

**CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (SECOND ALTERATION)  
ACT, 2010**

**EXPLANATORY MEMORANDUM**

This Act further alters the Constitution of the Federal Republic of Nigeria, 1999 and the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010 among other things, to provide for new time-lines for the conduct of national elections, by the Independent National Electoral Commission.

**CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (SECOND ALTERATION)  
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**ARRANGEMENT OF SECTIONS**

**Section:**

1. Alteration of the 1999 Constitution and the Constitution (First Alteration) Act No.5, 2010.
2. Alteration of section 5 of the First Alteration Act.
3. Alteration of section 10 of the First Alteration Act.
4. Alteration of section 11 of the First Alteration Act.
5. Alteration of section 17 of the First Alteration Act.
6. Substitution for section 233 of the Constitution and section 24 of the First Alteration Act.
7. Substitution for section 25 of the Alteration Act and section 239 of the Constitution.
8. Substitution for section 246 of the Constitution and section 26 of the First Alteration Act.
9. Substitution for section 285 of the Constitution and section 29 of the First Alteration Act.
10. Substitution for the Sixth Schedule to the Constitution and Sixth Schedule to the First Alteration Act.
11. Citation

# CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA (SECOND ALTERATION) ACT, 2010

## A Bill For

An Act to alter the provisions of the Constitution of the Federal Republic of Nigeria, 1999 and the Constitution of the Federal Republic of Nigeria (First Alteration) Act, 2010; and for related matters.

[ 29<sup>th</sup> November, 2010 ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria —

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| 1 | The provisions of the Constitution of the Federal Republic of Nigeria, 1999 (in this Act referred to as ‘the Constitution’) and the provisions of the Constitution of the Federal Republic of Nigeria (First Alteration) Act No.5, 2010 (in this Act referred to as ‘the First Alteration Act’) are altered as set out in this Act. | Alteration of the 1999 Constitution and the Constitution (First Alteration) Act No. 5, 2010 |
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### Time of election to the National Assembly

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| 2 | Section 5 of the First Alteration Act is altered in paragraph (b) by substituting for the words “one hundred and fifty days and not later than one hundred and twenty days before” in lines 2 and 3, the words “ <b>one hundred and fifty days</b> and not later than thirty days before”. | Alteration of section 5 of the First Alteration Act. |
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### Time of elections to House of Assembly

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| 3 | Section 10 of the First Alteration Act is Altered in paragraph (b) by substituting for the words “one hundred and fifty days and not later than one hundred and twenty days before”, in lines 2 and 3, the words “ <b>one hundred and fifty days</b> and not later than thirty days before”. | Alteration of section 10 of the First Alteration Act. |
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### Election of the President: general

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| 4 | Section 11 of the First alteration Act is altered in paragraph (b) by substituting the words “one hundred and fifty days and not later than one hundred and twenty days before”, in lines 2 and 3, the words “ <b>one hundred and fifty days</b> and not later than thirty days before” | Alteration of section 11 of the First Alteration Act |
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### Election of Governor

- 5 Section 17 of the First Alteration Act is altered in paragraph (b) by substituting the words "one hundred and fifty days and not later than one hundred and twenty days before", in lines 2 and 3, the words "**one hundred and fifty** days and not later than thirty days before".
- Alteration of section 17 of the First Alteration Act

### Appellate Jurisdiction

- 6 Section 233 of the Constitution and section 24 of the First Alteration Act are substituted for the following new section -
- Substitution for section 233 of the Constitution and section 24 of the First Alteration Act
- "(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 Court of Appeal.
- (2) An appeal shall lie from the decisions of the Court of Appeal to the Supreme Court as of right in the following cases -
- (a) where the ground of appeal involves questions of law alone, decisions in any civil or criminal proceedings before the Court of Appeal;
  - (b) decisions in any civil or criminal proceedings on questions as to the interpretation or application of this constitution;
  - (c) decisions in any civil or criminal proceedings on questions as to whether any of the provisions of Chapter IV of this Constitution has been, is being or is likely to be, contravened in relation to any person;
  - (d) decisions in any criminal proceedings in which any person has been sentenced to death by the Court of Appeal or in which the Court of Appeal has affirmed a sentence of death imposed by any other court;
  - (e) decisions on any question -
    - (i) whether any person has been validly elected to the office of President or Vice-President under this Constitution,
    - (ii) whether the term of office of President or Vice-President has ceased,
    - (iii) whether the office of President or Vice President has become vacant;
    - (iv) whether any person has been validly elected to the office of Governor or Deputy Governor under this Constitution,

- (v) whether the term of office of a Governor or Deputy Governor has ceased,
- (vi) whether the office of Governor or Deputy Governor has become vacant; and
- (f) such other cases as may be prescribed by an Act of the National Assembly.”

### **Original Jurisdiction**

- 7 Section 25 of the First Alteration Act and section 239 of the Constitution are substituted for the following new section-

Substitution for section 25 of the Alteration Act and section 239 of the Constitution,

“ (1) Subject to the provisions of this Constitution, the Court of Appeal shall, to the exclusion of any other court of Law in Nigeria, have original jurisdiction to hear and determine any question as to whether -

(a) any person has been validly elected to the office of President or Vice-President under this Constitution; or

(b) the term of office of the President or Vice-President has ceased; or

(c) the office of President or Vice-President has become vacant.”

(2) In the hearing and determination of an election petition under paragraph (a) of subsection (1) of this section, the Court of Appeal shall be duly constituted if it consists of at least three Justices of the Court Appeal.

8 **Appeal from Code of Conduct Tribunal and other Courts and Tribunals**

Substitution for section 246 of the Constitution and Section 26 of the First Alteration Act.

