

# A BILL

## FOR

AN ACT TO ALTER THE PROVISIONS OF THE CONSTITUTION OF THE FEDERAL REPUBLIC OF NIGERIA, 1999 TO PROVIDE FOR THE ESTABLISHMENT OF SEPARATE TRIBUNALS TO HEAR AND DETERMINE PRE-ELECTION MATTERS AND ELECTION PETITIONS RESPECTIVELY, IN THE PRESIDENTIAL, NATIONAL AND STATE HOUSES OF ASSEMBLY, AND GOVERNORSHIP ELECTIONS AND FOR RELATED MATTERS

*Sponsored by Senator Ovie Omo - Agege*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

- 1           **1.** The Constitution of the Federal Republic of Nigeria, 1999 (in  
2 this Act referred to as "the Principal Act") is altered as set out in this Act. Constitution  
Alteration
- 3           **2.** Section 285 of the Principal Act is further altered by substituting Alteration of  
Section 285  
4 for the existing section 285, a new section "285":  
5           "285. Establishment of Pre-Election Tribunals and time for  
6 determination of pre-election matters  
7           (1) There shall be established in the Federal Capital Territory, a  
8 pre-election matters tribunal to be known as the Presidential Pre-Election  
9 Matters Tribunal which shall, to the exclusion of any court or tribunal, have  
10 original jurisdiction to hear and determine matters as to whether any person  
11 was validly nominated by a political party as a candidate for the office of  
12 President of the Federation in accordance with the provisions of an Act of  
13 the National Assembly regulating the conduct of primaries of political  
14 parties and the provisions of regulations issued by the Independent National  
15 Electoral Commission in respect of the nomination of candidates for an  
16 election.  
17           (2) There shall be established in each State of the Federation a pre-

1 election matters tribunal to be known as the National and State Houses of  
2 Assembly Pre- Election Matters Tribunal which shall, to the exclusion of any  
3 court or tribunal, have original jurisdiction to hear and determine matters as to  
4 whether any person was validly nominated by a political party as a candidate  
5 for the National Assembly or a State House of Assembly in accordance with the  
6 provisions of an Act of the National Assembly regulating the conduct of  
7 primaries of political parties and the provisions of regulations issued by the  
8 Independent National Electoral Commission in respect of the nomination of  
9 candidates for an election.

10 (3) There shall be established in each State of the Federation, a pre-  
11 election matters tribunal to be known as the Governorship Pre-Election  
12 Matters Tribunal which shall, to the exclusion of any court or tribunal, have  
13 original jurisdiction to hear and determine matters as to whether any person  
14 was validly nominated by a political party as a candidate for the office of  
15 Governor or Deputy Governor of a State in accordance with the provisions of  
16 an Act of the National Assembly regulating the conduct of primaries of  
17 political parties and the provisions of regulations issued by the Independent  
18 National Electoral Commission in respect of the nomination of candidates for  
19 an election.

20 (4) The composition of the Presidential Pre-Election Matters  
21 Tribunal, National and State Houses of Assembly Pre- Election Matters  
22 Tribunal, and the Governorship Pre-Election Matters Tribunal, respectively,  
23 shall be as set out in the Sixth Schedule to this Constitution.

24 (5) The quorum of a pre- election tribunal established under this  
25 section shall be the Chairman and one other member.

26 (6) Notwithstanding anything to the contrary in this Constitution,  
27 every pre-election matter shall be filed not later than 7 days from the date of the  
28 publication of candidates of political parties by the Independent National  
29 Electoral Commission (INEC).

30 (7) A pre-election tribunal in every pre-election matter shall deliver its

1 judgment in writing within 45 days from the date of filing of the suit.

2 (8) An appeal from a decision of a pre-election tribunal shall be  
3 filed in the Court of Appeal within 7 days from the date of delivery of the  
4 judgment appealed against.

