

## 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. Amendment of section 27
8. Amendment of section 30
9. Amendment of section 31
10. Amendment of section 33
11. Amendment of section 34
12. Amendment of section 35
13. Amendment of section 36
14. Amendment of section 38
15. Amendment of section 44
16. Amendment of section 46
17. Amendment of section 48
18. Amendment of section 49
19. Insertion of new section 51A
20. Amendment of section 52
21. Amendment of section 53
22. Amendment of section 63
23. Insertion of new section 65A
24. Substitution for section 67
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28. Amendment of section 85.
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  32. Amendment of section 100
  33. Amendment of section 112
  34. Substitution for section 138
  35. Amendment of section 139
  36. Amendment of section 140
  37. Insertion of new section 142A
  38. Amendment of section 143
  39. Amendment of section 151
  40. Amendment of section 156
  41. 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 (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)"-

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. Section 27 of the Principal Act is amended -

Amendment of  
Section 27

6           (a) in subsection (1), by substituting for paragraph (b), a new  
7           paragraph "(b)" -

8           "(b) the Registration Area or Ward Collation Officer at the  
9           Registration Area or Ward Collation Centre"; and

10          (b) in subsection (2), by substituting for paragraph (a), a new  
11          paragraph "(a)" -

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

14          8. Section 30 (1) of the Principal Act is amended by substituting  
15          for the figures, "90", in line 1, the figures, "150".

Amendment of  
Section 30

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

Amendment of  
Section 31

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

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

26          10. Section 33 of the Principal Act is amended by inserting after  
27          the word, "candidate", in line 3, a "proviso" -

Amendment of  
Section 33

28          "Provided that in the case of such withdrawal or death of a  
29          candidate, the political party affected shall, within 10 days of the occurrence  
30          of the event, hold a fresh primary election to produce and submit a fresh

- 1 candidate to the Commission for the election concerned."
- Amendment of  
Section 34
- 2 11. Section 34 of the Principal Act is amended -  
3 (a) by inserting new subsections "(2)" - "(4)" -  
4 "(2) Any candidate who observes his name or that of his party missing  
5 on the list published in accordance with subsection (1), shall notify the  
6 Commission in writing, signed by himself and supported with an affidavit not  
7 later than 21 days to the election.  
8 (3) Where the candidate fails to notify the Commission in accordance  
9 with subsection (2), the candidate shall be deemed to have waived his right.  
10 (4) The Commission shall produce ballot papers for the relevant  
11 elections in accordance with the list published after corrections in conformity  
12 with subsection (2)"; and  
13 (b) renumbering the section appropriately.
- Amendment of  
Section 35
- 14 12. Section 35 of the Principal Act is amended by substituting for the  
15 figures, "45", in line 4, the figures, "30".
- Amendment of  
Section 36
- 16 13. Section 36 of the Principal Act is amended by inserting, after  
17 subsection (2), a new subsection "(3)" -  
18 "(3) If after the commencement of poll and before the announcement  
19 of the final result and declaration of a winner, a nominated candidate dies -  
20 (a) the Commission shall, being satisfied of the fact of the death,  
21 suspend the election for a period not exceeding 21 days;  
22 (b) the political party whose candidate died may, if it intends to  
23 continue to participate in the election, conduct a fresh primary within 14 days  
24 of the death of its candidate and submit a new candidate to the Commission to  
25 replace the dead candidate; and  
26 (c) subject to paragraphs (a) and (b), the Commission shall continue  
27 with the election, announce the final result and declare a winner."
- Amendment of  
Section 38
- 28 14. Section 38 of the Principal Act is amended by -  
29 (a) inserting new subsections "(2)" - "(5)" -  
30 "(2) Where there is a valid nomination by at least one political party,

1 failure of a political party to validly nominate a candidate does not constitute  
2 ground for extension of time for nomination or postponement of election;

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

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

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

15 (b) renumbering the section appropriately.

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

Amendment of  
Section 44

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

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

28 (5) A political party that fails to comply with an invitation by the  
29 Commission under subsection (3) shall be deemed to have approved its  
30 identity on samples of electoral materials proposed to be used for an

1 election."

