

Extraordinary



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ELECTORAL ACT (AMENDMENT) BILL, 2018

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A BILL

FOR

AN ACT TO AMEND THE PROVISIONS OF THE ELECTORAL ACT NO.6, 2010
AND FOR RELATED MATTERS

Sponsored by Hon. Aishatu Jibril Dukku

[] Commencement

ENACTED by the National Assembly of the Federal Republic of
Nigeria -

1 **1.** The Electoral Act No.6, 2010 (in this Act referred to as "the
2 Principal Act") is amended as set out in this Act. Amendment of
Act No. 6, 2010

3 **2.** Section 8 of the Principal Act is amended by inserting after Amendment of
Section 8
4 subsection (4), a new subsection "(5)"-

5 “(5) A person, who being a member of a political party,
6 misrepresents himself by not disclosing his membership, affiliation, or
7 connection to any political party in order to secure an appointment with the
8 Commission in any capacity, commits an offence and is liable on conviction
9 to imprisonment for a term of at least five years or a fine of at least
10 N5,000,000, or both.”

11 **3.** Section 9 of the Principal Act is amended by- Amendment of
Section 9

12 (a) inserting after subsection (I), a new subsection "(1 A)" -
13 “(1A) The Commission shall keep the Register of Voters as the
14 National Register of Voters in its National Headquarters and or other
15 locations as the Commission may determine from time to time:

16 Provided that the Commission shall keep the Register of Voters in-

- 17 (a) electronic format in its central database; and
- 18 (b) manual, printed, paper-based record or hard copy format"; and
- 19 (b) substituting for subsection (5), a new subsection "(5)"-

20 “(5) The registration of voters, updating and revision of the register
21 of voters under this section shall stop not later than 60 days before any
22 election covered by this Bill.”

Amendment of
Section 15

1 **4.** Section 15 of the Principal Act is amended by inserting after the
2 word, "printed", in line 1, the words, "reproduced, copied, duplicated or saved
3 in an electronic format".

Amendment of
Section 18

4 **5.** Section 18 of the Principal Act is amended by substituting for the
5 existing Section 18, a new Section 18:

6 (1) Whenever a Voter's card is lost, destroyed, defaced, torn or
7 otherwise damaged, the owner of such card, not less than sixty days before the
8 polling day shall, apply in person to the Electoral Officer or any other duly
9 authorised officer for that purpose by the Resident Electoral Commissioner,
10 stating the circumstances of the loss, destruction, defacement or damage.

11 “(2) If the Electoral Officer or any other authorized officer is satisfied
12 as to the circumstances of the loss, destruction, defacement or damage of the
13 voters' card, he shall cause to be issued to the voter a replacement permanent
14 voter card.

15 (3) No person shall issue a replacement PVC to any voter on polling
16 day or less than 60 days before polling day.”

17 (4) Any person who contravenes subsection (3) of this section
18 commits an offence and is liable on conviction, to a fine not exceeding
19 N5,000,000.00 or imprisonment not exceeding two years or both.

Amendment of
Section 19

20 **6.** Section 19 of the Principal Act is amended by-

21 (a) substituting for subsection (1), a new subsection "(1)"-

22 “(1) Subject to the provisions of section 9 (5) of this Bill, the
23 Commission shall, not later than 30 days to a general election, appoint a period
24 of 7 days during which a copy of the voters' register for each Local
25 Government, Area Councilor Ward shall be displayed or published for public
26 scrutiny at every Registration Area and on its official website or any website
27 established by the Commission for that purpose”;

28 (b) inserting after subsection (1), a new subsection "(1A)"-

29 “(1A) Upon displaying or publishing the voters' register in
30 accordance with this section, the Commission shall accept and consider

1 objections and complaints in relation to the names omitted or included in the
 2 voters' register or in relation to any necessary correction, within 14 days of
 3 publishing the voters' register in accordance with this section"; and

4 (c) inserting after subsection (3), a new subsection "(4)"-

5 "(4) An official or staff of the Commission who wilfully fails to
 6 display or publish the voters' register as provided under subsection (1) of this
 7 section commits an offence and is liable on conviction to imprisonment for a
 8 term of six months or a fine of N100,000 or both."

9 7. Section 27 of the Principal Act is amended-

Amendment of
Section 27

10 (a) in subsection (1), by substituting for paragraph (b), a new
 11 paragraph "(b)"-

12 "(b) the Registration Area or Ward Collation Officer at the
 13 Registration Area or Ward Collation Centre"; and

14 (b) in subsection (2), by substituting for paragraph (a), a new
 15 paragraph "(a)"-

16 "(a) Registration Area or Ward Collation Centre in the case of
 17 Councillorship election in the Federal Capital Territory."

18 8. Section 30 (1) of the Principal Act is amended by substituting
 19 for the figures, "90", in line 1, the figures, "120".

Amendment of
Section 30

20 9. Section 31 of the Principal Act is amended by substituting for
 21 subsections (6) and (8), new subsections "(6)" and "(8)" -

Amendment of
Section 31

22 "(6) If the Court determines that any of the information contained
 23 in the affidavit is false, the Court shall issue an order disqualifying the
 24 candidate or political party from contesting the election, if already elected,
 25 shall not be eligible to re-contest another election which shall be conducted
 26 within 90 days by the Commission.