5 (9) An appeal from a decision of a pre-election tribunal shall be  
6 heard and disposed of within 45 days from the date of filing of the appeal.

7 (10) The court of appeal, in all final appeals from a pre-election  
8 tribunal may adopt the practice of first giving its decision and reserving the  
9 reasons therefore to a later date.

10 (11) Where a preliminary objection or any other interlocutory issue  
11 touching on the jurisdiction of the tribunal or court in any pre-election  
12 matter or on the competence of the matter itself is raised by a party, the  
13 tribunal or court shall suspend ruling and deliver it at the stage of final  
14 judgment;

15 (12) For the purpose of this section, "pre-election matter" means  
16 any suit by:

17 (a) an aspirant who complains that any of the provisions of the  
18 Electoral Act or any Act of the National Assembly regulating the conduct of  
19 primaries of political parties and the provisions of the guidelines of a  
20 political party for conduct of party primaries has not been complied with by  
21 a political party in respect of the selection or nomination of candidates for an  
22 election;

23 (b) an aspirant challenging the actions, decisions or activities of a  
24 political party in respect of his participation in the primaries or who  
25 complains that the provisions of the Electoral Act or Constitution of a  
26 political party regulating the conduct of primaries not been complied with  
27 by the political party in respect of the selection or nomination of candidates  
28 and participation in an election; and

29 (c) a political party challenging the actions, decisions or activities  
30 of the Independent National Electoral Commission disqualifying its

1 candidate from participating in an election or a complaint that the provisions of  
2 the Electoral Act or any other applicable law has not been complied with by the  
3 Independent National Electoral Commission in respect of the nomination of  
4 candidates of political parties for an election, timetable for an election,  
5 registration of voters and other activities of the Commission in respect of  
6 preparation for an election.

7 (13) "Pre-election matter" does not include a dispute by a member of a  
8 political party challenging the actions or decisions of a political party in respect  
9 of the election of a principal officer or member of its executive committee or  
10 other governing body following from a congress, conference, convention or  
11 other meeting convened by that political party for the purpose of electing such  
12 principal officers or members."

Insertion of a  
new Section  
285A

13 **3.** Section 285 of the Principal Act is further altered by inserting after  
14 section 285, a new section 285A:

15 "285A. Establishment of Election Tribunals and time for  
16 determination of election petitions:

17 (1) There shall be established for each State of the Federation and the  
18 Federal Capital Territory, one or more election tribunals to be known as the  
19 National and State Houses of Assembly Election Tribunals which shall, to the  
20 exclusion of any Court or Tribunal, have original jurisdiction to hear and  
21 determine petitions as to whether:

22 (a) any person has been validly elected as a member of the National  
23 Assembly; or

24 (b) any person has been validly elected as member of the House of  
25 Assembly of a State.

26 (2) There shall be established in each State of the Federation an  
27 election tribunal to be known as the Governorship Election Tribunal which  
28 shall, to the exclusion of any court or tribunal, have original jurisdiction to hear  
29 and determine petitions as to whether any person has been validly elected to the  
30 office of Governor or Deputy Governor of a State.

1 (3) The composition of the National and State Houses of Assembly  
2 Election Tribunal and the Governorship Election Tribunal, respectively,  
3 shall be as set out in the Sixth Schedule to this Constitution.

4 (4) The quorum of an election tribunal established under this  
5 section shall be the Chairman and one other member.

6 (5) An election petition shall be filed within 21 days after the date  
7 of the declaration of result of the elections;

8 (6) An election tribunal shall deliver its judgment in writing within  
9 180 days from the date of filing of the petition;

10 (7) An appeal from a decision of an election tribunal or Court of  
11 Appeal in an election matter shall be heard and disposed of within 60 days  
12 from the date of the delivery of judgment of the tribunal or Court of Appeal;

13 (8) The court, in all final appeals from an election tribunal or court  
14 may adopt the practice of first giving its decision and reserving the reasons  
15 therefore to a later date.

