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The Legal Validity of Extending Appropriation Acts beyond the Financial Year in Nigeria

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Legality or Otherwise of Extending Appropriation Acts Beyond the Financial Year in Nigeria

1.0 **Executive Summary**

The Nigerian budgetary system, as embodied in the annual Appropriation Act, has often been subjected to extensions beyond the constitutionally prescribed financial year, which spans from January to December. This research critically examines the legality and constitutional basis of such extensions, with particular focus on the extension of the 2024 Appropriation Act into 2025.

The study interrogates constitutional provisions, statutory enactments, fiscal responsibility principles, judicial precedents, and comparative experiences from other democracies. It establishes that while the financial year is constitutionally defined, the lifespan of an Appropriation Act is not expressly limited to that calendar year. Consequently, the National Assembly, by virtue of its legislative competence under Section 4(2) and fiscal control under Section 80(2) of the 1999 Constitution (as amended), possesses the authority to extend Appropriation Acts where necessary.

Findings show that although extensions are constitutionally permissible, their frequent use undermines fiscal discipline, weakens accountability, delays policy implementation, and dents Nigeria's macroeconomic credibility. Comparative jurisdictions, such as the United States, the United Kingdom, and India, employ structured mechanisms, including continuing resolutions, supply acts, and vote-on-account, to manage such situations, suggesting that Nigeria can institutionalize a more transparent framework for temporary budget extensions.

This research concludes that extending Appropriation Acts beyond the financial year is legally sustainable, provided it is done through proper legislative instruments. However, to safeguard fiscal responsibility, such extensions should remain exceptional, transparent, and time-bound. The research recommends amending the Financial Year Act, enforcing the Fiscal Responsibility Act timelines, strengthening institutional budgetary capacity, and adopting transparent mechanisms similar to continuing resolutions.

2.0 **Research Objectives**

1. To examine the constitutional and statutory framework governing Nigeria's financial year and the scope of Appropriation Acts.

2. To evaluate the legality and constitutionality of extending Appropriation Acts beyond the financial year in Nigeria.

3. To assess the fiscal, governance, and policy implications of extending Appropriation Acts and to propose reforms for improving budgetary discipline.

3.0 Research Questions

1. What do the Constitution and the Financial Year Act provide concerning Nigeria's financial year and the validity of Appropriation Acts?

2. Is the extension of Appropriation Acts beyond a financial year legally permissible under Nigerian constitutional and statutory law?

3. What are the implications of extending Appropriation Acts for fiscal responsibility, governance, and public confidence, and what reforms are necessary?

4.0 Research Methodology

This research employs a doctrinal legal research method, complemented by comparative and analytical approaches, using primary and secondary sources.

5.**0 Introduction**

The Appropriation Act is the primary instrument that authorizes government withdrawals from the Consolidated Revenue Fund and gives legal force to spending plans for a specified financial period. Nigeria's constitutional and statutory architecture anchors the financial year to the calendar year (January 1– December 31) but also affords the legislature limited flexibility to prescribe a different period. The recurrence of extensions of Appropriation Acts, most recently the political and legislative debate surrounding the extension of the 2024 Appropriation Act into 2025, raises urgent questions about constitutionality, legislative competence, fiscal accountability, and comparative best practices for preserving budget discipline while avoiding budgetary paralysis. This paper explains the legal sources, examines judicial doctrine and practice, surveys comparative devices used elsewhere to handle delayed budgets, and assesses the governance costs and safeguards necessary if extensions occur.

6.0 Legal Foundations: Constitution and Statute

The Constitution defines "financial year" as a period of twelve months beginning on January 1 or such other date as the National Assembly may prescribe. This textual rule establishes the calendar year as the default, but it also recognizes legislative competence to alter the starting point of the fiscal cycle.

Complementing the Constitution, the Financial Year Act formally fixes the financial year as January 1 to December 31. The Act affirms the constitutional default and supplies statutory clarity on the accounting cycle. Notably, neither the Constitution nor the Financial Year Act contains an express provision declaring an Appropriation Act void merely because the calendar year has elapsed; they regulate the period for accounts and budgets rather than the precise legal lifespan of an appropriation instrument.

The Constitution also establishes strict control over withdrawals from public funds: no monies shall be withdrawn from the Consolidated Revenue Fund except where authorized by an Appropriation Act, Supplementary Appropriation Act or other prescribed legislative instrument. Section 80(2) thus centralizes the requirement of legislative authorization for public spending, making any extra-statutory withdrawals constitutionally impermissible unless duly legislated.