27 (8) A political party which presents to the Commission the name of
 28 a candidate who does not meet the qualification stipulated in this section
 29 commits an offence and is liable on conviction to a fine of N5,000,000."

Amendment of Section 33	1	10. Section 33 of the Principal Act is amended by inserting after the
	2	word, "candidate", in line 3, a "proviso"-
	3	“Provided that in the case of such withdrawal or death of a candidate,
	4	the political party affected shall, within 10 days of the occurrence of the event,
	5	hold a fresh primary election to produce and submit a fresh candidate to the
	6	Commission for the election concerned.”
Amendment of Section 35	7	11. Section 35 of the Principal Act is amended by substituting for the
	8	figures, "45", in line 4, the figures, "30".
Amendment of Section 36	9	12. Section 36 of the Principal Act is amended by inserting, after
	10	subsection (2), a new subsection "(3)"-
	11	"(3) If after the commencement of poll and before declaration of a
	12	winner, the leading candidate dies-
	13	(a) the Commission shall, being satisfied of the fact of the death,
	14	suspend the election for a period not exceeding 21 days;
	15	(b) the political party whose candidate died may, if it intends to
	16	continue to participate in the election, conduct a fresh primary within 7 days of
	17	the death of its candidate and submit a new candidate to the Commission to
	18	replace the dead candidate; and
	19	(c) subject to paragraphs (a) and (b), the Commission shall continue
	20	with the election, announce the final result and declare a winner."
Amendment of Section 38	21	13. Section 38 of the Principal Act is amended by-
	22	(a) inserting new subsections "(2)" - "(5)"-
	23	"(2) Where there is a valid nomination by at least one political party,
	24	failure of a political party to validly nominate a candidate does not constitute
	25	ground for extension of time for nomination or postponement of election;
	26	(3) Polling Agents who are in attendance at a polling unit, are entitled,
	27	before the commencement of the election, to have originals of electoral
	28	materials, including ballot papers, result sheets, ballot papers' account and
	29	verification documents and other electoral forms to be used by the Commission
	30	for the election inspected, and this process may be recorded in writing, on video

1 or by other means by any Polling Agent, accredited observer or official of
2 the Commission.

3 (4) Where it is determined that there has been a substantial
4 noncompliance with this provision in respect of the polling, the elections at
5 that polling unit shall be invalidated.

6 (5) A Presiding Officer who contravenes subsection (3) or (4)
7 commits an offence and is liable on conviction to at least a term of one year
8 imprisonment or a fine of N1,000,000, or both."; and

9 (b) renumbering the section appropriately.

10 **14.** Section 44 of the Principal Act is amended by inserting after
11 subsection (2), new subsections "(3)" - "(5)"-

Amendment of
Section 44

12 "(3) The Commission shall, not later than 60 days to an election,
13 invite in writing, a political party that nominated a candidate in the election
14 to inspect its identity appearing on samples of relevant electoral materials
15 proposed for the election.

16 (4) Unless the political party disapproves of its identity as provided
17 under subsection (3), it shall not complain of unlawful exclusion from the
18 election under this Act in relation to its identity appearing on electoral
19 materials used for the election.

20 (5) A political party that fails to comply with an invitation by the
21 Commission under subsection (3) shall be deemed to have approved its
22 identity on samples of electoral materials proposed to be used for an
23 election."

24 **15.** Section 46 of the Principal Act is amended by inserting after
25 subsection (1), a new subsection "(2)"-

Amendment of
Section 46

26 "(2) Documentary evidence shall be put in and may be read or
27 taken as read by consent, such documentary evidence shall be deemed
28 demonstrated in open court and the parties in the petition shall be entitled to
29 address and urge argument on the content of the document, and the tribunal
30 or court shall scrutinize or investigate the content of the documents as part of

	1	the process of ascribing probative value to the documents or otherwise.”
Amendment of Section 48	2	16. Section 48 of the Principal Act is amended by substituting for
	3	subsection (1), a new subsection "(1)"-
	4	“(1) At the hour fixed for opening of the poll before the
	5	commencement of accreditation and voting, the Presiding Officer shall open
	6	the empty ballot box and show same to such persons as may lawfully be present
	7	at the Polling Unit and shall then close and seal the box in such manner as to
	8	prevent it from being opened by unauthorized persons.”
Amendment of Section 49	9	17. Section 49 of the Principal Act is amended by substituting for
	10	subsections (1) and (2), new subsections "(1)", "(2)" and "(3)"-
	11	“(1) A person intending to vote in an election shall present himself
	12	with his voter's card to a Presiding Officer for accreditation at the polling unit in
	13	the constituency in which his name is registered.
	14	(2) The Presiding Officer shall use a Smart Card Reader or any other
	15	technological device that may be prescribed by the Commission, for the
	16	accreditation of voters, to verify, confirm or authenticate the particulars of the
	17	voter in the manner prescribed by the Commission.”
	18	(3) Where a smart card reader deployed for accreditation of voters
	19	fails to function in any unit and a fresh card reader is not deployed, the election
	20	in that unit shall be cancelled and another election shall be scheduled within 24
	21	hours.”
Amendment of Section 51	22	18. Insert after section 51 of the Principal Act, a new section "51A"-
Notification of nomination by the Court	23	51A. (1) Where the nomination of an elected candidate is nullified by
	24	the Court and notice of appeal against the decision is given within the stipulated
	25	period for appeal, the elected candidate shall notwithstanding the contrary
	26	decision of the court remain in office pending the determination of the appeal.
	27	(2) Where the Appellate court determines that a candidate was not
	28	validly nominated, the elected candidate shall, notwithstanding the contrary
	29	decision of the Court, remain in office within the period for which an appeal
	30	may be filed and shall not be sanctioned for the benefits he derived while in

