

ELECTORAL ACT (AMENDMENT) BILL, 2018

ARRANGEMENT OF CLAUSES

Clauses:

1. Amendment of Electoral Act No.6, 2010
2. Amendment of section 8
3. Amendment of section 9
4. Amendment of section 15
5. Amendment of section 18
6. Amendment of section 19
7. Substitution for section 25
8. Amendment of section 27
9. Amendment of section 30
10. Amendment of section 31
11. Amendment of section 33
12. Amendment of section 34
13. Amendment of section 35
14. Amendment of section 36
15. Amendment of section 38
16. Amendment of section 44
17. Amendment of section 46
18. Amendment of section 48
19. Amendment of section 49
20. Insertion of new section 51A
21. Amendment of section 52
22. Amendment of section 53
23. Amendment of section 63
24. Insertion of new section 65A
25. Substitution for section 67
26. Substitution for section 76
27. Amendment of section 78

28. Substitution for section 82
29. Amendment of section 85.
30. Substitution for section 87
31. Amendment of section 91
32. Amendment of section 99
33. Amendment of section 100
34. Amendment of section 112
35. Substitution for section 138
36. Amendment of section 139
37. Amendment of section 140
38. Insertion of new section 142A
39. Amendment of section 143
40. Amendment of section 151
41. Amendment of section 156
42. Citation

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

Sponsored by Senator Suleiman Nazif

[] 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 (I), 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)"-

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

5 7. Substitute for section 25 of the Principal Act, a new section Amendment of
6 "25"- Section 25

7 25. (1) Elections into the offices of the President and Vice- Days of election
8 President, the Governor and Deputy Governor of a State, and to the
9 membership of the Senate, the House of Representatives and State Houses
10 of Assembly of the States of the Federation shall be held in the following
11 order-

12 (a) Houses of Assembly of the States and Governorship Elections;

13 (b) National Assembly Elections; and

14 (c) Presidential Election.

15 (2) The dates for these elections shall be as appointed by the
16 Commission.

17 (3) Election into the offices of the Chairman and Vice-Chairman
18 and membership of the Area Councils of the FCT shall be held on the dates to
19 be appointed by the Commission."

20 8. Section 27 of the Principal Act is amended -

21 (a) in subsection (1), by substituting for paragraph (b), a new Amendment of
22 paragraph "(b)"- Section 27

23 "(b) the Registration Area or Ward Collation Officer at the
24 Registration Area or Ward Collation Centre"; and

25 (b) in subsection (2), by substituting for paragraph (a), a new
26 paragraph "(a)"-

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

29 9. Section 30 (1) of the Principal Act is amended by substituting Amendment of
30 for the figures, "90", in line 1, the figures, "150". Section 30

Amendment of
Section 31

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

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

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

Amendment of
Section 33

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

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

Amendment of
Section 34

17 **12.** Section 34 of the Principal Act is amended -

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

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

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

25 (4) The Commission shall produce ballot papers for the relevant
26 elections in accordance with the list published after corrections in conformity
27 with subsection (2)"; and

28 (b) renumbering the section appropriately.

Amendment of
Section 35

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

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

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

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

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

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

14 15. Section 38 of the Principal Act is amended by - Amendment of
15 (a) inserting new subsections "(2)" - "(5)" - Section 38

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

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

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

29 (5) A Presiding Officer who contravenes subsection (3), (4) or (5),
30 commits an offence and is liable on conviction to at least a term of one year

1 imprisonment or a fine of N1,000,000, or both."; and

2 (b) renumbering the section appropriately.

Amendment of
Section 44

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

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

11 (4) Unless the political party disapproves of its identity under
12 subsection (3), it shall not complain of unlawful exclusion from the election
13 under this Act in relation to its identity appearing on electoral materials used for
14 the election.

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

Amendment of
Section 46

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

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

Amendment of
Section 48

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

28 "(1) At the hour fixed for opening of the poll before the
29 commencement of accreditation and voting, the Presiding Officer shall open
30 the empty ballot box and show same to such persons as may lawfully be present

1 at the Polling Unit and shall then close and seal the box in such manner as
2 to prevent it from being opened by unauthorized persons."

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

Amendment of
Section 49

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

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

12 20. Insert after section 51 of the Principal Act, a new section
13 "51A"-

Insertion of new
Section 51A

14 51A. (1) Where the nomination of an elected candidate is nullified
15 by the Court and notice of appeal against the decision is given within the
16 stipulated period for appeal, the elected candidate shall notwithstanding the
17 contrary decision of the court remain in office pending the determination of
18 the appeal and if the court determines that a candidate was not validly
19 nominated, the elected candidate shall, notwithstanding the contrary
20 decision of the Court, remain in office within the period for which an appeal
21 may be filed and shall not be sanctioned for the benefits he derived while in
22 office pursuant to this section.