Amendment of  
Section 46

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

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

Amendment of  
Section 48

10 17. Section 48 of the Principal Act is amended by substituting for  
11 subsection (1), a new subsection "(1)" -

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

Amendment of  
Section 49

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

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

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

Insertion of new  
section 51A  
Nullification of  
nomination by  
the Court

26 19. Insert after section 51 of the Principal Act, a new section "51A" -

27 51A. (1) Where the nomination of an elected candidate is nullified by  
28 the Court and notice of appeal against the decision is given within the  
29 stipulated period for appeal, the elected candidate shall notwithstanding the  
30 contrary decision of the court remain in office pending the determination of the



1 appeal and if the court determines that a candidate was not validly  
2 nominated, the elected candidate shall, notwithstanding the contrary  
3 decision of the Court, remain in office within the period for which an appeal  
4 may be filed and shall not be sanctioned for the benefits he derived while in  
5 office pursuant to this section.

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

10 20. Section 52 of the Principal Act is amended by substituting for  
11 subsection (2), a new subsection "(2)" - Amendment of  
section 52

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

15 21. Section 53 (2) of the Principal Act is amended by substituting  
16 for the word, "registered", in line 2, the word, "accredited". Amendment of  
section 53

17 22. Section 63 (4) of the Principal Act is amended by deleting, after  
18 the word, "shall", the words, "count and". Amendment of  
section 63

19 23. Insert after section 65 of the Principal Act , a new section  
20 "65A"- Insertion of new  
section 65A

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

28 (2) Any person or political party may obtain from the Commission,  
29 on payment of such fees as may be determined by the Commission, a  
30 certified true copy of any election result kept in the National Electronic

1 Register of Election Results for a State, Local Government, Area Council,  
2 Ward or Polling Unit, as the case may be and the certified true copy may be in  
3 printed or electronic format."

Substitution for  
section 67

4 24. Substitute for section 67 of the Principal Act, a new section "67"-

Disputed election

5 67. (1) A Collation Officer or Returning Officer at an election shall  
6 collate and announce the result of an election, subject to his verification and  
7 confirmation that the-

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

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

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

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

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

26 (b) the Smart Card Reader or other technological device used for  
27 accreditation of voters in each polling unit where the election is disputed for the  
28 purpose of obtaining accreditation data directly from the Smart Card Reader or  
29 technological device;

30 (c) data of accreditation recorded and transmitted directly from each

1 polling unit where the election is disputed, as prescribed under section 49 (2)  
2 of this Act; and

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

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

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

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

18 25. Substitute for section 76 of the Principal Act, a new section  
19 "76" - Substitution for  
section 76

20 76. (1) An election conducted at a polling unit without the prior  
21 recording in the forms prescribed by the Commission of the quantity, serial  
22 numbers and other particulars of results sheets, ballot papers and other  
23 sensitive electoral materials made available by the Commission for the  
24 conduct of the election shall be invalid. Forms for use  
at elections

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

29 26. Section 78 of the Principal Act is amended by substituting for  
30 subsections (4) and (5), new subsections "(4)" and "(5)" - Amendment of  
Section 78

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

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

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

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

Amendment of  
Section 82

13           27. Section 82 of the Principal Act is amended by-

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

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

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

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

20           (b) the symbol and name is distinctive from any other symbol already  
21 registered.

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

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

25 or

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

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

Amendment of  
Section 85

30           28. Section 85 (1) of the Principal Act is amended by inserting before

1 the word, "electing", in line 3, the words, "merger and fusion and".

2 29. Substitute for section 87 of the Principal Act, a new section Substitution for  
3 "87"- section 87

4 87. (1) A political party seeking to nominate candidates for Nomination of  
5 elections under this Act shall hold direct or indirect primaries for aspirants to candidate by  
6 all elective positions, which shall be monitored by the Commission and the parties  
7 result of every primary to elect candidates for an election to be conducted by  
8 the Commission shall be endorsed or certified by the Commission.

9 (2) A political party shall not impose nomination qualification or  
10 disqualification criteria, measures, or conditions on any aspirant or  
11 candidate for any election in its constitution, guidelines, or rules for  
12 nomination of candidates for elections, except as prescribed under sections  
13 65, 66, 106, 107, 131, 137, 177 and 187 of the Constitution of the Federal  
14 Republic of Nigeria.

