

ELECTORAL (AMENDMENT) BILL, 2018

ARRANGEMENT OF SECTIONS

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# A BILL

## FOR

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

*Sponsors:*

Hon. Karimi S. Sunday

Hon. Gyang Pwajok

Hon. Uzoma N. Abonta

Hon. Femi Gbajabiamila

Hon. Olatoye Temitope Sugar

Hon. Ahmed Babba Kaita

Hon. Eucharua Azodo

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  
4            subsection (4), a new subsection "(5)"- Amendment of  
Section 8

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 (1), a new subsection "(1A)" -

13          "(1A) The Commission shall keep the Register of Voters as the  
14          National Register of Voters in its National Headquarters and other locations  
15          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

1 (b) manual, printed, paper-based record or hard copy format"; and  
2 (b) substituting for subsection (5), a new subsection "(5)"-  
3 "(5) The registration of voters, updating and revision of the register of  
4 voters under this section shall stop not later than 30 days before any election  
5 covered by this Act."

Amendment  
of Section 15

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

Amendment  
of Section 18

9 5. Section 18 of the Principal Act is amended by inserting after  
10 subsection (1), new subsections "(1A)" and "(1B)"-

11 "(1A) If the Electoral Officer or any other officer is satisfied as to the  
12 circumstances of the loss, destruction, defacement or damage of the voters'  
13 card, he shall issue to the voter a replacement permanent voter card.

14 (1B) No person shall issue a replacement to any voter on polling day  
15 or less than 30 days before polling day."

Amendment  
of Section 19

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

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

18 "(1) Subject to the provisions of section 9 (5) of this Act, the  
19 Commission shall, not later than 30 days to a general election, appoint a period  
20 of seven days during which a copy of the voters' register for each Local  
21 Government, Area Council or Ward shall be displayed or published for public  
22 scrutiny at every Registration Area and on its official website or any website  
23 established by the Commission for that purpose";

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

25 "(1A) Upon displaying or publishing the voters' register in  
26 accordance with this section, the Commission shall accept and consider  
27 objections and complaints in relation to the names omitted or included in the  
28 voters' register or in relation to any necessary correction, within 14 days of  
29 publishing the voters' register in accordance with this section"; and

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



Amendment of  
Section 31

1 for the figures, "90", in line 1, the figures, "150".

2 10. Section 31 of the Principal Act is amended by substituting for  
3 subsections (6)-(8), new subsections "(6)" - "(8)" -

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

9 (7) Any political party that presents to the Commission the name of a  
10 candidate that does not meet the qualification stipulated in the Constitution,  
11 commits an offence and is liable on not to be allowed to contest for that  
12 particular office; and

13 (8) A political party which presents to the Commission the name of a  
14 candidate who does not meet the qualification stipulated in this section  
15 commits an offence and is liable on conviction to a fine of N1,000,000."

Amendment of  
Section 33

16 11. Section 33 of the Principal Act is amended by inserting after the  
17 word, "candidate", in line 3, a "proviso" -

18 "Provided that in the case of such withdrawal or death of a candidate,  
19 the political party affected shall, within 10 days of the occurrence of the event,  
20 hold a fresh primary election to produce and submit a fresh candidate to the  
21 Commission for the election concerned."

Amendment of  
Section 34

22 12. Section 34 of the Principal Act is amended -

23 (a) by inserting new subsections "(2)" - "(4)" -

24 "(2) Any candidate who observes his name or that of his party missing  
25 on the list published in accordance with subsection (1), shall notify the  
26 Commission in writing, signed by himself and supported with an affidavit not  
27 later than 21 days to the election.

28 (3) Where the candidate fails to notify the Commission in accordance  
29 with subsection (2), the candidate shall be deemed to have waived his right.

30 (4) The Commission shall produce ballot papers for the relevant

1 elections in accordance with the list published after corrections in  
2 conformity with subsection (2)"; and

3 (b) renumbering the section appropriately.