Nullification of
nomination by
the Court

23 (2) The Presiding or Collation Officer shall, after counting or
24 collating the votes at the polling unit or collation centre, enter the votes
25 scored by each candidate in the form prescribed by the Commission and
26 transmit same in a manner prescribed by the Commission."

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

Amendment of
Section 52

29 "(2) The Commission shall adopt electronic voting in all elections
30 or any other method of voting as may be determined by the Commission

1 from time to time."

Amendment of
Section 53

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

Amendment of
Section 63

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

Insertion of new
Section 65A

6 24. Insert after section 65 of the Principal Act, a new section "65A"-
7 "65A. (1) The Commission shall compile, maintain and update, on a
8 continuous basis, a register of election results to be known as the National
9 Electronic Register of Election Results which shall be a distinct database or
10 repository of polling unit by polling results, including collated election results,
11 of each election conducted by the Commission in the Federation, and the
12 Register of Election Results shall be kept in electronic format by the
13 Commission at its National Headquarters.

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

Substitution
for Section 67
Disputed election

20 25. Substitute for section 67 of the Principal Act, a new section "67"-
21 67. (1) A Collation Officer or Returning Officer at an election shall
22 collate and announce the result of an election, subject to his verification and
23 confirmation that the-

24 (a) number of accredited voters stated on the collated result are
25 correct and consistent with the number of accredited voters recorded and
26 transmitted directly from polling units under section 49 (2) of this Act; and

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

30 (2) Subject to subsection (1), a Collation Officer or Returning Officer

1 shall use the number of accredited voters recorded and transmitted directly
2 from polling units under section 49 (2) of this Act and the votes or results
3 recorded and transmitted directly from polling units under section 63
4 (4) of this Act to collate and announce the result of an election if a collated
5 result at his or a lower level of collation is not correct.

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

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

12 (b) the Smart Card Reader or other technological device used for
13 accreditation of voters in each polling unit where the election is disputed for
14 the purpose of obtaining accreditation data directly from the Smart Card
15 Reader or technological device;

16 (c) data of accreditation recorded and transmitted directly from
17 each polling unit where the election is disputed, as prescribed under section
18 49(2) of this Act; and

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

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

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

30 (6) A Returning Officer or Collation Officer, as the case may be,

1 commits an offence if he intentionally collated or announce false result is liable
 2 on conviction, to a term of at least five years imprisonment, without an option
 3 of a fine."

Substitution for
 Section 76
 Forms for use
 at elections

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

5 76. (1) An election conducted at a polling unit without the prior
 6 recording in the forms prescribed by the Commission of the quantity, serial
 7 numbers and other particulars of results sheets, ballot papers and other
 8 sensitive electoral materials made available by the Commission for the conduct
 9 of the election shall be invalid.

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

Amendment of
 Section 78

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

16 "(4) A political association that meets the conditions stipulated in the
 17 Constitution and this Act shall be registered by the Commission as a political
 18 party within 60 days from the date of receipt of the application, and if after the
 19 60 days such association is not registered by the Commission, unless the
 20 Commission informs the association to the contrary, it shall be deemed to have
 21 been registered.

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

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

26 (b) each executive or principal officer of the association to
 27 imprisonment for a term of at least six months or a fine of N1,000,000 or both."

Amendment of
 Section 82

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

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

30 "(1) The Commission shall keep a register of symbols and name for

1 use at elections.

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

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

5 (b) the symbol and name is distinctive from any other symbol
6 already registered.

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

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

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

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

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

Amendment of
Section 85

17 30. Substitute for section 87 of the Principal Act, a new section
18 "87"-

Substitution for
Section 87

19 87. (1) A political party seeking to nominate candidates for
20 elections under this Act shall hold direct or indirect primaries for aspirants to
21 all elective positions, which shall be monitored by the Commission and the
22 result of every primary to elect candidates for an election to be conducted by
23 the Commission shall be endorsed or certified by the Commission.

Nomination of
candidate by
parties

24 (2) A political party shall not impose nomination qualification or
25 disqualification criteria, measures, or conditions on any aspirant or
26 candidate for any election in its constitution, guidelines, or rules for
27 nomination of candidates for elections, except as prescribed under sections
28 65, 66, 106, 107, 131, 137, 177 and 187 of the Constitution of the Federal
29 Republic of Nigeria.

