

EXECUTIVE POWERS IN THE NIGERIAN CONSTITUTION

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EXECUTIVE POWERS

The constitution makes the president the chief executive and commander in chief of the armed forces in S.130. The constitution of 1999 vests all the executive powers of the federation in the person of the president which can be exercised directly by him or his vice president or members of his cabinet. S.5(1)(b) provides that the executive powers of the president extends to the maintenance of the provisions of the constitution, acts of the national assembly and on items on which the national assembly has power for the time being to make law.

It also makes provisions for the appointment of ministers subject to confirmation by the senate. S.147(3) provides that in appointing ministers consideration should be given to the federal character of Nigeria. S.147(4) provides that a person cannot be a member of the cabinet and the legislature at the same time. S.147(5) provides that the qualification for appointment as minister is the same with the qualification for election into the house of assembly. S.148(1) provides that the president may assign to the vice President or any minister, any of the executive duties of government.

However, it should be noted that the president performs other functions that are not necessarily executive. For example, bills by the national assembly cannot become laws until they have been assented to by the president. This is provided in S.58(3). However, if he withholds his assent, the bill can still be passed with two thirds of the legislature; S.58(5). Another legislative function of the president is his power to modify laws that were there before 1999. This is provided for in S.315 of the constitution. It says that the law passed by the president shall be as if such law were passed by the national assembly. This particular power of the president has been confirmed in the case of AG Abia & 35 ors vs AG Federation where the actions of the president in amending the Allocation of Revenue Act 1990 was considered valid and constitutional.

He also performs judicial functions by appointing justices of the supreme court subject to recommendation by the national judicial council and confirmation by senate; S.231. Also, the president participates in the removal of judges. Thus is provided for under S.292 of the constitution which enable him to remove judges subject to an address supported by two thirds of the senate.