

ELECTORAL ACT (AMENDMENT) BILL, 2018

ARRANGEMENT OF CLAUSES

Clauses:

1. Amendment of Electoral Act No.6, 2010
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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
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A BILL

FOR

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

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 Amendment of
2 Principal Act") is amended as set out in this Act. Act No. 6, 2010

3 **2.** Section 8 of the Principal Act is amended by inserting after Amendment of
4 subsection (4), a new subsection "(5)"- 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
12 (a) inserting after subsection (1), a new subsection "(1A)" - Section 9

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

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

Amendment of
Section 33

11 N1,000,000."

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

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

Amendment of
Section 34

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

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

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

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

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

Amendment of
Section 35

29 (b) renumbering the section appropriately.

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

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

	1	commits an offence and is liable on conviction to at least a term of one year
	2	imprisonment or a fine of N1,000,000, or both."; and
Amendment of Section 44	3	(b) renumbering the section appropriately.
	4	16. Section 44 of the Principal Act is amended by inserting after
	5	subsection (2), new subsections "(3)" - "(5)" -
	6	"(3) The Commission shall, not later than 20 days to an election,
	7	invite in writing, a political party that nominated a candidate in the election to
	8	inspect its identity appearing on samples of relevant electoral materials
	9	proposed for the election, and the political party shall state in writing within
	10	two days of being so invited by the Commission that it approves or disapproves
	11	of its identity as it appears on the samples.
	12	(4) Unless the political party disapproves of its identity under
	13	subsection (3), it shall not complain of unlawful exclusion from the election
	14	under this Act in relation to its identity appearing on electoral materials used for
	15	the election.
	16	(5) A political party that fails to comply with an invitation by the
	17	Commission under subsection (3) shall be deemed to have approved its identity
Amendment of Section 46	18	on samples of electoral materials proposed to be used for an election."
	19	17. Section 46 of the Principal Act is amended by inserting after
	20	subsection (1), a new subsection "(2)" -
	21	"(2) Documentary evidence shall be put in and may be read or taken as
	22	read by consent, such documentary evidence shall be deemed demonstrated in
	23	open court and the parties in the petition shall be entitled to address and urge
	24	argument on the content of the document, and the tribunal or court shall
	25	scrutinize or investigate the content of the documents as part of the process of
Amendment of Section 48	26	ascribing probative value to the documents or otherwise."
	27	18. Section 48 of the Principal Act is amended by substituting for
	28	subsection (1), a new subsection "(1)" -
	29	"(1) At the hour fixed for opening of the poll before the
	30	commencement of accreditation and voting, the Presiding Officer shall open

1 the empty ballot box and show same to such persons as may lawfully be
 2 present at the Polling Unit and shall then close and seal the box in such
 3 manner as to prevent it from being opened by unauthorized persons."

Amendment of
 Section 49

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

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

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

Insertion of new
 Section 51A

13 **20.** Insert after section 51 of the Principal Act, a new section
 14 "51A"-

Nullification of
 nomination by
 the Court

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

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

Amendment of
 Section 52

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

30 "(2) The Commission shall adopt electronic voting in all elections

	1	or any other method of voting as may be determined by the Commission from
Amendment of Section 53	2	time to time."
	3	22. Section 53 (2) of the Principal Act is amended by substituting for
Amendment of Section 63	4	the word, "registered", in line 2, the word, "accredited".
	5	23. Section 63 (4) of the Principal Act is amended by deleting, after
Insertion of new Section 65A	6	the word, "shall", the words, "count and".
	7	24. Insert after section 65 of the Principal Act, a new section "65A"-
	8	"65A. (1) The Commission shall compile, maintain and update, on a
	9	continuous basis, a register of election results to be known as the National
	10	Electronic Register of Election Results which shall be a distinct database or
	11	repository of polling unit by polling results, including collated election results,
	12	of each election conducted by the Commission in the Federation, and the
	13	Register of Election Results shall be kept in electronic format by the
	14	Commission at its National Headquarters.
	15	(2) Any person or political party may obtain from the Commission, on
	16	payment of such fees as may be determined by the Commission, a certified true
	17	copy of any election result kept in the National Electronic Register of Election
	18	Results for a State, Local Government, Area Council, Ward or Polling Unit, as
	19	the case may be and the certified true copy may be in printed or electronic
Substitution for Section 67	20	format."
Disputed election	21	25. Substitute for section 67 of the Principal Act, a new section "67"-
	22	67. (1) A Collation Officer or Returning Officer at an election shall
	23	collate and announce the result of an election, subject to his verification and
	24	confirmation that the-
	25	(a) number of accredited voters stated on the collated result are
	26	correct and consistent with the number of accredited voters recorded and
	27	transmitted directly from polling units under section 49 (2) of this Act; and
	28	(b) the votes stated on the collated result are correct and consistent
	29	with the votes or results recorded and transmitted directly from polling units
	30	under section 63 (4) of this Act.