4 13. Section 35 of the Principal Act is amended by substituting for  
5 the figures, "45", in line 4, the figures, "30". Amendment of  
Section 35

6 14. Section 36 of the Principal Act is amended by inserting, after  
7 subsection (2), a new subsection "(3)" - Amendment of  
Section 36

8 "(3) If after the commencement of poll and before the  
9 announcement of the final result and declaration of a winner, a nominated  
10 candidate dies -

11 (a) the Commission shall, being satisfied of the fact of the death,  
12 suspend the election for a period not exceeding 21 days;

13 (b) the political party whose candidate died may, if it intends to  
14 continue to participate in the election, conduct a fresh primary within 14  
15 days of the death of its candidate and submit a new candidate to the  
16 Commission to replace the dead candidate; and

17 (c) subject to paragraphs (a) and (b), the Commission shall  
18 continue with the election, announce the final result and declare a winner."

19 15. Section 38 of the Principal Act is amended by - Amendment of  
Section 38

20 (a) inserting new subsections "(2)" - "(5)" -

21 "(2) Where there is a valid nomination by at least one political  
22 party, failure of a political party to validly nominate a candidate does not  
23 constitute ground for extension of time for nomination or postponement of  
24 election;

25 (3) Polling Agents who are in attendance at a polling unit, are  
26 entitled, before the commencement of the election, to have originals of  
27 electoral materials, including ballot papers, result sheets, ballot papers'  
28 account and verification documents and other electoral forms to be used by  
29 the Commission for the election inspected, and this process may be recorded  
30 in writing, on video or by other means by any Polling Agent, accredited

1 observer or official of the Commission.

2 (4) An election conducted at any polling unit in violation of  
3 subsection (3) shall be invalid.

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

7 (b) renumbering the section appropriately.

Amendment of  
Section 44

8 16. Section 44 of the Principal Act is amended by inserting after  
9 subsection (2), new subsections "(3)" - "(5)"-

10 "(3) The Commission shall, not later than 20 days to an election,  
11 invite in writing, a political party that nominated a candidate in the election to  
12 inspect its identity appearing on samples of relevant electoral materials  
13 proposed for the election, and the political party shall state in writing within  
14 two days of being so invited by the Commission that it approves or disapproves  
15 of its identity as it appears on the samples.

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

Amendment of  
Section 46

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

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



1           18. Section 48 of the Principal Act is amended by substituting for  
2 subsection (1), a new subsection "(1)"- Amendment of  
Section 48

3           "(1) At the hour fixed for opening of the poll before the  
4 commencement of accreditation and voting, the Presiding Officer shall open  
5 the empty ballot box and show same to such persons as may lawfully be  
6 present at the Polling Unit and shall then close and seal the box in such  
7 manner as to prevent it from being opened by unauthorized persons."

8           19. Section 49 of the Principal Act is amended by substituting for Amendment of  
Section 49  
9 subsections (1) and (2), new subsections "(1)" and "(2)"-

10           "(1) A person intending to vote in an election shall present himself  
11 with his voter's card to a Presiding Officer for accreditation at the polling  
12 unit in the constituency in which his name is registered.

13           (2) The Presiding Officer shall use a Smart Card Reader or any  
14 other technological device that may be prescribed by the Commission, for  
15 the accreditation of voters, to verify, confirm or authenticate the particulars  
16 of the voter in the manner prescribed by the Commission."

17           20. Insert after section 51 of the Principal Act, a new section Insertion of new  
Section 51A  
18 "51A"-

19           51A. (1) Where the nomination of an elected candidate is nullified Nullification of  
nomination by  
the Court  
20 by the Court and notice of appeal against the decision is given within the  
21 stipulated period for appeal, the elected candidate shall notwithstanding the  
22 contrary decision of the court remain in office pending the determination of  
23 the appeal and if the court determines that a candidate was not validly  
24 nominated, the elected candidate shall, notwithstanding the contrary  
25 decision of the Court, remain in office within the period for which an appeal  
26 may be filed and shall not be sanctioned for the benefits he derived while in  
27 office pursuant to this section.

28           (2) The Presiding or Collation Officer shall, after counting or  
29 collating the votes at the polling unit or collation centre, enter the votes  
30 scored by each candidate in the form prescribed by the Commission and

1 transmit same in a manner prescribed by the Commission."

