts concerned.

(4) If in respect of any financial year, it is found that –

(a) the amount appropriated by the Appropriation Law for any purpose is insufficient; or

(b) a need has arisen for expenditure for a purpose for which no amount has been appropriated by the Law,

a supplementary estimate showing the sums required shall be laid before the House of Assembly and the heads of any such expenditure shall be included in a Supplementary Appropriation Bill.

Authorisation of Expenditure in Default of Appropriation

122. 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 six months or until the coming into operation of the Law, whichever is the earlier:

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

Contingencies Funds

123. (1) A House of Assembly may by Law make provisions for the establishment of a Contingencies Fund for the State and for authorising the Governor, if satisfied that there has arisen an urgent and unforeseen need for expenditure for which no other provision exists, to make advances from the Fund to meet that need.

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

Remuneration of Governor and Certain other Officers

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

(2) The remuneration, 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 remuneration and 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, Auditor-General for a State and the Chairman and members of the following bodies, that is to say, the State Civil Service Commission, the State Independent Electoral 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 had 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 provisions made in pursuance of this subsection shall be a charge upon the Consolidated Revenue Fund of the State.

Audit of Public Accounts

125. (1) There shall be an Auditor-General for each State who shall be appointed in accordance with the provisions of section 126 of this Constitution.

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

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

(a) provide such bodies with -

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

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

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

(4) The Auditor-General for the State shall have power to conduct periodic checks of all government statutory corporations, commissions, authorities, agencies, including all persons and bodies established by a law of the House of Assembly of the State.

(5) The Auditor-General for a State shall, within ninety days of receipt of the Accountant-General's financial statement and annual accounts of the State, submit his report to the House of Assembly of the State and the House shall cause the report to be considered by a committee of the House responsible for public accounts.

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

Appointment of Auditor-General

126. (1) The Auditor-General for 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) The power to appoint persons to act in the office of the Auditor-General for a State shall vest in the Governor.

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

Tenure of Office of Auditor-General

127. (1) A person holding the office of Auditor-General under section 126 (1) of this Constitution shall be removed from office by the Governor of the State acting on an address supported by two-thirds majority of the House of Assembly praying that he be so removed for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

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

Power to Conduct Investigations

128. (1) Subject to the provisions of this Constitution, a House of Assembly shall have power by resolution published in its journal or in the Office 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 to -

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

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

Power as to Matters of Evidence

129. (1) For the purposes of any investigation under section 128 of this Constitution, and subject to the provisions thereof, a House of Assembly or a committee appointed in accordance with section 103 of this Constitution shall have power to –

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

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

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

(d) 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 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 forany 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.