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**CONSTITUTIONAL AMENDMENT ON
THE FIRST SESSION AND INAUGURATION
OF MEMBERS-ELECT OF THE NATIONAL
AND STATE HOUSE OF ASSEMBLY**

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INTRODUCTION

Recently, the wind of amendment which greeted the Constitution of the Federal Republic of Nigeria, 1999 was received with pageantry and aplomb. The news broke when most media outlets in the country reported that President Muhammadu Buhari had assented to sixteen (16) Constitution Alteration Bills presented to him by the National House of Assembly.¹ One of such Bills is the Fifth Alteration (No.8), a bill to alter the Constitution of the Federal Republic of Nigeria, 1999 to regulate the first session and inauguration of members-elect of the National and State Houses of Assembly; and for related matters. The first session and inauguration of the National and State Houses of Assembly (“NSHA”) members-elect in Nigeria represents a pivotal moment in the nation's democratic history. It marked the transition of power and showcases the country's commitment to upholding the principles of democracy, inclusivity, and good governance.

Essentially, the election of the principal officers of the NSHA is conducted at the first session and inauguration of the members-elect.² Prior to the Fifth Alteration Act No.8, there had been situations where the principal officers of the Houses were elected by a handful of members-elect using unlawfully amended Standing orders of the House(s). There are also instances where a handful of members-elect were inaugurated. Thus, the need to regulate the inaugural sitting of the Houses of Assembly brought about the Fifth Alteration Act No.8. This article seeks to evaluate the legal and legislative implications of the Fifth Alteration Act No. 8 on the members-elect of the National and State Houses of Assembly.



¹Buhari Signs 16 Constitutional Review Bills, <https://www.thisdaylive.com/index.php/2023/03/17/buhari-signs-16-constitutional-review-bills/> accessed on 29th May 2023

²NASS, State Assemblies gets new Rules, <https://placng.org/Legist/nass-state-assemblies-get-new-inauguration-rules/> accessed of 29th May 2023.

CONSTITUTIONAL AMENDMENT ON THE FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY



FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSES OF ASSEMBLY

In Nigeria, the first session and inauguration of members-elect of the National and State Houses of Assembly (“NSHA”) is an official ceremony in the legislative houses and indeed a watershed moment wherein members-elect of the respective houses of assembly are introduced, inducted, and take their oath of office. It is a significant event that symbolizes the democratic process and marks the formal beginning of a new legislative term. During this event, the oath of office is administered to the members-elect of the NSHA and they are officially sworn in as lawmakers.

A roll call is also conducted to verify each member-elect's presence and ascertain the total number of members-elect to be inaugurated. Essentially, the roll call is also important in the conduct of the election of the principal and or presiding officers of the respective Houses, this is because the election of the principal officers such as the Senate president, Speaker of the House of Representatives, Speakers of the Houses of State Assembly, and their deputies are conducted on the first session and inauguration of the members-elect of the NSHA. The election is usually a secret ballot where members-elect nominate and vote for their candidates.

The Standing orders of the NSHA play a key role in the first session and inauguration of the members-elect of the NSHA in Nigeria. The Standing orders are formal rules of a legislative house that govern the house and its committees in the conduct of their business. For instance, section 1 (a) of the Senate Standing Orders 2015 as amended states³ that “***the proceedings in the Senate and in all Committees of the Senate shall be conducted in accordance with the following Standing Orders.***” It is important to note that the Standing Orders of the various houses of Assembly have similar provisions. From the foregoing, the first session and inauguration of the NSHA being a business of the respective houses of assembly is regulated by

³Senate Standing Orders 2015 as amended of the Federal Republic of Nigeria, <https://placng.org/1/wp-content/uploads/2020/07/Senate-Standing-Orders-2015-as-Amended.pdf> accessed on 13th June 2023.

CONSTITUTIONAL AMENDMENT ON THE FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY



their Standing Orders.

FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY PRIOR TO THE FIFTH ALTERATION.