1 office pursuant to this section, provided that where the Appellate Court in
2 this instance is the Supreme Court, the candidate shall cease to hold that
3 office.

4 **19.** Section 52 of the Principal Act is amended by substituting for
5 subsection (2), a new subsection "(2)"- Amendment of
Section 52

6 "(2) The Commission shall adopt electronic voting in all elections
7 or any other method of voting as may be determined by the Commission
8 from time to time."

9 **20.** Section 53 (2) of the Principal Act is amended by substituting Amendment of
Section 53
10 for the word, "registered", in line 2, the word, "accredited".

11 **21.** Section 63 (4) of the Principal Act is amended by substituting Amendment of
Section 63
12 for subsection (4), a new subsection (4)-

13 (4) Presiding Officer shall announce the result at the polling unit
14 and transmit same in the manner prescribed by the Commission"

15 **22.** Section 65 of the Principal Act is amended by inserting after Amendment of
Section 65
16 section 65 a new section "65A"-

17 "65A. (1) The Commission shall compile, maintain and update, on
18 a continuous basis, a register of election results to be known as the National
19 Electronic Register of Election Results which shall be a distinct database or
20 repository of polling unit by polling results, including collated election
21 results, of each election conducted by the Commission in the Federation,
22 and the Register of Election Results shall be kept in electronic format by the
23 Commission at its National Headquarters.

24 (2) Any person or political party may obtain from the Commission,
25 on payment of such fees as may be determined by the Commission, a
26 certified true copy of any election result kept in the National Electronic
27 Register of Election Results for a State, Local Government, Area Council,
28 Ward or Polling Unit, as the case may be and the certified true copy may be
29 in printed or electronic format."

30 **23.** Section 67 of the Principal Act, is amended by inserting Amendment of
Section 67

1 immediately after subsection (3) new subsections "4"- "(6)"-

2 67. (4) A Collation Officer or Returning Officer at an election shall
3 collate and announce the result of an election, subject to his verification and
4 confirmation that the -

5 (a) number of accredited voters stated on the collated result are
6 correct and consistent with the number of accredited voters recorded and
7 transmitted directly from polling units under section 49 (2) of this Bill; and

8 (b) the votes stated on the collated result are correct and consistent
9 with the votes or results recorded and transmitted directly from polling units
10 under section 63 (4) of this Bill.

11 (5) Subject to subsection (1), a Collation Officer or Returning Officer
12 shall use the number of accredited voters recorded and transmitted directly
13 from polling units under section 49 (2) of this Bill and the votes or results
14 recorded and transmitted directly from polling units under section 63 (4) of this
15 Bill to collate and announce the result of an election if a collated result at his or
16 a lower level of collation is not correct.

17 (6) where during collation of results, there is a dispute regarding a
18 collated result or the result of an election from any polling unit, the Collation
19 Officer or Returning Officer shall use the following to determine the
20 correctness of the disputed result-

21 (a) the original of the disputed collated result for each polling unit
22 where the election is disputed;

23 (b) the smart card reader or other technology device used for
24 accreditation of voters in each polling unit where the election is disputed for the
25 purpose of obtaining accreditation data directly from the Smart Card Reader or
26 technology device;

27 (c) date of accreditation recorded and transmitted directly from each
28 polling unit where the election is disputed, as prescribed under section 49 (2) of
29 this Bill; and

30 (d) The votes and result of the election recorded and transmitted

1 directly from each polling unit where the election is disputed, as prescribed
2 under section 63 (4) of this Bill.

3 (7) If the disputed result under subsection (3) were otherwise found
4 not to be correct, the Collation Officer or Returning Officer shall re-collate
5 and announce a new result using the information in subsection (3) (a), (b),
6 (c) and (d).

7 (8) Where the dispute under subsection (3) arose at the level of
8 collation and the Returning Officer has satisfied the provision of subsection
9 93), the Returning Officer has satisfied the provision of subsection (3), the
10 Returning Officer shall accordingly declare the winner of the election.

11 (9) A Returning Officer or Collation Officer, as the case may be,
12 commits an offence if he intentionally collated or announce false result is
13 liable on conviction, to a term of at least five year' imprisonment, without an
14 option of a fine".

