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**THE TIME FRAME WITHIN WHICH
NAMES OF MINISTERS AND
COMMISSIONERS NOMINATED FOR
APPOINTMENT ARE TO BE
SUBMITTED FOR CONFIRMATION
– WHAT THE LAW SAYS**

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1.0 Introduction

On Friday, 17th March 2023, news made the rounds that the immediate past President of the Federal Republic of Nigeria, Muhammadu Buhari signed 16 Constitutional amendment Bills into law. One of these amendment Bills is the Fifth Alteration (No.23) which altered the Constitution of the Federal Republic of Nigeria, 1999 (as amended) (“the 1999 Constitution”) to require that the President and Governors are to submit the names of persons nominated as Ministers or Commissioners within sixty days of taking the oath of office for confirmation by the Senate or State House of Assembly and for related matters.¹

The importance of this amendment to the 1999 Constitution and what it portends for the executive arm of government in terms of hitting the ground running cannot be overestimated. A consideration of the fine print of this amendment will be the purpose of this article.

2.0 The Constitutional requirements as to nominations of Ministers and Commissioners

The Fifth Alteration (No. 23) amended **SECTION 147 OF THE 1999 CONSTITUTION**. The said section now provides thus:

“147 (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.

Provided that no Ministerial nominee shall be confirmed by the Senate unless evidence of declaration of assets and liabilities of the nominee as prescribed in this Constitution is presented.

(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

¹Buhari signs bill mandating President-elect to appoint cabinet in 60 days' (17th March 2023). Available at <https://punchng.com/buhari-signs-bill-mandating-president-elect-to-appoint-cabinet-in-60-days/#:~:text=The%20President%2C%20Major%20General%20Muhammadu,or%20State%20House%20of%20Assembly> accessed on 28th June 2023; 'President now mandated to name cabinet within 60 days as Buhari signs amended bills into law' (17th March 2023). Available at <https://www.thecable.ng/president-now-mandated-to-name-cabinet-within-60-days-as-buhari-signs-amended-bills-into-law> accessed on 29th June 2023.

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received from the Senate within twenty-one working days of the receipt of nomination by the Senate.

(7) Notwithstanding the provision of subsection (2) of this section and Section (42) of this Constitution–

(a) the nomination of any person to the office of a Minister for confirmation by the Senate shall be done within sixty days after the date the President has taken the oath of office;

(b) not less than ten percent of persons appointed as Ministers shall be women.

Provided that the President may appoint a Minister at any other time during his tenure and such appointment shall be subject to confirmation by the Senate.” (underlining ours)

For the purpose of this article, subsection 7 is the relevant provision of Section 147 of the 1999 Constitution (as altered). This provision made sweeping changes in that, it now introduced a time frame within which

names of those nominated as Ministers are to be sent to the Senate for confirmation. Also very important is the constitutional requirement as to the appointment of women as Ministers.²

Of note in the provision of **SECTION 147 (7) OF THE 1999 CONSTITUTION (AS ALTERED)** is the use of the word “*Shall*”. The principle governing the use of the word “shall” in a legislative sentence is that it is generally imperative or mandatory and in

²Minimum of 10% of the persons nominated as Ministers must be women

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its ordinary meaning, it is a word of command which is normally given a compulsory meaning because it is intended to denote obligations.³ What this entails in simple terms is that, by the provision of **SECTION 147 (7) (A) OF THE 1999 CONSTITUTION (AS ALTERED)**, within 60 days after the President is sworn into office, he/she is obligated to nominate and send a list of Ministers to the Senate for confirmation. This function is mandatory and a failure to so act would constitute a breach of constitutional provisions which the President swore to uphold.

In a similar vein, **SECTION 192 (6) OF THE 1999 CONSTITUTION** was altered to provide among other things that, the nomination of any person to the office of a Commissioner for confirmation by the House of Assembly must be done within sixty days after the date the Governor has taken the oath of office.

3.0 Why it is important to nominate and appoint Ministers and Commissioners timeously

The timely nomination and appointment of Ministers and Commissioners upon attaining power by any government can never be overemphasised. It is a crucial step for that government and sets the tone for leadership. Among other things, it fosters the efficient functioning of the government machinery, enables effective governance, and addresses the needs and aspirations of the people.

All of these are achieved in any government because of the very important roles the Ministers or Commissioners play in the success of the government at the end of the tenure. For starters,

they formulate and implement the policies of the government as they are responsible for handling several and specific portfolios such as health, education, works, defence, youth development, women affairs, foreign affairs, internal affairs etc. Where these Ministers or Commissioners are not appointed on time to commence work on their various portfolios, decision-making processes can be delayed or disrupted which ultimately leads to a lack of direction and coordination of government policies.

Prompt appointments allow the government to hit the ground running and start working on its agenda without unnecessary delays.

Also, these Ministers and Commissioners are responsible for managing the day-to-day affairs of their Ministries as they oversee policy implementation, allocation of resources, management of budgets, and ensure the smooth functioning of their respective departments. Where these Ministers or Commissioners have not been appointed, administrative processes can be disrupted, leading to inefficiencies and delays in service delivery. These Ministers or Commis-

³ADAMU ABDULLAHI v. COMMISSIONER OF POLICE (2022) LPELR-57646(CA)

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sioners upon assumption of office no doubt provide leadership and direction to their respective ministries. They bring their expertise and experience to bear and could bring with them a vast array of experienced professionals enabling them to make informed decisions and provide strategic guidance. Timely appointments help maintain continuity and ensure that essential government functions are not hampered.

Furthermore, Ministers or Commissioners as the case may be act as a bridge between the government and the bureaucracy, ensuring effective communication and coordination. They act as the voice of the government, communicating its vision, goals, and initiatives to the public. They also serve as representatives of the people since they are mostly appointed from various sections of the country and the state to maintain the federal character principle and fairness in appointments and are thus somewhat accountable to the people. Ministers engage with stakeholders, address concerns, and provide clarity on government policies. Their appointments and promptly so reflects the government's com-

mitment to its mandate, responsibilities and demonstrate government's readiness to fulfil its electoral promises towards advancing the welfare of the populace. It also sends a strong signal to stakeholders, both home and abroad, indicating stability, readiness, and a strong intent to govern effectively. A delay in the appointment of these Ministers and Commissioners has the high potential to create uncertainty, erode public confidence, and hinder effective communication between the government and its citizens.

4.0 Conclusion

In conclusion, the amendments to the 1999 Constitution requiring the President and all elected State Governors to submit the names of persons nominated as Ministers or Commissioners within 60 days of taking the oath of office for confirmation by the Senate or State Houses of Assembly is a welcome development. These statutory provisions engendering a hands-on government is long overdue. By this, the nation can easily move on from the electioneering period to the governance stage.

It goes without saying therefore that, since the President and the Governors took the oath of office on 29th May 2023, it is expected that by the **28th day of July 2023**, the names of persons nominated as Ministers or Commissioners ought to have been sent for confirmation by the Senate and State Houses of Assembly. Anything short of that would be tantamount to a fundamental breach of the constitution which is the fundamental basis of legitimacy of the administration at the Federal and State levels and which the President and Governors swore

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