Amendment of  
Section 52

2 **21.** Section 52 of the Principal Act is amended by substituting for  
3 subsection (2), a new subsection "(2)" -

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

Amendment of  
Section 53

7 **22.** Section 53 (2) of the Principal Act is amended by substituting for  
8 the word, "registered", in line 2, the word, "accredited".

Amendment of  
Section 63

9 **23.** Section 63 (4) of the Principal Act is amended by deleting, after  
10 the word, "shall", the words, "count and".

Insertion of new  
Section 65A

11 **24.** Insert in section 65 of the Principal Act, a new section "65A"-  
12 "65A. (1) The Commission shall compile, maintain and update, on a  
13 continuous basis, a register of election results to be known as the National  
14 Electronic Register of Election Results which shall be a distinct database or  
15 repository of polling unit by polling results, including collated election results,  
16 of each election conducted by the Commission in the Federation, and the  
17 Register of Election Results shall be kept in electronic format by the  
18 Commission at its National Headquarters.

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

Substitution  
for Section 67  
Disputed election

25 **25.** Substitute for section 67 of the Principal Act, a new section "67"-  
26 **67.** (1) A Collation Officer or Returning Officer at an election shall  
27 collate and announce the result of an election, subject to his verification and  
28 confirmation that the-

29 (a) number of accredited voters stated on the collated result are  
30 correct and consistent with the number of accredited voters recorded and

1 transmitted directly from polling units under section 49 (2) of this Act; and

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

5 (2) Subject to subsection (1), a Collation Officer or Returning  
6 Officer shall use the number of accredited voters recorded and transmitted  
7 directly from polling units under section 49 (2) of this Act and the votes or  
8 results recorded and transmitted directly from polling units under section 63

9 (4) of this Act to collate and announce the result of an election if a  
10 collated result at his or a lower level of collation is not correct.

11 (3) Where during collation of results, there is a dispute regarding a  
12 collated result or the result of an election from any polling unit, the Collation  
13 Officer or Returning Officer shall use the following to determine the  
14 correctness of the disputed result-

15 (a) the original of the disputed collated result or result for each  
16 polling unit where the election is disputed;

17 (b) the Smart Card Reader or other technological device used for  
18 accreditation of voters in each polling unit where the election is disputed for  
19 the purpose of obtaining accreditation data directly from the Smart Card  
20 Reader or technological device;

21 (c) data of accreditation recorded and transmitted directly from  
22 each polling unit where the election is disputed, as prescribed under section  
23 49(2) of this Act; and

24 (d) the votes and result of the election recorded and transmitted  
25 directly from each polling unit where the election is disputed, as prescribed  
26 under section 63(4) of this Act.

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

1 (5) Where the dispute under subsection (3) arose at the final level of  
2 collation and the Returning Officer has satisfied the provision of subsection  
3 (3), the Returning Officer shall accordingly declare the winner of the election.

4 (6) A Returning Officer or Collation Officer, as the case may be,  
5 commits an offence if he intentionally collated or announce false result is liable  
6 on conviction, to a term of at least five years imprisonment, without an option  
7 of a fine."

Substitution for  
Section 76

8 26. Substitute for section 76 of the Principal Act, a new section "76" -

Forms for use  
at elections

9 76. (1) An election conducted at a polling unit without the prior  
10 recording in the forms prescribed by the Commission of the quantity, serial  
11 numbers and other particulars of results sheets, ballot papers and other  
12 sensitive electoral materials made available by the Commission for the conduct  
13 of the election shall be invalid.

14 (2) A Presiding Officer who intentionally announces or signs any  
15 election result in violation of subsection (1) of this section, commits an offence  
16 and is liable on conviction to imprisonment for a term of at least one year  
17 without an option of fine."

Amendment of  
Section 78

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

20 "(4) A political association that meets the conditions stipulated in the  
21 Constitution and this Act shall be registered by the Commission as a political  
22 party within 60 days from the date of receipt of the application, and if after the  
23 60 days such association is not registered by the Commission, unless the  
24 Commission informs the association to the contrary, it shall be deemed to have  
25 been registered.

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

29 (a) the association to a fine of N5,000,000; and

30 (b) each executive or principal officer of the association to

1 imprisonment for a term of at least six months or a fine of N1,000,000 or  
2 both."