15 **24.** Section 76 of the Principal Act is amended by-

Amendment of
Section 76

16 (a) inserting immediately after section 76, a new subsection "2"-

17 76. (2) An election conducted at a polling unit without the prior
18 recording in the forms prescribed by the Commission of the quantity, serial
19 numbers and other particulars of results sheets, ballot papers and other
20 sensitive electoral materials made available by the Commission for the
21 conduct of the election shall be invalid, provided that the election should not
22 be invalidated where it is determined that the extent of the non-compliance
23 is not such that would affect the integrity of the process at the polling unit.";
24 and

Forms for use
at elections

25 (b) renumbering the section appropriately.

26 **25.** Section 78 of the Principal Act is amended by substituting for
27 subsections (4) and (5), new subsections "(4)" and "(5)"-

Amendment of
Section 78

28 "(4) A political association that meets the conditions stipulated in
29 the Constitution and this Act shall be registered by the Commission as a
30 political party within 60 days from the date of receipt of the application, and

1 if after the 60 days such association is not registered by the Commission, unless
2 the Commission informs the association to the contrary, it shall be deemed to
3 have been registered.

4 (5) An association, its executive member or principal officers who
5 gives false or misleading information, commit an offence and is liable on
6 conviction, in the case of-

7 (a) the Association to a fine of N5,000,000; and

8 (b) each executive or principal officer of the Association to
9 imprisonment for a term of at least six months or a fine of N1,000,000 or both.”

Amendment of
Section 82

10 **26.** Section 82 of the Principal Act is amended by-

11 (a) substituting for subsections (1) - (3), new subsections "(1)" - "(3)"-

12 “(1) The Commission shall keep a register of symbols and name for
13 use at elections.

14 (2) The Commission shall register the symbol and name of a political
15 party if it is satisfied that-

16 (a) no other symbol and name of the same design is registered; and

17 (b) the symbol and name is distinctive from any other symbol already
18 registered.

19 (3) The Commission shall remove a symbol or name from the register
20 of symbols and names if the-

21 (a) political party in whose name it is registered requests the removal;

22 (b) Commission is of the opinion that the political party in whose
23 name the symbol is registered has ceased to exist or to use the symbol"; and

24 (b) inserting after the word, "symbol", in the marginal note, the words,
25 "and names".

Amendment of
Section 85

26 **27.** Section 85 (1) of the Principal Act is amended by inserting before
27 the word, "electing", in line 3, the words, "merger and fusion and".

Amendment of
Section 87

28 **28.** Substitute for section 87 of the Principal Act, a new section "87"-

29 87. (1) A political party seeking to nominate candidates for elections
30 under this Act shall hold direct or indirect primaries for aspirants to all elective

1 positions, which shall be monitored by the Commission and the result of
2 every primary to elect candidates for an election to be conducted by the
3 Commission shall be endorsed or certified by the Commission.

4 (2) A political party shall not impose nomination qualification or
5 disqualification criteria, measures, or conditions on any aspirant or
6 candidate for any election in its constitution, guidelines, or rules for
7 nomination of candidates for elections, except as prescribed under sections
8 65, 66, 106, 107, 131, 137, 177 and 187 of the Constitution of the Federal
9 Republic of Nigeria.

10 (3) For the purpose of nomination of candidates for election, the
11 total fees, charges, dues and any payment howsoever named imposed by a
12 political party on an aspirant or candidate shall not exceed:

- 13 (a) N150,000 for a Ward Councillorship aspirant in the FCT;
14 (b) N250,000 for an Area Council Chairmanship aspirant in the
15 FCT;
16 (c) N500,000 for a House of Assembly aspirant;
17 (d) N1,000,000 for a House of Representatives aspirant;
18 (e) N2,000,000 for a Senatorial aspirant;
19 (f) N5,000,000 for a Governorship aspirant; and
20 (g) N10,000,000 for a Presidential aspirant.

21 (4) Any requirement, criterion, measures, or condition for the
22 nomination of candidates for elections outside the provisions of subsections
23 (2) or (3) shall be invalid.

24 (5) Every political party shall publish the venues, dates, times,
25 guidelines, procedures and other relevant information of its primaries,
26 conventions or any event conveyed for the purpose of nominating
27 candidates for the party in at least two national newspapers and, at least, ten
28 days before the date of the event to nominate candidates for the party.