30 (3) For the purpose of nomination of candidates for election, the

1 total fees, charges, dues and any payment howsoever named imposed by a
2 political party on an aspirant or candidate shall not exceed:

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

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

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

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

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

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

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

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

3 (iv) forward the name of the winner of the presidential primaries to
4 the Commission as the presidential candidate of the party in the presidential
5 election;

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

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

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

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

19 (iv) forward the name of the winner of the primaries to the
20 Commission as the governorship candidate of the party in the election for
21 the State;

22 (c) in the case of nominations to the position of Senatorial
23 candidate, House of Representatives candidate and State House of
24 Assembly candidate for a Senatorial District, a Federal Constituency and a
25 State House Constituency respectively, a political party shall, where it
26 intends to sponsor candidates in elections for these elective positions-

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

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

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

9 (iv) subject to subparagraph (i), declare the Senatorial aspirant with
10 the highest number of valid votes cast in all Local Government Areas in the
11 particular Senatorial District as the winner of the primaries in the Senatorial
12 District and forward the name of the winner to the Commission as the
13 Senatorial candidate of the party in the election for the Senatorial District,

14 (v) subject to subparagraph (ii), declare the House of Representatives
15 aspirant with the highest number of votes in all Local Government Areas in the
16 Federal Constituency as the winner of the primaries in the Federal
17 Constituency and forward the name of the winner to the Commission as the
18 House of Representatives candidate of the party in the election for the Federal
19 Constituency, and

20 (vi) subject to subparagraph (iii), declare the State House of
21 Assembly Aspirant with the highest number of votes in all Local Government
22 Areas in the House of Assembly Constituency as the winner of the primaries in
23 the House of Assembly Constituency and forward the name of the winner to the
24 Commission as the State House of Assembly Candidate of the party in the
25 election for the State Assembly Constituency;

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

29 (i) conduct direct primaries in the registration areas in the Area
30 Council, where all registered members of the party in the Area Council are

1 eligible to vote and may vote for any chairmanship aspirant of their choice;

2 (ii) declare the chairmanship aspirant with the highest number of
3 votes in all registration areas in the Area Council as the winner of the
4 chairmanship primaries in the Area Council and forward the name of the
5 winner of the chairmanship primaries to the Commission as the
6 chairmanship candidate of the party in the election for the Area Council.

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

13 Provided that the delegates election shall be monitored by the
14 Commission and the result of every delegates election shall be endorsed or
15 certified by the Commission.

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

21 Provided that in performing his functions as a party leader or
22 official in relation to indirect primaries, the party leader or official shall not
23 conduct himself in any manner whatsoever to impact the election in favour
24 of any aspirant in the indirect primaries.

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

28 (10) All National, State, Local Government Area or Area Council
29 and Ward executives of a party and elected officials of government
30 mentioned in this section who are members of the party are automatic or

- 1 super delegates who are eligible to vote in their party's indirect primaries-
- 2 (a) President and former Presidents;
- 3 (b) Vice President and former Vice Presidents;
- 4 (c) Governors and former Governors;
- 5 (d) Deputy Governors and former Deputy Governors;
- 6 (e) Senators and former Senators;
- 7 (f) Members of the House of Representatives and former Members of
- 8 the House of Representatives;
- 9 (g) Members of State Houses of Assembly;
- 10 (h) Chairmen of Local Government Areas or Area Councils; and
- 11 (i) Councilors of Wards;

12 provided that the party shall have the power to determine in its

13 constitution or nomination guidelines and manuals, the particular indirect

14 primaries or election to particular elective offices that automatic or super

15 delegates shall vote.

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

17 the choice of its candidate may outline further guidelines, rules and procedures

18 to guarantee free, fair, and credible election of delegates to vote at a convention

19 or congress of the party, but such further guidelines, rules and procedures shall

20 not be inconsistent with the provisions of this Act.

21 (12) Where a primary election is conducted, and duly attended and

22 certified by the Commission in compliance with this Act, and the result is

23 subsequently altered by a political party, the Commission shall have the power

24 to overrule the alteration made by the political party and uphold such primaries.

25 (13) The Primaries of political parties shall follow the following

26 sequence-

- 27 (a) National Assembly;
- 28 (b) State Houses of Assembly;
- 29 (c) Governorship; and
- 30 (d) Presidential.