Prior to the Constitutional amendment (Fifth Alteration), the first session and inauguration of members-elect were handled just like every other sitting of the NSHA. This, to a large extent, can be attributed to the way and manner the then relevant provision of the Constitution was worded.⁴ For instance, section 54 (1)⁵ on quorum states that *“the quorum of the Senate or of the House of Representatives shall be one-third of all the members of the legislative house concerned.”* See also *section 96 of the Constitution.*⁶ Thus, there was no distinction between the quorum at the first session and the inauguration of members-elect and the quorum at the subsequent sessions of the NSHA. Once there was one-third of the members-elect, the first session and inauguration of the members-elect was qualified to hold.

Concordantly, **section 311 of the constitution (fourth alteration)**⁷ on Standing Orders provides that *“the provisions of this section shall have effect until the National Assembly or a House of Assembly exercises the powers conferred upon it by section 60 or 101 of this Constitution as appropriate.* While **Section 60 of the Constitution (fourth Alteration)**⁸ on the regulation of procedure provides that *“subject to the provisions of*

this Constitution, the Senate or the House of Representatives shall have power to regulate its own procedure, including the procedure for summoning and recess of the House”. Section 101 of the Constitution (Fourth Alteration) has a similar provision for the State House of Assembly.

The wording of the Constitution to a large extent characterised the manner in which the first session and inauguration of members-elect of the NSHA were carried out over the years, especially with respect to the election of Principal Officers of the NSHA. This is seen in cases where only a few members-elect were inaugurated and where the principal officers of the NSHA were elected by a handful of members-elect.⁹

On 9th June 2015, the Senate President and Deputy President of the 8th National Assembly were elected by Fifty-Seven (57) members-elect present and voting, even in the absence of Fifty-One (51) other members-elect.¹⁰ Similarly, in 2019, the Speaker of the Bauchi State House of Assembly was elected by Eleven (11) members-elect out of the Thirty-One (31) members-elect while the rest of the members-elect conducted another first session and inauguration wherein they elected their own Speaker (the second Speaker) of the Bauchi State House of Assembly. Also, in 2019, the Speaker of the Edo State House of Assembly was elected by 9 members-elect out of the 24 members-elect. Essentially, only nine (9) members-elect out of the fifteen (15) members-elect

⁴The Constitution of the Federal Republic of Nigeria 1999 (as amended) Fourth Alteration (2017); and the other previous alterations.

⁵Ibid

⁶Ibid

⁷Ibid

⁸Ibid

⁹NASS, State Assemblies get New Inauguration Rules, <https://placng.org/Legist/nass-state-assemblies-get-new-inauguration-rules/> accessed on 13th June 2023.

¹⁰FLASHBACK: On this day in 2015, Saraki 'dribbled' APC to become Senate president, <https://www.thecable.ng/flashback-day-2015-saraki-dribbled-apc-become-senate-president> accessed 13th June 2023; NASS, State Assemblies get New Inauguration Rules, <https://placng.org/Legist/nass-state-assemblies-get-new-inauguration-rules/> accessed on 13th June 2023.

CONSTITUTIONAL AMENDMENT ON THE FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY



were inaugurated due to the political disputes the other fifteen (15) members-elect had with the Governor of the State. This kind of situation has led to the enmeshment of the various Houses of Assembly in controversy all over the Country for so many years.

Furthermore, in most of the first sessions and inauguration of the members-elect especially with respect to the election of principal officers which is governed by Standing Orders of the various Houses of Assembly, there had been situations where the process was facilitated by new Standing Orders which was surreptitiously produced by some persons and used for the inauguration of the Assembly without approval and adoption by members. This pandemonium in the NSHA resulted in the Constitutional amendment (Fifth Alteration),¹¹ we shall subsequently examine the scope of this alteration.

FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY UNDER THE FIFTH ALTERATION.