29 (6) A political party that adopts the system of direct primaries for
30 the nomination of its candidate for an election shall ensure that all aspirants

1 are given equal opportunity of being voted for by registered members of the
2 party and comply with the following procedure-

3 (a) in the case of nominations to the position of presidential candidate
4 in a presidential election, a political party shall, where It intends to sponsor a
5 candidate-

6 (i) conduct direct primaries in the registration areas in the 36 States of
7 the Federation and the FCT where all registered members of the party are
8 eligible to vote and may freely vote for any Presidential aspirant of their choice,

9 (ii) declare the presidential aspirant with the highest number of valid
10 votes cast during the primaries across the 36 States of the Federation and the
11 FCT as the winner of the presidential primaries,

12 (iii) hold a National Convention where it shall present the winner of
13 the primaries to the public as the presidential candidate of the party, and

14 (iv) forward the name of the winner of the presidential primaries to
15 the Commission as the presidential candidate of the party in the presidential
16 election;

17 (b) in the case of nomination to the position of Governorship
18 candidate in a Governorship election in a State, a political party shall, where it
19 intends to sponsor a candidate-

20 (i) conduct direct primaries in the registration areas in each Local
21 Government Area in the particular State where all registered members of the
22 party in the State are eligible to vote and may freely vote for any Governorship
23 aspirant of their choice,

24 (ii) declare the governorship aspirant with the highest number of valid
25 votes cast in all Local Government Areas in the particular State as the winner of
26 the governorship primaries in the State,

27 (iii) hold a State Congress where it shall present the winner of the
28 governorship primaries to the public as the governorship candidate of the party
29 in the governorship election, and

30 (iv) forward the name of the winner of the primaries to the

1 Commission as the governorship candidate of the party in the election for
2 the State;

3 (c) in the case of nominations to the position of Senatorial
4 candidate, House of Representatives candidate and State House of
5 Assembly candidate for a Senatorial District, a Federal Constituency and a
6 State House Constituency respectively, a political party shall, where it
7 intends to sponsor candidates in elections for these elective positions-

8 (i) conduct direct primaries in the registration areas in each Local
9 Government Area in the Senatorial District where all registered members of
10 the party in the Senatorial District are eligible to vote and may freely vote for
11 any Senatorial aspirant of their choice,

12 (ii) conduct direct primaries in the registration areas in each Local
13 Government Area in the Federal Constituency where all registered members
14 of the party in the Federal Constituency are eligible to vote and may freely
15 vote for any House of Representatives aspirant of their choice,

16 (iii) conduct direct primaries in the registration areas in each Local
17 Government Area in the State Assembly Constituency where all registered
18 members of the party in the State Assembly Constituency are eligible to vote
19 and may freely vote for any State House of Assembly aspirant of their
20 choice,

21 (iv) subject to subparagraph (i), declare the Senatorial aspirant
22 with the highest number of valid votes cast in all Local Government Areas in
23 the particular Senatorial District as the winner of the primaries in the
24 Senatorial District and forward the name of the winner to the Commission as
25 the Senatorial candidate of the party in the election for the Senatorial
26 District,

27 (v) subject to subparagraph (ii), declare the House of
28 Representatives aspirant with the highest number of votes in all Local
29 Government Areas in the Federal Constituency as the winner of the
30 primaries in the Federal Constituency and forward the name of the winner to

1 the Commission as the House of Representatives candidate of the party in the
2 election for the Federal Constituency, and

3 (vi) subject to subparagraph (iii), declare the State House of
4 Assembly Aspirant with the highest number of votes in all Local Government
5 Areas in the House of Assembly Constituency as the winner of the primaries in
6 the House of Assembly Constituency and forward the name of the winner to the
7 Commission as the State House of Assembly Candidate of the party in the
8 election for the State Assembly Constituency;

9 (d) in the case of the position of a Chairmanship candidate of an Area
10 Council in the Federal Capital Territory, a political party shall, where it intends
11 to sponsor a candidate-

12 (i) conduct direct primaries in the registration areas in the Area
13 Council, where all registered members of the party in the Area Council are
14 eligible to vote and may vote for any chairmanship aspirant of their choice;

15 (ii) declare the chairmanship aspirant with the highest number of
16 votes in all registration areas in the Area Council as the winner of the
17 chairmanship primaries in the Area Council and forward the name of the
18 winner of the chairmanship primaries to the Commission as the chairmanship
19 candidate of the party in the election for the Area Council.

20 (7) A political party that adopts the system of indirect primaries for the
21 nomination of its candidates for election shall conduct a delegates election in
22 all registration areas in the constituency where the election is to be held and all
23 registered members of the party in that registration area are eligible to vote for
24 any contestant who presents himself to be a delegate of the party: Provided that
25 the delegates election shall be monitored by the Commission and the result of
26 every delegates election shall be endorsed or certified by the Commission.

27 (8) A political party leader or official who is not elected in his or her
28 registration area as a delegate of his or her party under subsection (7) shall not
29 be a voting delegate of the party and shall not vote in his party's indirect
30 primaries but may perform his functions in a neutral manner as may be

1 prescribed in his party's constitution in relation to indirect primaries:
2 Provided that in performing his functions as a party leader or official in
3 relation to indirect primaries, the party leader or official shall not conduct
4 himself in any manner whatsoever to impact the election in favour of any
5 aspirant in the indirect primaries.

6 (9) A party leader or official who contravenes the provisions of
7 subsection (8) of this section commits an offence and is liable on conviction
8 to imprisonment for a term of one year or a fine of N1,000,000.