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

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

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

29 (5) Every political party shall publish the venues, dates, times,  
30 guidelines, procedures and other relevant information of its primaries,

1 conventions or any event conveyed for the purpose of nominating candidates  
2 for the party in at least two national newspapers and, at least, ten days before  
3 the date of the event to nominate candidates for the party.

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

8 (a) in the case of nominations to the position of presidential candidate  
9 in a presidential election, a political party shall, where it intends to sponsor a  
10 candidate-

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

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

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

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

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

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

29 (ii) declare the governorship aspirant with the highest number of valid  
30 votes cast in all Local Government Areas in the particular State as the winner of

1 the governorship primaries in the State,

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

5 (iv) forward the name of the winner of the primaries to the  
6 Commission as the governorship candidate of the party in the election for  
7 the State;

8 (c) in the case of nominations to the position of Senatorial  
9 candidate, House of Representatives candidate and State House of  
10 Assembly candidate for a Senatorial District, a Federal Constituency and a  
11 State House Constituency respectively, a political party shall, where it  
12 intends to sponsor candidates in elections for these elective positions-

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

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

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

26 (iv) subject to subparagraph (i), declare the Senatorial aspirant  
27 with the highest number of valid votes cast in all Local Government Areas in  
28 the particular Senatorial District as the winner of the primaries in the  
29 Senatorial District and forward the name of the winner to the Commission as

1 the Senatorial candidate of the party in the election for the Senatorial District,  
2 (v) subject to subparagraph (ii), declare the House of Representatives  
3 aspirant with the highest number of votes in all Local Government Areas in the  
4 Federal Constituency as the winner of the primaries in the Federal  
5 Constituency and forward the name of the winner to the Commission as the  
6 House of Representatives candidate of the party in the election for the Federal  
7 Constituency, and

8 (vi) subject to subparagraph (iii), declare the State House of  
9 Assembly Aspirant with the highest number of votes in all Local Government  
10 Areas in the House of Assembly Constituency as the winner of the primaries in  
11 the House of Assembly Constituency and forward the name of the winner to the  
12 Commission as the State House of Assembly Candidate of the party in the  
13 election for the State Assembly Constituency;

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

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

20 (ii) declare the chairmanship aspirant with the highest number of  
21 votes in all registration areas in the Area Council as the winner of the  
22 chairmanship primaries in the Area Council and forward the name of the  
23 winner of the chairmanship primaries to the Commission as the chairmanship  
24 candidate of the party in the election for the Area Council.

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

30 Provided that the delegates election shall be monitored by the



1 Commission and the result of every delegates election shall be endorsed or  
2 certified by the Commission.

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

8 Provided that in performing his functions as a party leader or  
9 official in relation to indirect primaries, the party leader or official shall not  
10 conduct himself in any manner whatsoever to impact the election in favour  
11 of any aspirant in the indirect primaries.

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

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

- 19 (a) President and former Presidents;  
20 (b) Vice President and former Vice Presidents;  
21 (c) Governors and former Governors;  
22 (d) Deputy Governors and former Deputy Governors;  
23 (e) Senators and former Senators;  
24 (f) Members of the House of Representatives and former Members  
25 of the House of Representatives;  
26 (g) Members of State Houses of Assembly;  
27 (h) Chairmen of Local Government Areas or Area Councils; and  
28 (i) Councilors of Wards;

29 provided that the party shall have the power to determine in its  
30 constitution or nomination guidelines and manuals, the particular indirect

1 primaries or election to particular elective offices that automatic or super  
2 delegates shall vote.

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

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

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

- 14 (a) National Assembly;
- 15 (b) State Houses of Assembly;
- 16 (c) Governorship; and
- 17 (d) Presidential.

