

Budget Repeal, Re-Enactment, and Extension: Nigeria's Persistent Struggle to Enforce the Annual Appropriations Act

By

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Introduction

Nigeria is at a pivotal moment. In normal circumstances, a public rebuttal of a Budget Office press statement on the repeal, re-enactment, or extension of Appropriation Acts would be unnecessary. Budget delays, implementation challenges, and administrative explanations are familiar features of Nigeria's fiscal landscape. But these are not normal circumstances. Nigeria has just demonstrated—through difficult but decisive tax reforms—that political leadership can accept rules, endure short-term discomfort, and pursue long-term stability. The success of the comprehensive tax reforms changes the threshold for silence, and public-spirited citizens have to speak in defence of comprehensive budget reforms. It is not acceptable to reform revenue while public officials responsible for ensuring that all actions of the state conform strictly to legal and constitutional limits promote convenience and improvisation on the expenditure side.

When annual budgets are repeatedly repealed, re-enacted, or informally extended beyond their lawful lifespan, the consequence is not flexibility—it is constitutional erosion, fiscal indiscipline, and institutional decay. A budget system that survives only through repeal, re-enactment, and extension is not flexible; it is constitutionally broken. And the longer this is defended as pragmatism, the more damage is done to fiscal discipline, accountability, and development. These practices have been exhaustively diagnosed by Nigeria's own 2019 Public Expenditure and Financial Accountability (PEFA) Report, yet continue under the guise of pragmatism

Tax reform without corresponding budget reform merely strengthens revenue mobilisation while leaving expenditure control trapped in a structurally defective framework. No volume of tax revenue can compensate for a budgeting system that treats time, law, and legislative consent as elastic. This intervention, therefore, seeks not confrontation but clarity: clarity of law, clarity of institutional roles, and clarity about why Nigeria's budgeting system continues to produce corruption, incomplete projects, and underdevelopment despite good intentions.

Nigeria 2019 PEFA Assessment Report

The Nigerian budget conundrum is not a theoretical debate. Nigeria's own 2019 Public Expenditure and Financial Accountability (PEFA) assessment documents the consequences of these practices with remarkable clarity. Nigeria's 2019 PEFA assessment is the current available report; it did not mince words about the consequences of weak adherence to budget rules.

The 2019 PEFA Report concludes that Nigeria's budgeting system is structurally weakened by late budget preparation and approval, absence of a binding budget calendar, inadequate

legislative scrutiny, and persistent misalignment between the budget year and the legally prescribed financial year. It records recurring deviations between approved and actual expenditure and administrative practices that routinely override formal budget rules. These defects have undermined aggregate fiscal discipline, distorted budget execution, and entrenched incomplete projects, arrears, and corruption. PEFA's central finding is that Nigeria's budget failure arises not from the absence of law, but from systematic non-compliance with it and from treating the annual budget as an adjustable administrative instrument rather than a binding legal act.

The PEFA report links weak budgeting directly to outcomes Nigeria knows too well:

- incomplete and abandoned projects,
- expenditure arrears,
- erosion of fiscal discipline,
- weakened accountability, and
- persistent corruption.

Budgets and Appropriation Acts Are Annual, Not Perpetual

In its press statement, the Budget Office has rightly asserted that Nigeria's budget discourse must be firmly grounded in the Constitution, relevant fiscal legislation, and established legislative practice; it therefore becomes imperative to carefully examine the constitutional framework governing appropriation, to properly situate the current debate and assess the validity of the positions being advanced.

Section 81(1) of the 1999 Constitution (as amended) provides unequivocally:

“The President shall cause to be prepared and laid before each House of the National Assembly at any time in each financial year estimates of the revenues and expenditure of the Federation for the next following financial year.” This provision reflects the doctrine of annuality. Each budget is forward-looking, time-bound, and linked to a specific financial year. Section 318(1) of the Constitution then removes any ambiguity as to what the Financial Year means.

Section 318(1) states that “Financial year” means any period of twelve months beginning on the first day of January in any year or such other date as the National Assembly may prescribe.” The National Assembly has exercised this power of prescription by enacting the Financial Year Act. Section 1 of the Financial Year Act provides: “The financial year of the Federation shall be from the 1st day of January to the 31st day of December in each year.”

Taken together, these provisions establish a closed legal loop: once 31 December passes, the financial year ends, and with it the life of the Appropriation Act for that year. An Appropriation Act does not generate its own lifespan. It borrows its authority entirely from the financial year prescribed by law.

Repeal, Re-enactment, and Extension Practices

In its Press statement, the Budget Office asserted that the Constitution does not prohibit the National Assembly from repealing and re-enacting an Appropriation Act where fiscal circumstances, implementation realities, or reconciliation of fiscal instruments make such legislative action necessary in the public interest. This suggests—explicitly or implicitly—that

repeal and re-enactment of an Appropriation Act, or legislative “extension” of its operation, is permissible because the Constitution does not expressly prohibit it. This argument misunderstands constitutional design. Constitutions do not operate by exhaustive prohibition. Constitutions do not necessarily list every forbidden act. They establish structures, timelines, and limits. When the Constitution and statute jointly fix the financial year, any expenditure authority outside that year is unlawful unless the law defining the financial year itself is amended.