3 28. Section 82 of the Principal Act is amended by-

Amendment of  
Section 82

4 (a) substituting for subsections (1) - (3), new subsections "(1)"-  
5 "(3)" -

6 "(1) The Commission shall keep a register of symbols and name for  
7 use at elections.

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

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

11 (b) the symbol and name is distractive from any other symbol  
12 already registered.

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

15 (a) political party in whose name it is registered requests the  
16 removal; or

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

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

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

Amendment of  
Section 85

23 30. Substitute for section 87 of the Principal Act, a new section  
24 "87"-

Substitution for  
Section 87

25 87. (1) A political party seeking to nominate candidates for  
26 elections under this Act shall hold direct or indirect primaries for aspirants to  
27 all elective positions, which shall be monitored by the Commission and the  
28 result of every primary to elect candidates for an election to be conducted by  
29 the Commission shall be endorsed or certified by the Commission.

Nomination of  
candidate by  
parties

30 (2) A political party shall not impose nomination qualification or

1 disqualification criteria, measures, or conditions on any aspirant or candidate  
2 for any election in its constitution, guidelines, or rules for nomination of  
3 candidates for elections, except as prescribed under sections 65, 66, 106, 107,  
4 131, 137, 177 and 187 of the Constitution of the Federal Republic of Nigeria.

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

- 8 (a) N150,000 for a Ward Councillorship aspirant in the FCT;  
9 (b) N250,000 for an Area Council Chairmanship aspirant in the FCT;  
10 (c) N500,000 for a House of Assembly aspirant;  
11 (d) N1,000,000 for a House of Representatives aspirant;  
12 (e) N2,000,000 for a Senatorial aspirant;  
13 (f) N5,000,000 for a Governorship aspirant; and  
14 (g) N10,000,000 for a Presidential aspirant.

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

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

23 (6) A political party that adopts the system of direct primaries for the  
24 nomination of its candidate for an election shall ensure that all aspirants are  
25 given equal opportunity of being voted for by registered members of the party  
26 and comply with the following procedure-

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

30 (i) conduct direct primaries in the registration areas in the 36 States of

1 the Federation and the FCT where all registered members of the party are  
2 eligible to vote and may freely vote for any Presidential aspirant of their  
3 choice,

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

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

9 (iv) forward the name of the winner of the presidential primaries to  
10 the Commission as the presidential candidate of the party in the presidential  
11 election;

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

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

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

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

25 (iv) forward the name of the winner of the primaries to the  
26 Commission as the governorship candidate of the party in the election for  
27 the State;

28 (c) in the case of nominations to the position of Senatorial  
29 candidate, House of Representatives candidate and State House of  
30 Assembly candidate for a Senatorial District, a Federal Constituency and a

1 State House Constituency respectively, a political party shall, where it intends  
2 to sponsor candidates in elections for these elective positions-

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

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

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

15 (iv) subject to subparagraph (i), declare the Senatorial aspirant with  
16 the highest number of valid votes cast in all Local Government Areas in the  
17 particular Senatorial District as the winner of the primaries in the Senatorial  
18 District and forward the name of the winner to the Commission as the  
19 Senatorial candidate of the party in the election for the Senatorial District,

20 (v) subject to subparagraph (ii), declare the House of Representatives  
21 aspirant with the highest number of votes in all Local Government Areas in the  
22 Federal Constituency as the winner of the primaries in the Federal  
23 Constituency and forward the name of the winner to the Commission as the  
24 House of Representatives candidate of the party in the election for the Federal  
25 Constituency, and

26 (vi) subject to subparagraph (iii), declare the State House of  
27 Assembly Aspirant with the highest number of votes in all Local Government  
28 Areas in the House of Assembly Constituency as the winner of the primaries in  
29 the House of Assembly Constituency and forward the name of the winner to the  
30 Commission as the State House of Assembly Candidate of the party in the



1 election for the State Assembly Constituency;

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

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

8 (ii) declare the chairmanship aspirant with the highest number of  
9 votes in all registration areas in the Area Council as the winner of the  
10 chairmanship primaries in the Area Council and forward the name of the  
11 winner of the chairmanship primaries to the Commission as the  
12 chairmanship candidate of the party in the election for the Area Council.