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

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

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

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

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

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

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

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

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

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

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

8 (i) hold special congresses in the Senatorial District, Federal
9 Constituency and the State Assembly Constituency respectively in designated
10 centres and on a date or dates agreed by the party where delegates of the party
11 shall vote for each of the Senatorial, House of Representatives and House of
12 Assembly Aspirants of the party, and

13 (ii) the Senatorial, House of Representatives and House of Assembly
14 Aspirant with the highest number of votes at the end of voting shall be declared
15 the winner of the primaries of the party for Senatorial District, Federal
16 Constituency and the State Assembly Constituency respectively and the
17 aspirant's names shall be forwarded to the Commission as the Senatorial,
18 House of Representatives and House of Assembly candidates of the party, as
19 the case may be; and

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

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

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

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

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

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

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

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

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

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

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

Amendment of
Section 91

1 **31.** Section 91 of the Principal Act is amended by substituting for
2 subsections (1) - (7) and (9) - (10), new subsections "(1)" - "(7)" and "(9)" -
3 "(10)" -

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

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

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

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

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

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

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

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

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

Amendment of
Section 99

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

Amendment of
Section 100

29 **33.** Section 100 of the Principal Act is amended by substituting for
30 subsection (6), a new subsection "(6)" -

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

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

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

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

Amendment of
Section 112

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

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

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

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

20 35. Substitute for section 138 of the Principal Act, a new section
21 "138" -

Substitution for
Section 138

22 138 (1) An election may be questioned on grounds that -

Grounds of
petition

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

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

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

30 (d) that the petitioners or its candidates were validly nominated but

1 unlawfully excluded from the election.

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

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

Amendment of
Section 139

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

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

Amendment of
Section 140

23 37. Section 140 of the Principal Act is amended by inserting, after
24 subsection (4), a new subsection "(5)" -

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

29 (a) postpone the election to rectify the omission; and

30 (b) appoint another date to conduct the election, not later than 90 days.

- 1 38. Insert after section 142 of the Principal Act, a new section
2 "142A"- Insertion of new
Section 142A
- 3 142A. It is not necessary for a petitioner who alleges non- Evidence of non-
compliance
4 compliance with the provisions of this Act, the published manuals,
5 guidelines, regulations, procedures or directives issued by the Commission
6 for the conduct of elections to call oral evidence if originals or certified true
7 copies of electoral documents or materials used by the Commission to
8 conduct the election in the polling unit where the non-compliance is alleged
9 are listed in the petition and tendered at the trial of the petition by the
10 petitioner in proof of the non-compliance complained of."
- 11 39. Section 143 of the Principal Act is amended by inserting, after Amendment of
Section 143
12 subsection (2), a new subsection "(3)"-
- 13 "(3) Where the election is nullified by the Court and notice of
14 appeal against the decision is given within the stipulated period for appeal,
15 the elected candidate shall, notwithstanding the contrary decision of the
16 Court remain in office and enjoy all the benefits that accrued to the office
17 pending the determination of the appeal and shall not be sanctioned for the
18 benefits derived while in office."
- 19 40. Section 151 of the Principal Act is amended by inserting, after Amendment of
Section 151
20 subsection (2), a new subsection "(3)"-
- 21 "(3) Where there is a breach of an order of a court or tribunal
22 directed at the Commission particularly, order to produce, inspect or take
23 copies of electoral materials, such disobedience shall attract court sanctions,
24 which shall include the committal by the Tribunal or Court of the
25 Commission's official to whom the order is directed to summary conviction
26 to imprisonment for a term of at least two years, without an option of fine."
- 27 41. Section 156 of the Principal Act is amended by inserting, in Amendment of
Section 156
28 alphabetical order, the following interpretations-
- 29 "candidate" means a person who has secured the nomination of a political
30 party or independent candidate to contest an election for any elective office;

1 "electronic format" means an electronic version of the Register of Voters or
2 National Electronic Register of Election Results, as the case may be, created,
3 recorded, transmitted or stored in digital form or in other intangible form by
4 electronic, magnetic or optical means or by any other means that has
5 capabilities for creation, recording, transmission or storage similar to those
6 means and which may be converted to or reproduced in a paper document;

7 "fusion" means a process by which a political party fuses with another political
8 party by dropping its name and symbol and become subsumed in another
9 political party, thereby cease to exist;

10 "number of unaccredited voters" as used in section 49 (1) of this Act, means
11 number of intending voters not accredited to vote in a polling unit under section
12 49(1) of this Act;

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

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

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

Citation

26 42. This Bill may be cited as the Electoral Act (Amendment) Bill,
27 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.