Three points are unavoidable:

- A legislative resolution is not law and cannot amend a statute.
- An amendment to an Appropriation Act cannot override the Financial Year Act.
- An expired financial year cannot be revived by administrative convenience.

An Appropriation Act cannot be extended by:

- legislative resolution (which is not law),
- administrative circulars, or
- amendments that do not first amend the Financial Year Act itself.

Section 81(1) of the Constitution ties the Appropriation Act to a Financial Year. To extend expenditure authority beyond 31 December without amending the law that defines the financial year is to detach spending from its constitutional anchor. Repeal and re-enactment represent an overreach and introduce an entirely new and troubling dimension to the budget process: to which financial year do the repealed and re-enacted 2024 and 2025 Appropriation Acts properly relate, especially given that the President has already presented an Appropriation Bill for the 2026 financial year? Is it a continuation of the multiple-expenditure struggle with a single inflow? The Appropriation Act was passed with a sunset clause confined within clearly defined Financial Year Act boundaries and cannot be exercised beyond January to December.

Permissible Budget and Appropriation Flexibility

The structure of sections 81(4) and 82 of the 1999 Constitution makes clear that the framers did not intend a rigid or inflexible budgetary regime. On the contrary, they deliberately built in measured flexibility to accommodate practical (implementation) realities mentioned by the Budget Office in its press statement, while preserving legislative control and the annual character of the budget.

Section 81(4) recognises that no budget can perfectly anticipate all contingencies. It therefore provides a lawful and responsive mechanism for adjustment when appropriated sums prove insufficient or new expenditure arises. That flexibility is expressed through the device of a supplementary estimate and a Supplementary Appropriation Bill, ensuring that necessary changes can be made within the financial year without undermining the validity of the original Appropriation Act.

Section 82 further demonstrates the framers’ pragmatic approach. Anticipating the possibility of delays in the passage of the Appropriation Bill, the Constitution permits limited, time-bound expenditure to sustain government operations at the start of a financial year. This authority is expressly temporary, tightly capped, and linked to the previous year’s appropriations, reflecting an intention to avoid administrative paralysis rather than to impose an unrealistic rigidity.

Taken together, these provisions show that the Constitution balances flexibility with discipline. The framers rejected both extremes: neither an inflexible system that would cripple government in the face of unforeseen circumstances, nor an open-ended discretion that would allow the annual appropriation to run indefinitely. Instead, they designed a controlled flexibility—sufficient to ensure continuity and responsiveness, but constrained to protect the integrity of legislative budgeting and the constitutional principle of annual appropriation.

The Budget Office's Priority

There is also an uncomfortable institutional truth that must be acknowledged: the Budget Office of the Federation has no enabling Act of the National Assembly. It exists as an administrative arrangement, not a statutory body. This does not diminish the competence of its leadership or staff, but it does weaken its authority to interpret the Constitution definitively. When constitutional interpretation is at stake, the Office should proceed with humility, not certainty. If the Office seeks enduring legitimacy, it should champion the enactment of a Budget Office Act that clearly defines its mandate, powers, and limits. The Government may also opt for the full implementation of the Fiscal Responsibility Act, which empowers the Fiscal Responsibility Commission to oversee all facets of budgeting - preparation, execution, and monitoring. Institutional strength in public finance comes from law, not proximity to power.

Budgeting lies at the core of Public Financial Management and is indispensable to effective public service delivery. Government cannot discharge its constitutional purpose, as articulated in section 14(2)(b) of the 1999 Constitution as amended—the security and welfare of the people—without the faithful execution of the plans and budgets it has itself adopted. Rather than defending administrative convenience, the Budget Office would better serve the nation by undertaking a rigorous review of the Constitution and relevant fiscal statutes, in consultation with the Office of the Attorney General of the Federation, to design a budgeting framework that ensures the timely and annual implementation of appropriations.

The current government has demonstrated commitment to the rule of law and sustainable, meaningful reform; the budget office should take advantage of this commitment. The press statement advocating the repeal, re-enactment, and extension of the Appropriation Act amounts to an apologia for institutional lethargy and systemic failure, and normalises non-performance. Such a posture undermines fiscal discipline and public accountability, and does not advance the public interest. It only panders to political correctness.

Conclusion

Nigeria has demonstrated courage in tax reform. That courage must now extend to budget reform. Annual budgeting and Appropriation is not a ritual—it is the constitutional mechanism through which the people, via the National Assembly, renew consent for executive spending. If budgets can be endlessly extended, that consent is no longer annual. It becomes open-ended, and democracy itself is weakened.

The choice before the government is stark: continue managing fiscal disorder through administrative improvisation, or restore discipline by obeying the law already in force.

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