13 (7) A political party that adopts the system of indirect primaries for  
14 the nomination of its candidates for election shall conduct a delegates  
15 election in all registration areas in the constituency where the election is to  
16 be held and all registered members of the party in that registration area are  
17 eligible to vote for any contestant who presents himself to be a delegate of  
18 the party:

19 Provided that the delegates election shall be monitored by the  
20 Commission and the result of every delegates election shall be endorsed or  
21 certified by the Commission.

22 (8) A political party leader or official who is not elected in his or her  
23 registration area as a delegate of his or her party under subsection (7) shall  
24 not be a voting delegate of the party and shall not vote in his party's indirect  
25 primaries but may perform his functions in a neutral as may be prescribed in  
26 his party's constitution in relation to indirect primaries:

27 Provided that in performing his functions as a party leader or  
28 official in relation to indirect primaries, the party leader or official shall not  
29 conduct himself in any manner whatsoever to impact the election in favour  
30 of any aspirant in the indirect primaries.

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

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

8 (a) President and former Presidents;

9 (b) Vice President and former Vice Presidents;

10 (c) Governors and former Governors;

11 (d) Deputy Governors and former Deputy Governors;

12 (e) Senators and former Senators;

13 (f) Members of the House of Representatives and former Members of  
14 the House of Representatives;

15 (g) Members of State Houses of Assembly;

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

17 (i) Councilors of Wards, provided that -

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

20 (ii) the party shall have the power to determine in its constitution or  
21 nomination guidelines and manuals, the particular indirect primaries or  
22 election to particular elective offices that automatic or super delegates shall  
23 vote.

24 (11) A political party that adopts the system of indirect primaries for  
25 the choice of its candidate may outline further guidelines, rules and procedures  
26 to guarantee free, fair, and credible election of delegates to vote at a convention  
27 or congress of the party, but such further guidelines, rules and procedures shall  
28 not be inconsistent with the provisions of this Act.

29 (12) Where a primary election is conducted, and duly attended and  
30 certified by the Commission in compliance with this Act, and the result is

1 subsequently altered by a political party, the Commission shall have the  
2 power to overrule the alteration made by the political party and uphold such  
3 primaries.

4 (13) The Primaries of political parties shall follow the following  
5 sequence-

6 (a) National Assembly;

7 (b) State Houses of Assembly;

8 (c) Governorship; and

9 (d) Presidential.

10 (14) The dates for the primaries shall not be earlier than 90 days and  
11 not later than 60 days before the date of elections to the offices.

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

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

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

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

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

30 (ii) the presidential aspirant with the highest number of votes at the

1 end of voting shall be declared the winner of the Presidential primaries of the  
2 political party and the aspirant's name shall be forwarded to the Commission as  
3 the presidential candidate of the party;

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

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

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

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

17 (i) hold special congresses in the Senatorial District, Federal  
18 Constituency and the State Assembly Constituency respectively in designated  
19 centres and on a date or dates agreed by the party where delegates of the party  
20 shall vote for each of the Senatorial, House of Representatives and House of  
21 Assembly Aspirants of the party, and

22 (ii) the Senatorial, House of Representatives and House of Assembly  
23 Aspirant with the highest number of votes at the end of voting shall be declared  
24 the winner of the primaries of the party for Senatorial District, Federal  
25 Constituency and the State Assembly Constituency respectively and the  
26 aspirant's names shall be forwarded to the Commission as the Senatorial,  
27 House of Representatives and House of Assembly candidates of the party, as  
28 the case may be; and

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

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

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

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

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

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

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

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

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

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

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

Amendment of  
Section 91

11 31. Section 91 of the Principal Act is amended by substituting for  
12 subsections (1) - (7) and (9) - (10), new subsections "(1)" - "(7)" and "(9)" -  
13 "(10)" -

14 "(1) Election expenses shall not exceed the sum stipulated in  
15 subsection (2) - (7).

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

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

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

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

25 (6) In the case of a chairmanship election to an Area Council, the  
26 maximum amount of election expenses to be incurred by a candidate shall be  
27 N30,000,000.00.