The Fiscal Responsibility Act (2007) supplements these constitutional rules by imposing procedural discipline requiring the timely presentation of the Appropriation Bill (the Act provides a clearly stated deadline for the President to lay the Bill before the National Assembly) and mandating transparency through periodic budget implementation reports. The Act's architecture presumes the passage and execution of budgets within a financial year but stops short of an outright ban on legislative extensions; it is essentially a discipline-enhancing statute, not a prohibition on corrective legislative measures.

7.0 Legislative Competence and Judicial Authority

Two linked canons govern the legal question: (1) the legislature has plenary competence to enact laws for the peace, order and good governance of the Federation; and (2) courts generally defer to the legislature's exercise of constitutionally conferred powers unless that exercise breaches an express constitutional limitation. The Supreme Court's decision in Attorney-General of Bendel State v. Attorney-General of the Federation (reported as a leading authority) emphasizes judicial restraint when the Constitution vests legislative competence and when legislation is not clearly ultra vires. The doctrinal effect is to validate legislative choices about fiscal regime details that fall within the legislature's domain.

Applied to budget extensions, this doctrine supports the proposition that the National Assembly can lawfully enact an amendment, supplementary appropriation, or specific extension measure that authorizes spending beyond the original financial year so long as the instrument is itself a lawful Act of the legislature and does not contravene express constitutional prohibitions (e.g., any breach of appropriations charged explicitly on the Consolidated Revenue Fund by the Constitution). The central constraint remains: the extension must be affected by lawful legislation; ad hoc executive withdrawals without legislative backing would be unconstitutional.

8.0 Historical Practice and Recent Developments

Nigeria's budget history shows prior use of extensions and temporary measures in response to exceptional circumstances, most notably the extension of parts of the 2020 budget into 2021 to manage COVID-19 disruptions. More recently, the legislature debated and approved extensions to the implementation window of the 2024 capital budget, allowing for continued project execution. These practical responses reflect a political choice to priorities continuity of government and project completion over a strict cut-off when procedural or operational delays occur; courts have not, to date, invalidated such legislatively backed extensions. (For contemporary legislative action on the 2024 capital budget extension, see press reporting on the Senate's resolution to extend implementation timelines.)

9.0 Comparative Devices: How Other Systems Manage Delayed Budgets

Several established democracies employ formal stopgap mechanisms to avoid funding gaps when full appropriations are delayed:

1. United States – Continuing Resolutions (CRs): Congress enacts CRs that temporarily extend appropriations at specified levels to keep federal agencies operating until regular appropriation bills are passed. CRs are deliberate legislative stopgaps with time limits and can be tailored to fund particular programs or the whole government.

2. India – Vote on Account: The Indian Parliament permits a vote-on-account to allow the government to withdraw limited funds for essential expenditure for a short period pending passage of the full budget. This is a constitutional and parliamentary convention designed for transitions or emergencies.

3. United Kingdom and other Westminster systems: Short-term supply measures or appropriation acts sometimes provide cross-year authorizations in defined circumstances.

These comparative devices share standard features: they are legislative, temporary, clearly time-bound, and narrowly tailored to maintain essential services while preserving accountability and parliamentary control. Their existence demonstrates that temporary cross-year authorization is a recognized means of preventing operational paralysis without compromising fiscal oversight.

9.0 **Governance Risks and Legal Safeguards**

While extensions can be lawful when effected by statute, their recurrent use carries governance costs: it weakens incentives for timely budget drafting and passage, complicates audit cycles and fiscal reporting, dilutes accountability (as appropriation lines are not re-approved with fresh scrutiny), and can harm investor and donor confidence. To mitigate these risks, legal and institutional safeguards should accompany any framework that permits extensions:

Statutory clarity: amend the Financial Year Act or enact a specific statutory regime that prescribes when and how temporary extensions/continuing appropriations can be passed (duration limits, scope, reporting obligations).

Parliamentary control: ensure extensions require affirmative parliamentary enactment (not mere executive fiat), with debate and recorded votes.

Time-bound limits and transparency: extensions should be strictly time-limited, justified in public documents, and accompanied by quarterly implementation and audit reports as required by the Fiscal Responsibility Act.

Narrow scope: prefer stopgap funding for recurrent and essential functions rather than open-ended capital authorizations that alter long-term fiscal commitments. Comparative CRs and votes-on-account typically fund ongoing operations rather than new policy initiatives.

10.0 **Findings**

The constitutional and statutory framework of Nigeria provides the foundation for understanding the legality of extending Appropriation Acts beyond a financial year. Section 318(1) of the 1999 Constitution defines the financial year as twelve months beginning from January to December unless otherwise prescribed by the National Assembly. This provision creates flexibility by allowing the legislature to determine a different fiscal cycle when necessary. Complementing this, the Financial Year Act affirms the January to December cycle but does not expressly terminate the validity of an Appropriation Act at the close of the year. This means that while the fiscal year establishes an accounting framework, it does not, in itself, extinguish the life of an appropriation law.

