

## A SUMMARY OF THE LEGISLATIVE PROCESS IN NIGERIA: A GUIDE TO LAWMAKING IN THE NATIONAL ASSEMBLY



**M**ost modern government is made up of three arms working together - namely the Executive, the Judiciary, and the Legislature. The Executive arm is responsible for implementing the laws made by the Legislature and enforcing same, the Legislature is responsible for making the laws, and the Judiciary is responsible for interpreting the law. This is what obtains both at the Federal level and the state level in Nigeria. At the Federal level, President of the Federal Republic of Nigeria is the head of the Executive arm of Government, the Senate President is the head of the National Assembly [a bicameral Legislature comprised of the Senate of House of Representatives], and the Chief Justice of the Supreme Court of Nigeria is the head of the Judiciary. At the State level, the Governor of the State is the head of the Executive, the Speaker of the House of Representatives of the State is the head of the Legislature, and the Chief Judge of the High Court of the State is the head of the Judiciary.

Each arm of government has its own duties and obligations in the performance of its constitutional role and must work together for the good government, peace and progress of the country. This article is an explanation of the law-making process at the National Assembly (NASS) and the stages each Bill must go through before it eventually becomes law.

### Power to make laws

Under Section 4 (1) of the 1999 Constitution of the Federal Republic of Nigeria (as amended)<sup>1</sup> (the “Constitution”), the NASS is vested with the legislative powers of the Federal Republic of Nigeria. That is the power to make laws for the peace, order, and good government of the Federation with respect to any matter included in the Exclusive Legislative List<sup>2</sup> and the Concurrent List<sup>3</sup> - a list of 12 items that both NASS and States’ house of Assembly can legislate on. This legislative power is typically exercised through Bills<sup>4</sup> passed by the NASS which are assented to by the President.<sup>5</sup> Bills generally come in two forms - either a Private Bill which affects private citizens, corporate entities and/or a particular class of people or Public Bills which affect the general public. A Bill can be introduced into either chamber of the NASS) by members of the respective chambers or the Executive arm of government.

Before a Bill becomes law, it must go through the following process in either chamber of the NASS:

1. Presentation and first reading;
2. Second reading;

<sup>1</sup> Similarly, Section 4 (6) (7) of the Constitution empowers the State House of Assembly to make similar laws for the State for matters in the Concurrent List.

<sup>2</sup> Section 4 (2) (3) of the Constitution refer to the Exclusive Legislative List contained in Part I of the Second Schedule. It is a list of 68 items on which only the NASS can legislate on.

<sup>3</sup> Section 4 (4)(a) the Constitution.

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<sup>4</sup> A Bill is a written draft of a proposed law under consideration by the legislature.

<sup>5</sup> Section 58 (1) of the Constitution.

3. Committee stage;
4. Third Reading and Passage; and finally
5. Assent by the President.

### **Presentation and First Reading**

As a first step, after the Clerk receives a copy of the Bill, he/she must give notice to the members of the relevant chamber. In the case of a Public Bill, the Clerk must publish a copy of the Bill in the Official Gazette and send a copy to every member of the relevant chamber, while in the case of a Private Bill, the member sponsoring the Bill must move a motion to seek the permission of the Senate President (or the Speaker of the House as the case may be) to present the Bill and publish same in two (2) successive issues of the Official Gazette. After its publication, a copy of the first issue must be sent to each member of the relevant chamber. At the first reading stage, the Clerk reads the short title<sup>6</sup> of the Bill(s), provides a brief statement on what the Bill aims to achieve, and puts it before the Senate President<sup>7</sup> or the Speaker of the House of Representatives<sup>8</sup> depending on the chamber Bill is presented in. The purpose of the first reading stage is simply to inform legislators of the Bill(s) introduced. There are no discussions or debates at this stage.

### **Second Reading**

At the second reading stage, the merits of the Bill are debated and discussed. The process begins when the member sponsoring the Bill moves a motion for the Bill to be read for a second time. As part of this motion, the member would highlight the objective of the Bill, its general principle, and benefits in stating

<sup>6</sup> Short Title refers to the formal name of a legislation i.e National Information Technology Development Agency Act, 2007. This is in contrast to the Long Title which usually describes the aims of the legislation.

the case for why the Bill should be passed into law. To proceed to second reading, the said motion must be supported [seconded] by another legislator in the relevant chamber. Where the motion is not seconded, it is considered rejected and will not proceed to second reading. Once the motion has been moved and supported, the Bill is debated by members of the chamber and thereafter put to a vote on whether it should proceed to the Committee Stage. If a simple majority of members in the relevant chamber support the Bill, it proceeds to the Committee Stage for further consideration, if not, the Bill cannot be debated again until same is re-introduced later.