Section 26 of the First Alteration Act and section 246 of the Constitution are substituted for the following new section -

“(1) An appeal to the Court of Appeal shall lie as of right from –

(a) decisions of the Code of Conduct Tribunal established in the Fifth Schedule to this Constitution;

(b) decisions of the National and State Houses of Assembly Election Tribunals; and

(c) decisions of the Governorship Election Tribunals,

on any question as to whether -

(i) any person has been validly elected as a member of the National Assembly or of a House of Assembly of a State under this Constitution,

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

(iii) the term of office of any person has ceased or the seat of any such person has become vacant.

(2) The National Assembly may confer jurisdiction upon the Court of Appeal to hear and determine appeals from any decision of any other court of law or tribunal established by the National Assembly.

(3) The decisions of the Court of Appeal in respect of appeals arising from the National and State Houses of Assembly election petitions shall be final”.

## 9      **Establishment of Election Tribunals and time for determination of election petitions**

Substitution for Section 285 of the Constitution and section 29 of the First Alteration Act.

Section 29 of the First Alteration Act and section 285 of the Constitution are substituted for the following new section -

“(1) There shall be established for the each State of the Federation and the Federal Capital Territory, one or more election tribunals to be known as the National and State Houses of Assembly Election Tribunals which shall, to the exclusion of any Court or tribunal, have original jurisdiction to hear and determine petitions as to whether --

(a) any person has been validly elected as a member of the National Assembly; or

(b) any person has been validly elected as a member of the

House of Assembly of a State.

- (2) There shall be established in each State of the Federation an election tribunal to be known as the Governorship Election Tribunal which shall, to the exclusion of any court or tribunal, have original jurisdiction to hear and determine petitions as to whether any person has been validly elected to the office of Governor or Deputy Governor of a State.
- (3) The composition of the National and State Houses of Assembly Election Tribunal and the Governorship Election Tribunal, respectively, shall be as set out in the Sixth Schedule to this Constitution.
- (4) The quorum of an election tribunal established under this section shall be the Chairman and one other member.
- (5) An election petition shall be filed within 21 days after the date of the declaration of result of the elections;
- (6) An election tribunal shall deliver its judgment in writing within 180 days from the date of the filing of the petition;
- (7) An appeal from a decision of an election tribunal or Court **of Appeal in an election matter** shall be heard and disposed of within 60 days from the date of the delivery of judgment of the tribunal **or Court of Appeal**.
- (8) The court, in all final appeals from an election tribunal or court may adopt the practice of first giving its decision and reserving the reasons therefore to a later date”.

- 10 The Sixth Schedule to the Constitution of the Federal Republic of Nigeria, 1999, is substituted for a new “Sixth Schedule” -

Substitution for the Sixth Schedule to the Constitution and Sixth Schedule to the First Alteration Act.

**“Sixth Schedule**

**A-National and State Houses of Assembly Election Tribunal**

1. (1) A National and State Houses of Assembly Election Tribunal shall consist of a Chairman and two other members.
- (2) The Chairman who shall be a Judge of a High Court and the two other members shall be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or other members of the judiciary not below the rank of a Chief Magistrate.

- (3) The Chairman and other members shall be appointed by the President of the Court of Appeal in consultation with the Chief Judge of the State, the Grand Kadi of the Sharia Court of Appeal of the State or the President of the Customary Court of Appeal of the State, as the case may be.

***B – Governorship Election Tribunal***

2. (1) A Governorship Election Tribunal shall consist of a Chairman and two other members.
- (2) The Chairman who shall be a Judge of a High Court and the two other members shall be appointed from among Judges of a High Court, Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or members of the judiciary not below the rank of a Chief Magistrate.
- (3) The Chairman and other members shall be appointed by the President of the Court of Appeal in consultation with the Chief Judge of the State, the Grand Kadi of the Sharia Court of Appeal of the State or the President of the Customary Court of Appeal of the State, as the case may be.”

**Citation**

- 11 This Act may be cited as the Constitution of the Federal Republic of Nigeria (Second Alteration) Act, 2010. Citation



I CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.


  
SALISU ABUBAKAR MAIKASUWA, mni  
CLERK TO THE NATIONAL ASSEMBLY


6<sup>th</sup>  
DAY OF JANUARY, 2011

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES	DATE OF RECEIPT OF APPROVALS BY THE STATE HOUSES OF ASSEMBLY
<b>Constitution of the Federal Republic of Nigeria (Second Alteration) Bill, 2010</b>	An Act to alter the Constitution of the Federal Republic of Nigeria, 1999 and the Constitution of the Federal Republic of Nigeria (First Alteration) Bill, 2010 among other things, to provide for new time-lines for the conduct of national elections, by the Independent National Electoral Commission.	This Bill further alters the Constitution of the Federal Republic of Nigeria, 1999 and the Constitution of the Federal Republic of Nigeria (First Alteration) Bill, 2010 among other things, to provide for new time-lines for the conduct of national elections, by the Independent National Electoral Commission.	3 <sup>rd</sup> November, 2010	4 <sup>th</sup> November, 2010	29 <sup>th</sup> November, 2010

I certify that this Bill has been carefully compared by me with the decision reached by the National and State Houses of Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of section 9(2) of the Constitution and the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

I ASSENT.

  
**SALISU ABUBAKAR MAIKASUWA, mni**  
 Clerk to the National Assembly  
 6<sup>th</sup> Day of January, 2011

  
**DR. GOODLUCK EBELE JONATHAN, GCFR**  
 President of the Federal Republic of Nigeria  
 16<sup>th</sup> Day of January, 2011