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

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

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

7 32. Section 99 (1) of the Principal Act is amended by substituting  
8 for the figures, "90", in line 2, the figures, "150". Amendment of  
Section 99

9 33. Section 100 of the Principal Act is amended by substituting for  
10 subsection (6), a new subsection "(6)" - Amendment of  
Section 100

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

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

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

17 34. Section 112 of the Principal Act is amended by inserting after  
18 subsection (3), a new subsection "(4)" - Amendment of  
Section 112

19 "(4) If after the commencement of poll and before the  
20 announcement of the final result and declaration of a winner, a nominated  
21 candidate dies -

22 (a) the Commission shall, being satisfied of the fact of the death,  
23 suspend the election for a period not exceeding 21 days;

24 (b) the political party whose candidate died may, if it intends to  
25 continue to participate in the election, conduct a fresh primary within 14  
26 days of the death of its candidate and submit a new candidate to the  
27 Commission to replace the dead candidate; and

28 (c) subject to paragraphs (a) and (b), the Commission shall  
29 continue with the election, announce the final result and declare a winner."

**Substitution for Section 138** 1 **35. Substitute for section 138 of the Principal Act, a new section**  
2 **"138"-**  
**Grounds of petition** 3 **138 (1) An election may be questioned on grounds that -**  
4 **(a) a person whose election is questioned was, at the time of the**  
5 **election, not qualified to contest the election; or**  
6 **(b) the election was invalid by reason of corrupt practices or non-**  
7 **compliance with the provisions of this Act, published manuals, guidelines,**  
8 **regulations and or procedures issued by the Commission for the election.**  
9 **(2) An act or omission which may be contrary to an instruction or**  
10 **directive of the Commission or of an officer appointed for the purpose of the**  
11 **election but which is not contrary to the provisions of this Act and published**  
12 **manuals, guidelines, regulations or procedures issued by the Commission for**  
13 **the conduct of the election shall not of itself be a ground for questioning the**  
14 **election.**  
15 **(3) With respect to subsection (1) (a), a person is deemed to be**  
16 **qualified for an elective office and his election shall not be questioned on**  
17 **grounds of qualification if, with respect to the particular election in question,**  
18 **he meets the applicable requirements of sections 65, 106, 131 or 177 of the**  
19 **Constitution of the Federal Republic of Nigeria, 1999 and he is not, as may be**  
20 **applicable, in breach of sections 66, 107, 137 or 182 of the Constitution of the**  
21 **Federal Republic of Nigeria, 1999."**  
**Amendment of Section 139** 22 **36. Section 139 of the Principal Act is amended by substituting for**  
23 **subsection (1), a new subsection "(1)" -**  
24 **"(1) An Election is not to be invalidated by reason of non-compliance**  
25 **with the provisions of this Act and published manuals, guidelines, regulations,**  
26 **procedures or directives issued by the Commission for the conduct of the**  
27 **election, if it appears to the Election Tribunal or Court that the election was**  
28 **conducted substantially in accordance with the principles of this Act and that**  
29 **the non-compliance did not affect substantially the result of the election."**



1                   **37. Section 140 of the Principal Act is amended by inserting, after** Amendment of  
 2                   **subsection (4), a new subsection "(5)" -** Section 140

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

- 7                   **(a) postpone the election to rectify the omission; and**
- 8                   **(b) appoint another date to conduct the election, not later than 90**  
 9                   **days.**

10                   **38. Insert after section 142 of the Principal Act, a new section** Insertion of new  
 11                   **"142A" -** Section 142A

12                   **142A. It is not necessary for a petitioner who alleges non-** Evidence of non-  
 13                   **compliance with the provisions of this Act, the published manuals,** compliance  
 14                   **guidelines, regulations, procedures or directives issued by the Commission**  
 15                   **for the conduct of elections to call oral evidence if originals or certified true**  
 16                   **copies of electoral documents or materials used by the Commission to**  
 17                   **conduct the election in the polling unit where the non-compliance is alleged**  
 18                   **are listed in the petition and tendered at the trial of the petition by the**  
 19                   **petitioner in proof of the non-compliance complained of."**