As stated earlier, the wind of constitutional amendment greeted the grundnorm of the nation on 17th March 2023 when the former President of Nigeria, President Muhammadu Buhari signed some bills into law. One of which is the Fifth Alteration Act (No.8), a bill to alter the Constitution of the Federal Republic of Nigeria, 1999 to regulate the first session and inauguration of members-elect of the National and State Houses of Assembly; and for related matters. The fifth Alteration Act (No.8) specifically altered sections 54, 96, and 311 of the Constitution to provide for and regulate the quorum and the Standing Orders for the first session and the inauguration of members-elect of the NSHA. To this effect, Section 54 (1A) was inserted into Section 54 of the Constitution (Fifth Alteration) and states that:

“(1) The quorum of the Senate or of the House of Representatives shall be one-third of all the members of the Legislative House concerned.

(1A) For the purpose of the inaugural and first sitting of the Senate or the House of Representatives, the quorum shall be at least two-thirds of all the members-elect of either the Senate or the House of Representatives.”

A similar provision was also inserted into section 96 of the Constitution for the State

¹¹Fifth Alteration Act (No.8) 2023

CONSTITUTIONAL AMENDMENT ON THE FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY



House of Assembly's inaugural and first sitting. By virtue of the foregoing, the fifth alteration Act (No.8) created a clear distinction between the inaugural and first sitting and subsequent sittings of the NSHA. While the inaugural and first sitting of the NSHA cannot be held without at least two-thirds of all the members-elect of the various Houses of Assembly, the fifth alteration retained the one-thirds provision for subsequent sittings. To this end, the controversies experienced in the past as to a handful of the members-elect electing principal officers and getting inaugurated seem to have been minimized if not put to an end by the Fifth Alteration Act (No.8).

Concordantly, the fifth alteration also altered the Standing Orders with respect to the first session and inauguration of members-elect. The Fifth Alteration Act altered Section 311 of the Constitution provides as follows:

“(1) The provisions of this section shall have effect until the National Assembly, or a House of Assembly exercises the powers conferred upon it by section 60 or 101 of this constitution as appropriate.

(2) The standing orders of the Senate in existence before its dissolution under section 64 of this constitution shall apply in relation to the proceedings of the first session of the Senate convened by the President under section 64 of this constitution.

(3) The standing orders of the House

of Representatives before its dissolution under section 64 of this constitution shall apply in relation to the proceedings of the first session of the House of Representatives convened by the President pursuant to his power under this constitution.

(4) The standing orders of the House of Assembly before its dissolution under section 105 of this constitution shall apply in relation to the proceedings of the first session of the State House of Assembly convened by the Governor pursuant to his power under this constitution.

(5) The standing orders of a Legislative House before its dissolution under section 64 or 105 of this constitution may be modified within such a reasonable time after the inauguration and first session of the legislative house to bring them in conformity with the proceedings of the newly inaugurated legislative house.”

The Fifth Alteration Act specifically amended section 311 (2)-(5) of the Constitution to the effect that standing orders made prior to the dissolution of the various legislative house shall be applied in respect of the proceedings of the first session and inauguration of members-elect of that legislative house. The constitutional amendment seeks to cure the antecedent of surreptitiously producing Standing orders

CONSTITUTIONAL AMENDMENT ON THE FIRST SESSION AND INAUGURATION OF MEMBERS-ELECT OF THE NATIONAL AND STATE HOUSE OF ASSEMBLY



by some persons and the use of same for the inauguration of the Assembly. These acts were rampant under the old constitution and have been used as a tool in the hands of politicians to maneuver their way into the principal officers' seats of the NSHA. However, with the emergence of the Fifth Alteration Act (No.8), such acts have been placed on legislative suspension.

CONCLUSION

The Fifth Alteration Act (No.8) made specific and positive changes to the grundnorm of the nation with respect to the first session and inauguration of the members-elect of the NSHA. The inconsistencies with the proceedings of the legislative houses with respect to the inaugural and first sitting of the members-elect have made necessary the coming into force of the Fifth Alteration Act (No.8). The Fifth Alteration Act (No.8) made significant changes to the Constitution by altering Sections 54, 96 and 311 of the Constitution to stipulate a quorum of at least two-thirds of the members-elect for the inaugural and first sitting of the members-elect. In addition, the Act mandates the use of existing standing orders of the previous legislative House of Assembly at the inauguration and first session of the members-elect.

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