Furthermore, Section 4(2) of the Constitution vests the National Assembly with the legislative competence to make laws for the peace, order, and good governance of the Federation, which extends to fiscal policy and appropriations. Section 80(2) reinforces this position by stipulating that no funds may be withdrawn from the Consolidated Revenue Fund without legislative authorization, thereby underscoring that any extension of appropriations must not only originate from but also be legitimized by law. Similarly, the Fiscal Responsibility Act of 2007 imposes procedural discipline by mandating the timely preparation and submission of the budget. However, it does not prohibit legislative extensions; instead, it assumes compliance with timely budget cycles.

Judicial precedent also supports the permissibility of extensions. In the landmark case of Attorney-General of Bendel State v. Attorney-General of the Federation, the Supreme Court established that when the Constitution confers legislative competence on the National Assembly, courts must defer to such authority except where there is an explicit prohibition. This judicial recognition of legislative supremacy in fiscal matters affirms the view that the National Assembly may lawfully extend the life of an Appropriation Act by enacting the necessary laws.

Historical practice in Nigeria reinforces this interpretation. For instance, the 2020 Appropriation Act was extended into 2021 to allow for delayed capital project execution resulting from the COVID-19 pandemic. In other years, similar extensions were approved due to delayed budget passage. Although such practices might appear irregular, they have not been struck down by judicial review, demonstrating constitutional tolerance for extensions where they are underpinned by legislative action.

Comparative perspectives further validate this approach. In the United States, Congress routinely adopts continuing resolutions to maintain government funding when new budgets are not in place. In the United Kingdom, Supply and Appropriation Acts sometimes authorize spending that extends into multiple years. Likewise, India employs a vote-on-account system that grants temporary expenditure authority until a new budget is passed. These international practices reveal that extending expenditure authority beyond a fiscal year is not unique to Nigeria, but rather a pragmatic solution to the realities of governance.

Despite their legal permissibility, however, frequent extensions raise significant fiscal and governance concerns. They tend to erode fiscal discipline by reducing incentives for timely budget preparation and passage. Accountability and oversight may weaken as audit trails blur when expenditures extend beyond the financial year. Policy implementation is also affected, as the commencement of new programs tied to a fresh budget cycle may be delayed. Furthermore, repeated extensions may damage Nigeria's macroeconomic credibility, signaling fiscal indiscipline to investors, donors, and development partners, thereby undermining confidence in the government's management of public finances.

11.0 **Recommendations**

To reconcile constitutional flexibility with the need for fiscal responsibility, several reforms are necessary. First, the Financial Year Act should be amended to expressly provide the conditions under which Appropriation Acts may be extended, including clear safeguards, timelines, and reporting requirements. Such a statutory framework would create predictability and reduce reliance on ad hoc legislative discretion.

Second, strict enforcement of the Fiscal Responsibility Act is critical. In particular, Section 11, which requires the President to submit the budget to the National Assembly by September each year, should be adhered to without exception. Compliance with this deadline will help ensure the timely passage of the budget and minimize the need for extensions.

Third, stronger executive–legislative coordination is essential. Improved planning and communication between both arms of government will reduce bottlenecks in budget preparation and passage. Alongside this, transparent mechanisms should be introduced to manage delays. For example, Nigeria could adopt U.S.-style continuing resolutions or India's vote-on-account as structured and transparent interim measures.

Fourth, fiscal discipline and accountability must be enhanced. Extensions should always be time-bound, subject to legislative approval, and justified publicly. Stronger audit and reporting mechanisms should be implemented, and Ministries, Departments, and Agencies (MDAs) should be required to disclose the specific reasons necessitating extensions.

Finally, institutional capacity must be strengthened. Building technical and administrative capacity within MDAs would ensure that projects are executed on schedule, thereby reducing the pressure to extend budgets into subsequent years. With stronger planning and implementation capacity, the government would be better positioned to achieve its developmental objectives within each financial year.

12.0 **Conclusion**

Legally, Nigeria's constitutional and statutory framework permits legislative extensions of appropriation authority, provided the extension is affected through a lawful enactment of the National Assembly and does not contravene the express constitutional constraints on withdrawals from the Consolidated Revenue Fund. Judicial doctrine supports deference to legislative competence in such matters. Practically, however, routine reliance on extensions is undesirable: it undermines fiscal discipline, impairs transparency and accountability, and harms budgetary credibility. The prudent path is to preserve legislative flexibility for exceptional circumstances while formalizing strict statutory procedures, modeled on comparative devices such as U.S. continuing resolutions or India's vote-on-account, to ensure extensions are temporary, narrowly tailored, transparent, and subject to robust parliamentary oversight.

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