20                   **39. Section 143 of the Principal Act is amended by inserting, after** Amendment of  
 21                   **subsection (2), a new subsection "(3)" -** Section 143

22                   **"(3) Where the election is nullified by the Court and notice of**  
 23                   **appeal against the decision is given within the stipulated period for appeal,**  
 24                   **the elected candidate shall, notwithstanding the contrary decision of the**  
 25                   **Court remain in office and enjoy all the benefits that accrued to the office**  
 26                   **pending the determination of the appeal and shall not be sanctioned for the**  
 27                   **benefits derived while in office."**

28                   **40. Section 151 of the Principal Act is amended by inserting, after** Amendment of  
 29                   **subsection (2), a new subsection "(3)" -** Section 151

30                   **"(3) Where there is a breach of an order of a court or tribunal**

1 directed at the Commission particularly, order to produce, inspect or take  
2 copies of electoral materials, such disobedience shall attract court sanctions,  
3 which shall include the committal by the Tribunal or Court of the  
4 Commission's official to whom the order is directed to summary conviction to  
5 imprisonment for a term of at least two years, without an option of fine."

Amendment of  
Section 152

6 41. Section 152 of the Principal Act is amended by -

7 (a) inserting new subsections "(2)" - "(5)" -

8 "(2). Subject to the Constitution of the Federal Republic of Nigeria,  
9 1999, the provisions of this Act guaranteeing the conduct of free, fair and  
10 credible elections by the Commission shall apply with equal force to elections  
11 conducted by State Independent Electoral Commissions in the Federation.

12 (3) All elections conducted by a State Independent Electoral  
13 Commission to a Local Government Council in the Federation shall be in  
14 compliance with the relevant provisions of this Act.

15 (4) Any election conducted by a State Independent Electoral  
16 Commission to a Local Government Council in the Federation in violation of  
17 subsection (3) is void.

18 (5). Any official of a State Independent Electoral Commission who  
19 acts in contravention of subsection (3) or any provision of this Act shall be  
20 subject to prosecution as if he were an official of the Commission."; and

21 (b) renumbering the section appropriately.

Amendment of  
Section 156

22 42. Section 156 of the Principal Act is amended by inserting, in  
23 alphabetical order, the following interpretations -

24 "candidate" means a person who has secured the nomination of a political party  
25 or independent candidate to contest an election for any elective office;

26 "electronic format" means an electronic version of the Register of Voters or  
27 National Electronic Register of Election Results, as the case may be, created,  
28 recorded, transmitted or stored in digital form or in other intangible form by  
29 electronic, magnetic or optical means or by any other means that has  
30 capabilities for creation, recording, transmission or storage similar to those

1 means and which may be converted to or reproduced in a paper document;  
2 "fusion" means a process by which a political party fuses with another  
3 political party by dropping its name and symbol and become subsumed in  
4 another political party, thereby cease to exist;  
5 "number of unaccredited voters" as used in section 49 (1) of this Act, means  
6 number of intending voters not accredited to vote in a polling unit under  
7 section 49 (1) of this Act;  
8 "Presiding Officer" means a person appointed by the Commission to be in  
9 charge of the conduct of election in a polling unit or polling station, and this  
10 shall include persons who may be under different titles but who are charged  
11 by the Commission with the same responsibilities at a polling unit or polling  
12 station as a Presiding Officer;  
13 "published manuals, guidelines, regulations, procedures or directives issued  
14 by the Commission for the conduct of the election" means that which is  
15 made public by the Commission at least seven days before the date of  
16 general elections; and  
17 "Returning Officer" means a person appointed by the Commission to be in  
18 charge of the conduct of election in a constituency, and this includes persons  
19 who may be under different titles but who are charged by the Commission  
20 with the same responsibilities in a constituency as a Returning Officer."

21 43. This Bill may be cited as the Electoral (Amendment) Bill, Citation  
22 2018.

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Electoral Act No. 6, 2010 to restrict the qualification for elective office to relevant provisions of the Constitution of the Federal Republic of Nigeria 1999, recognise the use of Smart Card Readers and other technological devices in elections, provide a sequence of elections and political party primaries, 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.