9 (10) All National, State, Local Government Area or Area Council
10 and Ward executives of a party and elected officials of government
11 mentioned in this section who are members of the party are automatic or
12 super delegates who are eligible to vote in their party's indirect primaries-

13 (a) President and former Presidents;

14 (b) Vice President and former Vice Presidents;

15 (c) Governors and former Governors;

16 (d) Deputy Governors and former Deputy Governors;

17 (e) Senators and former Senators;

18 (f) Members of the House of Representatives and former Members
19 of the House of Representatives;

20 (g) Members of State Houses of Assembly;

21 (h) Chairmen of Local Government Areas or Area Councils; and

22 (i) Councilors of Wards.

23 PROVIDED that:

24 (i) the number of automatic or super delegates shall not exceed
25 10% of the total number of elected delegates, and

26 (ii) the party shall have the power to determine in its constitution or
27 nomination guidelines and manuals, the particular indirect primaries or
28 election to particular elective offices that automatic or super delegates shall
29 vote.

30 (11) A political party that adopts the system of indirect primaries

1 for the choice of its candidate may outline further guidelines, rules and
2 procedures to guarantee free, fair, and credible election of delegates to vote at a
3 convention or congress of the party, but such further guidelines, rules and
4 procedures shall not be inconsistent with the provisions of this Bill and the
5 1999 Constitution as amended.

6 (12) Where a primary election is conducted, and duly attended and
7 certified by the Commission in compliance with this Bill, and the result is
8 subsequently altered by a political party, the Commission shall have the power
9 to overrule the alteration made by the political party and uphold such primaries.

10 (13) The Primaries of political parties shall follow the following
11 sequence-

12 (a) National Assembly;

13 (b) State Houses of Assembly;

14 (c) Governorship; and

15 (d) Presidential.

16 (14) The dates for the primaries shall not be earlier than 150 days and
17 not later than 120 days before the date of elections to the offices.

18 (15) Any official of the Commission who issues, endorses or certifies
19 a false report or result in respect of a delegates election or primaries of a
20 political party commits an offence and is liable on conviction to imprisonment
21 for a term of one year or a fine of N1,000,000, or both.

22 (16) A political party that adopts the system of indirect primaries for
23 the nomination of its candidates for election shall ensure that all aspirants are
24 given equal opportunity of being voted for by delegates of the party who shall
25 be registered members of the party.

26 (17) Where a political party adopts the system of indirect primaries
27 for the nomination of its candidates for elections, the party shall adopt the
28 following procedure-

29 (a) in the case of nominations to the position of presidential candidate,
30 a political party shall, where it intends to sponsor a candidate-

1 (i) hold a special presidential convention at a designated centre in
2 the Federal Capital Territory or any other place within the Federation and on
3 a date agreed by the National Executive Committee of the party where
4 delegates of the party shall vote for each of the presidential aspirants of the
5 party, and

6 (ii) the presidential aspirant with the highest number of votes at the
7 end of voting shall be declared the winner of the Presidential primaries of the
8 political party and the aspirant's name shall be forwarded to the Commission
9 as the presidential candidate of the party;

10 (b) in the case of nomination to the position of Governorship
11 candidate, a political party shall, where it intends to sponsor candidates-

12 (i) hold a special congress at a designated centre in the State Capital
13 or any other place within the State and on a date agreed by the party where
14 delegates of the party shall vote for each of the governorship aspirant of the
15 party, and

16 (ii) the governorship aspirant with the highest number of votes at
17 the end of voting shall be declared the winner of the governorship primaries
18 of the party and the party shall forward the aspirant's name to the
19 Commission as the candidate of the party, for the particular State;

20 (c) in the case of nomination to the position of a candidate to the
21 Senate, House of Representatives and State House of Assembly, a political
22 party shall, where it intends to sponsor candidates-

23 (i) hold special congresses in the Senatorial District, Federal
24 Constituency and the State Assembly Constituency respectively in
25 designated centres and on a date or dates agreed by the party where delegates
26 of the party shall vote for each of the Senatorial, House of Representatives
27 and House of Assembly Aspirants of the party, and

28 (ii) the Senatorial, House of Representatives and House of
29 Assembly Aspirant with the highest number of votes at the end of voting
30 shall be declared the winner of the primaries of the party for Senatorial

1 District, Federal Constituency and the State Assembly Constituency
2 respectively and the aspirant's names shall be forwarded to the Commission as
3 the Senatorial, House of Representatives and House of Assembly candidates of
4 the party, as the case may be; and

5 (d) in the case of the position of a chairmanship candidate of an Area
6 Council, a political party shall, where it intends to sponsor candidates-

7 (i) hold special congresses in the Area Councils, with delegates voting
8 for each of the aspirants at designated centres on a specified date, and

9 (ii) the aspirant with the highest number of votes at the end of voting
10 shall be declared the winner of the primaries of the party and the aspirant's
11 name shall be forwarded to the Commission as the candidate of the party.

12 (18) In the case of a councillorship candidate, the procedure for the
13 nomination of the candidate shall be by direct primaries in the ward and the
14 name of the candidate with the highest number of votes shall be submitted to
15 the Commission as the candidate of the party.

16 (19) Where there is only one aspirant for an elective position in a party
17 that has adopted the direct system of primaries, such an aspirant is deemed to be
18 unchallenged and the party shall forward the name of the aspirant to the
19 Commission as the candidate of the party.