### **Committee Stage**

After second reading the Bill is referred to the relevant Standing Committee(s) of the relevant chamber. At the Committee Stage, the Committee works to add further value to the Bill and may hold public hearings to engage critical stakeholders and the public. The role of the Committee(s) is to make suggestions, amendments, and recommendations to the Bill (if any) and report back to the relevant chamber for further consideration. The Chairperson of the selected Committee would report on the progress of the Bill after which the chamber, through the Committee of the Whole, would deliberate further on Bill. At the end of this stage, a motion may be passed for the Bill to be read for a third time.

<sup>7</sup> The current Senate President is Senator Ahmed Ibrahim Lawan (representing Yobe North Senatorial District, Yobe State).

<sup>8</sup> The current Speaker of the House is Hon. Olufemi Hakeem Gbajabiamila (representing Surulere I Federal Constituency of Lagos State).

### Third Reading and Passage

At the **third reading stage**, the Bill is read again, and members vote to pass same.<sup>9</sup> At this point, a clean copy of the Bill containing all the amendments will be produced and signed by the Clerk and either the Speaker of the House of Representatives or the Senate President after which the endorsed Bill is forwarded to the Clerk of the other chamber with a message requesting its concurrence, that is approval by the other chamber. The receiving chamber may accept the proposed legislation as received, at which point it will communicate its concurrence without amendments. However, where it does not agree with the provisions of the Bill from the originating chamber or seeks to make amendments to same, a Harmonisation/Conference Committee must be constituted separately, by the Senate President and the Speaker to reconcile the differences on the Bill. The harmonisation committee is typically made up of member of both chambers with an obligation to propose a united position that can be adopted by both chambers.

### Assent or Veto

Where both chambers adopt the report of the Harmonisation Committee, the Clerk of the originating chamber will produce a clean copy of the harmonised Bill for transmission to the President for assent - a bill does not become law until it is signed by the President. At the assent stage, the President must either approve or veto/reject the bill within thirty (30) days of receiving the bill. Should the President veto or fail to communicate his assent within the specified period, the NASS may override this veto by a two-thirds majority of both chambers voting to pass the bill

<sup>9</sup> Generally, at this point the Bill cannot be amended again.

<sup>10</sup> Section 58(5) of the Constitution.

<sup>11</sup> The Federal Capital Territory is not included as it is not an area administered by Minister appointed by the President.

into law.<sup>10</sup> At this point, the bill becomes law without the President's assent. Since the Fourth Republic of Nigeria, this has only successfully been done once - sometime in June 2000, the NASS successfully overturned President Olusegun Obasanjo's veto on the Niger Delta Development Commission Establishment Bill.

Notwithstanding the above, it must be noted that this procedure does not apply to all Bills. When proposing constitutional amendments, the amendment Bill must be supported by a two-thirds majority of the members of each chamber of the NASS before it can be read for a third time. Once the Federal Legislature approves of the Bill, same must also be approved by a two-thirds majority of the 36 State Houses of Assembly<sup>11</sup>. Another example of where the above procedure would not apply is where there are urgent matters of state which require immediate attention such as passing the National Budget. In such instances, the NASS has the power to suspend its own procedure to properly attend to such matters.<sup>12</sup>

### Conclusion

From the above, it is clear that the legislative process is a nuanced procedure with inherent complexities. This tiered process can be slow and time consuming, which ultimately results in a limited number of Bills scaling through to become law. Between the June 1999 and June 2015, a total of 1,005 bills were passed by both chambers of the NASS - 390 Bills passed in the Senate and 615 Bills in the House of Representatives. There are numerous factors which draw out this process such as the large number of Bills brought by 469 members of the NASS,<sup>13</sup> the low

<sup>12</sup> Section 60 of the Constitution.

<sup>13</sup> The Senate consists of 109 members and the House of Representatives is made up of 360 members.

reliance on technology, the high turnover of legislators and the competing priorities of the NASS<sup>14</sup> - in conducting the people's business, both chambers of the NASS must debate and pass resolutions further to petitions received from the public or to balance the excesses of the other arms of government.

While many of the issues affecting to the NASS are not novel, there are some hanging solutions that can easily mitigate some of these challenges. One such example is to digitise the publication of Bills and other elements of the legislative process. The National Assembly has a plethora of digital resources which can be better leveraged to shorten the timeframe between the various stages outlined above. Digitising the Official Gazette would enable all legislators to receive a copy of the proposed Bill timeously. Publishing a copy of the Bill on the NASS website would make it easier for the public and various stakeholders to access and scrutinise Bill ahead of time to properly participate in the public hearings. This simple solution, one of many, would significantly expedite the legislative process and bring the NASS closer to the people it serves.

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<sup>14</sup> Asides law making, the NASS is also responsible for screening and confirming various political appointees.