16 (9) An election tribunal or court shall not declare any person a  
17 winner at an election in which such a person has not fully participated in all  
18 stages of the election:

19 PROVIDED that in cases where the Court of Appeal, in a final  
20 appeal from a pre-election tribunal on a pre-election matter, has made a  
21 determination that a person was validly nominated by a political party as a  
22 candidate for elections to a legislative house or for the office of President or  
23 Governor, such person shall be deemed to have participated in all stages of  
24 the election."

25 4. The Sixth Schedule of the Principal Act is further altered by:

Alteration of  
the Sixth Schedule

26 (a) Inserting a new "Item C- National and State Houses of  
27 Assembly Pre- Election Matters Tribunal" and a new paragraph (3)"

28 "*C- National and State Houses of Assembly Pre- Election Matters*  
29 *Tribunal*

30 3.-(1) A National and State Houses of Assembly Pre-Election

1 Matters Tribunal shall consist of a Chairman and two other members.

2 (2) The Chairman who shall be either a Judge of the Federal High  
3 Court or High court of a state or High Court of the Federal capital territory and  
4 two other members shall be appointed from among Judges of the Federal High  
5 Court or High court of a state or High Court of the Federal capital territory,  
6 Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or  
7 other members of the judiciary not below the rank of a Chief Magistrate.

8 (3) The Chairman and members shall be appointed by a committee  
9 comprised of the Chief Justice of Nigeria, President of the Court of Appeal and  
10 Chief Judge of the Federal High Court in Consultation with the Chief Judge of  
11 the State, the Grand kadi of Sharia Court of Appeal of the State or the President  
12 of the Customary Court of Appeal as the case may be."

13 (b) Inserting a new "Item D- Governorship Pre- Election Matters  
14 Tribunal" and a new paragraph (4)"

15 *"D- Governorship Pre- Election Matters Tribunal*

16 4.-(1)A Governorship Pre-Election Matters Tribunal shall consist of a  
17 Chairman and two other members.

18 (2) The Chairman shall be either a Judge of the Federal High Court,  
19 High Court of the state or High Court of the Federal Capital Territory and two  
20 other members shall be appointed from among Judges of the Federal High  
21 Court, High Court of the state or High Court of the Federal Capital Territory,  
22 Kadis of a Sharia Court of Appeal, Judges of a Customary Court of Appeal or  
23 other members of the judiciary not below the rank of a Chief Magistrate.

24 (3) The Chairman and members shall be appointed by a committee  
25 comprised of the Chief Justice of Nigeria, President of the Court of Appeal and  
26 Chief Judge of the Federal High Court in Consultation with the Chief Judge of  
27 the State, the Grand Kadi of Sharia Court of Appeal of the State or the President  
28 of the Customary Court of Appeal as the case may be."

29 (c) Inserting a new "Item E- Presidential Pre-Election Matters  
30 Tribunal" and a new paragraph (5)"

1 *"E- Presidential Pre- Election Matters Tribunal*

2 5.-(I) The Presidential Pre-Election Matters Tribunal shall consist  
3 of a Chairman and two other members.

4 (2) The Chairman shall be a Judge of the Federal High Court and  
5 two other members shall be appointed from among Judges of the Federal  
6 High Court or Judges of a High Court of the Federal Capital Territory.

7 (3) The Chairman and members shall be appointed by a committee  
8 comprised of the Chief Justice of Nigeria and President of the Court of  
9 Appeal in Consultation with the Chief Judge of the Federal High Court and  
10 the Chief Judge of the High Court of the Federal Capital Territory."

11 5. This Bill may be cited as the Constitution of the Federal Citation  
12 Republic of Nigeria, 1999 (Alteration) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to alter the provisions of the Constitution of the Federal Republic of Nigeria, 1999 to provide for the establishment of separate Tribunals to hear and determine Pre-election matters and Election petitions respectively, in the Presidential, National and State Houses of Assembly, and Governorship elections.