



Powers and Functions of the National Assembly

The legislature in Nigeria, as in most other democracies in the world, is the arm of government charged with the responsibility of law making and oversight functions over executive bodies and authorities. Its basic responsibility is to make laws for the peace, order and good governance of the Federation.

The 1999 Constitution of the Federal Republic of Nigeria vests Legislative Powers of the Federation in a bi-cameral National Assembly consisting of a Senate and a House of Representatives.

The legislative powers of the National Assembly can be classified into three:

- (1) **Expressed powers by the Constitution:**
Express powers are those powers of the

legislature that are specifically and directly provided for in the Constitution. These powers totalling over 111 (one Hundred and Eleven) are itemized under the Constitution and form the basis for the exercise of all other powers of the legislature.

- (ii) **Implied powers** arising from extensions of the provisions of the Constitution: These are necessary or ancillary powers of the legislature. E.g. Section 89 of the 1999 Constitution empowers the legislature to 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.

- (iii) **Assumed powers** as a result of lacunae in the constitutional provisions: The assumed powers are rights claimed by the Legislature which, though not tenable as rights, are not unconstitutional, since there is no provision in the Constitution prohibiting them.

*“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.”
Section 4(1-9) of the 1999 Constitution of FRN*

*“The National Assembly shall have power to make laws for the peace, order and good government of the Federation
Nigerian Constitution.”
Section 4(2) of the 1999 Constitution of FRN*

A Bill and An Act

A Bill is proposed law — drafted by the Executive or by lawmakers, to be debated and voted upon in the legislature, and if passed by that legislature, to be enacted into force by laid down constitutional procedure. A Bill has to go through several stages to become an Act of the

parliament.

An Act is a law passed by Parliament— it is a bill that is passed by both Chambers of the National Assembly and assented to by the President. Once an act is enacted, it can be only changed by passing another Act. Therefore, an Act can either create a new law or change an existing law.

Types of Legislation

There are two main classes of legislation: **Private** and **Public**. Private legislation confers powers or benefits on particular persons or bodies. Private Bills are promoted by outside bodies, such as Charters, Companies and occasionally individuals. Public Bills relate to matters of public policy, generally affecting or liable to affect the rights, duties, powers or benefits of all citizens.

Where do Bills come from?

Private Members' Bill: Any person or organisation within Nigeria may initiate a law. This may only be presented to the House or Senate through a member of the National Assembly in his or her own name.

Executive Bill: The Executive is a major source of legislative proposals. The formulation of the contents of these proposals is the responsibility of Ministers, with the assistance and advice of civil servants. While Ministers determine the scope and content of Bills, civil servants are responsible for working out the details.

Available data from 1999 shows a progressive dominance of Members' Bills compared to the Executive. For instance a classification of total Bills passed in the Senate for the period June 2009 to June 2015 shows the ratio in percentage for Executive Bills as 44.36% and 55.64% for Members' Bill. While for the House of Representatives, the ratio in percentage is 40.16% to 59.84%.

How Bills are Considered by the National Assembly

The processes of law making generally requires a long period of deliberation and consideration of the many interests and implications of the Bill. All Bills are numbered or marked according to their chamber of origin. For example, a Bill from the House of Representatives is marked HB (House Bill) while the one from the senate is marked SB (Senate Bill). An executive Bill is marked with "Executive" printed on the title page of the Bill. It is printed tiny and to the right hand side of the page.

Stage 1:

Identification of the Need for a Bill, Proposal Stage

The first stage is the identification of the need for a Bill. This Bill can be a new one, introducing a new idea not yet covered by an existing law. It can also be an amendment to an existing law, which is thought to be inadequate either because of some changes in the policies of the government or changes in the society. It can also be that the existing law is considered to be infringing on another fundamental human right, that is, it goes against provisions of the constitution that guarantees a rights of Nigerian citizens.

Stage 2

First Reading

This is a formal stage only. On the day scheduled for the First Reading of the Bill, the Clerk of the House will be called upon by the Presiding Officer to read the Short Title of the Bill. This constitutes the First Reading, after which, a convenient date is given by the Rules and Business Committee for Second Reading to give Members sufficient time to study and digest the contents of the Bill. Meanwhile, the Bills Office examines the Bill to ensure that it complies with the Rules of the Senate/House.

Second Reading

While the First Reading is a purely formal stage serving as notification to Members of the existence of the Bill

requiring their consideration, the Second Reading of the Bill is for the House to commence consideration of the Bill's general principles and its import; and to decide whether to give or withhold provisional approval. If the Motion for Second Reading is agreed to after exhaustive debate on that Motion (which may take days or weeks), the Bill is declared by the Presiding Officer to have been read a Second Time.