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

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

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

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

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

17 (c) data of accreditation recorded and transmitted directly from
18 each polling unit where the election is disputed, as prescribed under section
19 49 (2) of this Act; and

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

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

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

	1	(6) A Returning Officer or Collation Officer, as the case may be,
	2	commits an offence if he intentionally collated or announce false result is liable
	3	on conviction, to a term of at least five years imprisonment, without an option
Substitution for	4	of a fine."
Section 76		
Forms for use	5	26. Substitute for section 76 of the Principal Act, a new section "76" -
at elections	6	76. (1) An election conducted at a polling unit without the prior
	7	recording in the forms prescribed by the Commission of the quantity, serial
	8	numbers and other particulars of results sheets, ballot papers and other
	9	sensitive electoral materials made available by the Commission for the conduct
	10	of the election shall be invalid.
	11	(2) A Presiding Officer who intentionally announces or signs any
	12	election result in violation of subsection (1) of this section, commits an offence
	13	and is liable on conviction to imprisonment for a term of at least one year
Amendment of	14	without an option of fine."
Section 78		
	15	27. Section 78 of the Principal Act is amended by substituting for
	16	subsections (4) and (5), new subsections "(4)" and "(5)" -
	17	"(4) A political association that meets the conditions stipulated in the
	18	Constitution and this Act shall be registered by the Commission as a political
	19	party within 60 days from the date of receipt of the application, and if after the
	20	60 days such association is not registered by the Commission, unless the
	21	Commission informs the association to the contrary, it shall be deemed to have
	22	been registered.
	23	(5) An association, its executive member or principal officers who
	24	gives false or misleading information, commit an offence and is liable on
	25	conviction, in the case of-
	26	(a) the association to a fine of N5,000,000; and
	27	(b) each executive or principal officer of the association to
Amendment of	28	imprisonment for a term of at least six months or a fine of N1,000,000 or both."
Section 82		
	29	28. Section 82 of the Principal Act is amended by-
	30	(a) substituting for subsections (1) - (3), new subsections "(1)" - "(3)" -

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

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

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

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

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

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

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

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

Amendment of
Section 85

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

Substitution for
Section 87

19 **30.** Substitute for section 87 of the Principal Act, a new section
20 "87"-

Nomination of
candidate by
parties

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

26 (2) A political party shall not impose nomination qualification or
27 disqualification criteria, measures, or conditions on any aspirant or
28 candidate for any election in its constitution, guidelines, or rules for
29 nomination of candidates for elections, except as prescribed under sections
30 65, 66, 106, 107, 131, 137, 177 and 187 of the Constitution of the Federal

1 Republic of Nigeria.

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

5 (a) N150,000 for a Ward Councillorship aspirant in the FCT;

6 (b) N250,000 for an Area Council Chairmanship aspirant in the FCT;

7 (c) N500,000 for a House of Assembly aspirant;

8 (d) N1,000,000 for a House of Representatives aspirant;

9 (e) N2,000,000 for a Senatorial aspirant;

10 (f) N5,000,000 for a Governorship aspirant; and

11 (g) N10,000,000 for a Presidential aspirant.