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

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

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

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

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

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

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

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

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

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

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

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

30 (ii) the Senatorial, House of Representatives and House of

1 Assembly Aspirant with the highest number of votes at the end of voting shall  
2 be declared the winner of the primaries of the party for Senatorial District,  
3 Federal Constituency and the State Assembly Constituency respectively and  
4 the aspirant's names shall be forwarded to the Commission as the Senatorial,  
5 House of Representatives and House of Assembly candidates of the party, as  
6 the case may be; and

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

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

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

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

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

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

28 (21) A political appointee at any level of government shall not be an  
29 automatic or super delegate at the convention or congress of any political party  
30 for the purpose of nomination of candidates for any election under the indirect

1 primaries system, except where such a political appointee is also an officer  
2 of a political party or otherwise elected as a delegate under subsection (7).

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

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

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

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

17 **30.** Section 91 of the Principal Act is amended by substituting for  
18 subsections (1) - (7) and (9) - (10), new subsections "(1)" - "(7)" and "(9)" -  
19 "(10)" -

Amendment of  
Section 91

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

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

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

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

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

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

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

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

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

Amendment of  
Section 99

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

Amendment of  
Section 100

15 **32.** Section 100 of the Principal Act is amended by substituting for  
16 subsection (6), a new subsection "(6)" -

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

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

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

Amendment of  
Section 112

23 **33.** Section 112 of the Principal Act is amended by inserting after  
24 subsection (3), a new subsection "(4)" -

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

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

29 (b) the political party whose candidate died may, if it intends to  
30 continue to participate in the election, conduct a fresh primary within 14 days

1 of the death of its candidate and submit a new candidate to the Commission  
2 to replace the dead candidate; and

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

5 34. Substitute for section 138 of the Principal Act, a new section  
6 "138"-

Substitution for  
section 138

7 138(1) An election may be questioned on grounds that -

Ground of  
petition

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

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

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

15 (d) that the petitioners or its candidates were validly nominated but  
16 unlawfully excluded from the election.

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

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

30 35. Section 139 of the Principal Act is amended by substituting for

Amendment of  
Section 139

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

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

Amendment of  
Section 140

8 36. Section 140 of the Principal Act is amended by inserting, after  
9 subsection (4), a new subsection "(5)" -

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

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

Insertion of new  
section 142A

16 37. Insert after section 142 of the Principal Act, a new section "142A"-

Evidence of  
non-compliance

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

Amendment of  
Section 143

25 38. Section 143 of the Principal Act is amended by inserting, after  
26 subsection (2), a new subsection "(3)" -

27 "(3) Where the election is nullified by the Court and notice of appeal  
28 against the decision is given within the stipulated period for appeal, the elected  
29 candidate shall, notwithstanding the contrary decision of the Court remain in  
30 office and enjoy all the benefits that accrued to the office pending the



1 determination of the appeal and shall not be sanctioned for the benefits  
2 derived while in office."

3 39. Section 151 of the Principal Act is amended by inserting, after Amendment of  
4 subsection (2), a new subsection "(3)"- Section 151

5 "(3) Where there is a breach of an order of a court or tribunal  
6 directed at the Commission particularly, order to produce, inspect or take  
7 copies of electoral materials, such disobedience shall attract court sanctions,  
8 which shall include the committal by the Tribunal or Court of the  
9 Commission's official to whom the order is directed to summary conviction  
10 to imprisonment for a term of at least two years, without an option of fine."

11 40. Section 156 of the Principal Act is amended by inserting, in Amendment of  
12 alphabetical order, the following interpretations- Section 156

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

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

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

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

27 "Presiding Officer" means a person appointed by the Commission to be in  
28 charge of the conduct of election in a polling unit or polling station, and this  
29 shall include persons who may be under different titles but who are charged  
30 by the Commission with the same responsibilities at a polling unit or polling

1 station as a Presiding Officer;  
2 "published manuals, guidelines, regulations, procedures or directives issued  
3 by the Commission for the conduct of the election" means that which is made  
4 public by the Commission at least seven days before the date of general  
5 elections; and  
6 "Returning Officer" means a person appointed by the Commission to be in  
7 charge of the conduct of election in a constituency, and this includes persons  
8 who may be under different titles but who are charged by the Commission with  
9 the same responsibilities in a constituency as a Returning Officer."

Citation

10 **41.** This Bill may be cited as the Electoral Act (Amendment) Bill,  
11 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, further regulate 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.