Committee Stage

At this stage, Standing Committees receive Bills referred to them by the Chamber (Senate or House) and examine all aspects of the Bill clause-by-clause and point-by-point. Processing of the referred Bill will include Public Hearings on the Bill where stakeholders are invited either through public advertisement or special invitation to make contributions. However, only a Member of the Committee can propose amendment to the bill. Where necessary, amendments are made to the Bill. When a Bill is referred to multiple Standing Committees, the most relevant Committee takes the lead in organising joint meetings. The Committees may decide to form ad-hoc sub-committees to report to a joint committee. At the end of the process, the Report of the public hearing is prepared and discussed by the Committee. After which a Report is produced and laid before the House for adoption and passage.

Committee of the Whole House

(a) Consideration by Committee of the Whole House after Second Reading:

Order 81 (1) of the Standing Orders of the Senate and Order XII, Rule 83 (1) of the Standing Orders of the House of Representatives, state:

"When a Bill has been read a Second time it shall stand committed to a Standing Committee, unless the House on Motion commits it to the Committee of the Whole House. Such Motion shall not require notice, but must be made

immediately after the Bill is read a Second Time and must be proposed by the Leader of the House”.

(b) Direct Committal After Second Reading

When a Bill is committed directly to the Committee of the Whole House, it may be taken forthwith or on a future date, as may be determined by the Committee on Rules and Business. The Chairmanship of the Committee of the Whole devolves on the President of the Senate in the Senate and the Deputy Speaker in the case of the House of Representatives except when the House goes into the Committee of the Whole for Supply and Ways and Means. The Presiding Officer leaves his/her seat, goes over to the Chair of the Clerk who in turn occupies one of the Assistants' chair. The Mace is lowered and placed under the table resting on the brackets.

(c) Procedure after the Report of Standing or Special Committee

The Chairman of the Standing/Special Committee, after conclusion of Committee's work requests the Rules and Business Committee to assign a date for the presentation of the Report. Whether it is the Standing Committee or the Committee of the Whole House that considered a Bill at Committee Stage, the chairperson is expected via a motion to report progress on the bill. *Mutatis Mutandis* a clean copy of the bill is prepared by the Clerk of each chamber.

Third Reading

When a Bill has been reported from Committee of the Whole House, it shall be ordered to be read the Third Time forthwith, or upon such day as the Rules and Business Committee may appoint, except a Motion for re-committal is carried. At the Third Reading stage, although amendments may still be proposed, these are hardly major amendments, and invariably the Bill has passed the Third Reading.

Stage 3

The Clerk and the Clean Copy of the Bill

When a Bill has been read the third time, a clean printed copy of it, incorporating all amendments will be produced, signed by the Clerk and endorsed by the Speaker/Senate President. Both chambers must agree on the final form of each Bill.

Conference Committee

If either house fails to concur in amendments made by the other, a conference committee of senators and Representatives must reconcile the difference. Compromises agreed to by conference committees are then subject to approval by both houses.

Stage Four Presidential Assent

A Bill does not become law until the President signs it. The Clerk of the National Assembly will "enrol" the Bill for the President's signature. Enrolment is the production of a clean copy for the assent of the President. The Clerk of the National Assembly produces the clean copy, certifies it and forwards it to the President.

The President has 30 days to act on a Bill after it has been received. If he disagrees with the provision of the Bill or some aspects of it, he can veto by withholding his/her signature. However, the National Assembly is empowered by the Constitution to overrule the veto of the President. If, after 30 days, the president refuses to sign the Bill and the National Assembly is not in support of the President's amendments, the two Chambers can recall the Bill and re-pass it. If the Bill is passed in the form it was sent to the President by two thirds (2/3), majorities in both chambers, the Bill automatically becomes law even without the signature of the president.

All regulations, ordinances, etc. made under an Act are required to be published in the **Gazette**.

Resolutions

Resolutions are the prayers of a Motion agreed to by a Legislative House with or without amendment(s). A Motion is a nullity when its prayers are voted down. In the National Assembly, which is a bicameral Legislature, Resolutions resulting from Motions are of three types:

- a) **Simple:** deals with matters entirely within the prerogative of the Senate or the House as the case may be. It requires neither passage by the other Chamber nor approval of the President, and does not have the force of law.

- b) **Concurrent:** A Concurrent Resolution, in a Bicameral Legislature must be passed by both Houses, but does not require the agreement of the President of the Republic and does not have the force-of law. Concurrent Resolutions are generally used to express the sentiments of the National Assembly as a whole for example, fixing the time for the adjournment of the National Assembly, or to convey felicitations of the National Assembly to another country on their independence anniversary.

- c) **Joint:** A Joint Resolution is similar' to Concurrent Resolution. Rarely does the National Assembly pass Resolution in a Joint Sitting. However, the text of a Motion and Resolution could be transmitted by one House to the other, vice - versa for concurrence.

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