20 (20) Where there is only one aspirant for any of the elective positions
21 mentioned in subsection (17) (a) - (d), the party shall convene a special
22 convention or congress, as the case may be, at a designated centre in the
23 particular constituency on a specified date to confirm that aspirant as the
24 candidate of the party and the party shall forward the name of the aspirant to the
25 Commission as the candidate of the party.

26 (21) A political appointee at any level of government shall not be an
27 automatic or super delegate at the convention or congress of any political party
28 for the purpose of nomination of candidates for any election under the indirect
29 primaries system, except where such a political appointee is also an officer of a
30 political party or otherwise elected as a delegate under subsection (7).

1 (22) Where a political party conducts its primaries or delegates
2 election with the Commission in attendance and the result of the primaries or
3 delegates election is endorsed or certified by the Commission, this shall be
4 prima facie proof of the result of the election or delegates election.

5 (23) Nothing in this section shall prevent a political party from
6 organising staggered primaries.

7 (24) Notwithstanding the provisions of this Act or rules of a
8 political party, an aspirant who complains that any of the provisions of this
9 Act or rules of a political party has not been complied with in the nomination
10 of a candidate of a political party for election, may apply to the Federal High
11 Court or the High Court of a State or the FCT for redress.

12 (25) Nothing in this section shall empower the Courts to stop the
13 holding of primaries or general election or the processes under this Act
14 pending the determination of the suit.

15 **29.** Section 91 of the Principal Act is amended by substituting for
16 subsections (1) - (7) and (9) - (10), new subsections "(1)" - "(7)" and "(9)" -
17 "(10)" -

Amendment of
Section 91

18 “(1) Election expenses shall not exceed the sum stipulated in
19 subsection (2) - (7).

20 (2) The maximum election expenses to be incurred by a candidate
21 at a presidential election shall be N5,000,000,000.00.

22 (3) The maximum amount of election expenses to be incurred by a
23 candidate in respect of governorship election shall be N1,000,000,000.00.

24 (4) The maximum amount of election expenses to be incurred by a
25 Candidate in respect of Senatorial and House of Representatives seat shall
26 be N100,000,000.00 and N70,000,000.00 respectively.

27 (5) In the case of State Assembly election, the maximum amount of
28 election expenses to be incurred by a candidate shall be N30,000,000.00.

29 (6) In the case of a chairmanship election to an Area Council, the
30 maximum amount of election expenses to be incurred by a candidate shall be

1 N30,000,000.00.

2 (7) in the case of Councillorship election to an area Council, the
3 maximum amount of election expenses to be incurred by a candidate shall be
4 N5,000,000.00.

5 (9) No individual or other entity shall donate to a candidate more than
6 N10,000,000.00.

7 (10) A candidate who knowingly acts in contravention of this section,
8 commits an offence and is liable on conviction to a fine of 1 % of the amount
9 permitted as the limit of campaign expenditure under this Act or imprisonment
10 for a term not exceeding 12 months, or both."

Amendment of
Section 99

11 **30.** Section 99 (1) of the Principal Act is amended by substituting for
12 the figures, "90", in line 2, the figures, "150".

Amendment of
Section 100

13 **31.** Section 100 of the Principal Act is amended by substituting for
14 subsection (6), a new subsection "(6)"-

15 "(6) Any person who contravenes subsections (3) and (4) commits an
16 offence and is liable on conviction, in a case of -

17 (a) a public media, to a fine of N2,000,000.00 in the first instance and
18 to a fine of N5,000,000.00 for subsequent conviction; and

19 (b) principal officers and other officers of the media house to a fine of
20 N2,000,000.00 or to imprisonment for a term of 12 months.

Amendment of
Section 138

21 **32.** Section 138 of the Principal Act is amended by substituting for
22 section 138, a new section "138"-

Grounds of
petition

23 138 (1) An election may be questioned on grounds that-

24 (a) a person whose election is questioned was, at the time of the
25 election, not qualified to contest the election;

26 (b) the election was invalid by reason of corrupt practices or non-
27 compliance with the provisions of this Act, published manuals, guidelines,
28 regulations and or procedures issued by the Commission for the election;

29 (c) that the respondent was not duly elected by majority of lawful
30 votes cast at the election; or

1 (d) The petitioners or its candidates were validly nominated but
2 unlawfully excluded from the election.

3 (2) An act or omission which may be contrary to an instruction or
4 directive of the Commission or of an officer appointed for the purpose of the
5 election, but which is not contrary to the provisions of this Act and published
6 manuals, guidelines, regulations or procedures issued by the Commission
7 for the conduct of the election shall not of itself be a ground for questioning
8 the election.

9 (3) With respect to subsection (1) (a), a person is deemed to be
10 qualified for an elective office and his election shall not be questioned on
11 grounds of qualification if, with respect to the particular election in question,
12 he meets the applicable requirements of sections 65, 106, 131 or 177 of the
13 Constitution of the Federal Republic of Nigeria, 1999 and he is not, as may
14 be applicable, in breach of sections 66, 107, 137 or 182 of the Constitution
15 of the Federal Republic of Nigeria, 1999."

16 **33.** Section 139 of the Principal Act is amended by substituting for
17 subsection (1), a new subsection "(1)"-

Amendment of
Section 139

18 "(1) An Election shall not to be invalidated by reason of non -
19 compliance with the provisions of this Act and published manuals,
20 guidelines, regulations, procedures or directives issued by the Commission
21 for the conduct of the election, if it appears to the Election Tribunal or Court
22 that the election was conducted substantially in accordance with the
23 principles of this Act and that the non-compliance did not affect
24 substantially the result of the election."

25 **34.** Section 140 of the Principal Act is amended by inserting, after
26 subsection (4), a new subsection "(5)"-

Amendment of
Section 140

27 "(5) If, at the point of display or distribution of ballot papers by the
28 Commission, a candidate or his agent discovers that his name or the name or
29 logo of his party is omitted, a candidate or his agent shall notify the
30 Commission and the Commission shall-

- 1 (a) postpone the election to rectify the omission;
- 2 (b) appoint another date to conduct the election, not later than 90 days;
- 3 (c) where the election is postponed due to omission of a political
- 4 party's name or logo, the Commission's Officer responsible for such printing of
- 5 party names or logos commits an offence and is liable on conviction to a fine of
- 6 N2,000,000.00 or imprisonment for 2 years of both.”

Amendment of
Section 142

7 **35.** Section 142 of the Principal Act is amended by inserting after

8 section 142, a new section " 142A "-

Evidence of
non-compliance

9 142A. It is not necessary for a petitioner who alleges non-compliance

10 with the provisions of this Act, the published manuals, guidelines, regulations,

11 procedures or directives issued by the Commission for the conduct of elections

12 to call oral evidence if originals or certified true copies of electoral documents

13 or materials used by the Commission to conduct the election in the polling unit

14 where the non-compliance is alleged are listed in the petition and tendered at

15 the trial of the petition by the petitioner in proof of the non- compliance

16 complained of.”

Amendment of
Section 143

17 **36.** Section 143 of the Principal Act is amended by inserting, after

18 subsection (2), a new subsection "(3)"-

19 “(3) Where the election is nullified by the Court and notice of appeal

20 against the decision is given within the stipulated period for appeal, the elected

21 candidate shall, notwithstanding the contrary decision of the Court remain in

22 office and enjoy all the benefits that accrued to the office pending the

23 determination of the appeal and shall not be sanctioned for the benefits derived

24 while in office.”

Amendment of
Section 151

25 **37.** Section 151 of the Principal Act is amended by inserting, after

26 subsection (2), a new subsection "(3)"-

27 "(3) Where there is a breach of an order of a court or tribunal directed

28 at the Commission particularly, order to produce, inspect or take copies of

29 electoral materials, such disobedience shall attract court sanctions, which shall

30 include the committal by the Tribunal or Court of the Commission's official to

1 whom the order is directed to summary conviction to imprisonment for a
2 term of at least two years, or fine of not less than N10,000,000.”

3 **38.** Section 156 of the Principal Act is amended by inserting, in
4 alphabetical order, the following interpretations-

Amendment of
Section 156

5 "candidate" means a person who has secured the nomination of a political
6 party to contest an election for any elective office;

7 "electronic format" refers to the electronic version of the Register of Voters
8 or National Electronic Register of Election Results, as the case may be,
9 created, recorded, transmitted or stored in digital form or in other intangible
10 form by electronic, magnetic or optical means or by any other means that has
11 capabilities for creation, recording, transmission or storage similar to those
12 means and which may be converted to or reproduced in a paper document;

13 "fusion" means a process by which a political party fuses with another
14 political party by dropping Its name and symbol and become subsumed in
15 another political party, thereby cease to exist;

16 "Presiding Officer" means a person appointed by the Commission to be in
17 charge of the conduct of election in a polling unit or polling station, and this
18 shall include persons who may be under different titles but who are charged
19 by the Commission with the same responsibilities at a polling unit or polling
20 station as a Presiding Officer;

21 "published manuals, guidelines, regulations, procedures or directives issued
22 by the Commission for the conduct of the election" means that which is
23 made public by the Commission at least seven days before the date of
24 general elections; and

25 "Returning Officer" means a person appointed by the Commission to be in
26 charge of the conduct of election in a constituency, and this includes persons
27 who may be under different titles but who are charged by the Commission
28 with the same responsibilities in a constituency as a Returning Officer.”

29 **39.** This Bill may be cited as the Electoral Act No.6, 2010
30 (Amendment) Bill, 2018.

Citation

EXPLANATORY MEMORANDUM

This Bill seeks to amend the Electoral Act No.6, 2010 to make provisions for the restriction of the qualification for elective office to relevant provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended); use of Card Readers and other technological devices in elections and Political Party Primaries, to provide a time line for the submission of list of candidates, criteria for substitution of candidates, limit of campaign expenses, and address the omission of names of candidates or logo of political parties.