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

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

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

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

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

30 (ii) declare the presidential aspirant with the highest number of valid

1 votes cast during the primaries across the 36 States of the Federation and the
2 FCT as the winner of the presidential primaries,

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

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

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

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

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

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

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

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

29 (i) conduct direct primaries in the registration areas in each Local
30 Government Area in the Senatorial District where all registered members of

1 the party in the Senatorial District are eligible to vote and may freely vote for
2 any Senatorial aspirant of their choice,

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

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

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

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

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

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

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

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

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

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

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

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

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

30 (10) All National, State, Local Government Area or Area Council

1 and Ward executives of a party and elected officials of government mentioned
2 in this section who are members of the party are automatic or super delegates
3 who are eligible to vote in their party's indirect primaries-

- 4 (a) President and former Presidents;
- 5 (b) Vice President and former Vice Presidents;
- 6 (c) Governors and former Governors;
- 7 (d) Deputy Governors and former Deputy Governors;
- 8 (e) Senators and former Senators;
- 9 (f) Members of the House of Representatives and former Members of
10 the House of Representatives;
- 11 (g) Members of State Houses of Assembly;
- 12 (h) Chairmen of Local Government Areas or Area Councils; and
- 13 (i) Councilors of Wards;

14 provided that the party shall have the power to determine in its
15 constitution or nomination guidelines and manuals, the particular indirect
16 primaries or election to particular elective offices that automatic or super
17 delegates shall vote.

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

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

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

- 29 (a) National Assembly;
- 30 (b) State Houses of Assembly;

1 (c) Governorship; and

2 (d) Presidential.

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

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

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

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

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

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

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

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

29 (i) hold a special congress at a designated centre in the State Capital
30 or any other place within the State and on a date agreed by the party where

1 delegates of the party shall vote for each of the governorship aspirant of the
2 party, and

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

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

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

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

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

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

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

29 (18) In the case of a councillorship candidate, the procedure for the
30 nomination of the candidate shall be by direct primaries in the ward and the

1 name of the candidate with the highest number of votes shall be submitted to
2 the Commission as the candidate of the party.

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

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

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

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

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

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

30 (25) Nothing in this section shall empower the Courts to stop the

Amendment of
Section 91

1 holding of primaries or general election or the processes under this Act pending
2 the determination of the suit.

3 **31.** Section 91 of the Principal Act is amended by substituting for
4 subsections (1) - (7) and (9) - (10), new subsections "(1)" - "(7)" and "(9)" -
5 "(10)" -

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

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

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

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

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

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

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

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

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

Amendment of
Section 99

Amendment of
Section 100

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

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

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

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

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

Amendment of
Section 112

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

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

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

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

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

Substitution for
Section 138

22 **35.** Substitute for section 138 of the Principal Act, a new section
23 "138" -

Grounds of
petition

24 138 (1) An election may be questioned on grounds that -

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

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

30 (c) that the respondent was not duly elected by majority of lawful

1 votes cast at the election; or

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

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

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

Amendment of
Section 139

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

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

Amendment of
Section 140

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

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

1	(a) postpone the election to rectify the omission; and	Insertion of new Section 142A
2	(b) appoint another date to conduct the election, not later than 90	
3	days.	Evidence of non- compliance
4	38. Insert after section 142 of the Principal Act, a new section	
5	"142A" -	
6	142A. It is not necessary for a petitioner who alleges non-	
7	compliance with the provisions of this Act, the published manuals,	
8	guidelines, regulations, procedures or directives issued by the Commission	
9	for the conduct of elections to call oral evidence if originals or certified true	
10	copies of electoral documents or materials used by the Commission to	
11	conduct the election in the polling unit where the non-compliance is alleged	Amendment of Section 143
12	are listed in the petition and tendered at the trial of the petition by the	
13	petitioner in proof of the non-compliance complained of."	
14	39. Section 143 of the Principal Act is amended by inserting, after	
15	subsection (2), a new subsection "(3)"-	
16	"(3) Where the election is nullified by the Court and notice of	
17	appeal against the decision is given within the stipulated period for appeal,	
18	the elected candidate shall, notwithstanding the contrary decision of the	
19	Court remain in office and enjoy all the benefits that accrued to the office	Amendment of Section 151
20	pending the determination of the appeal and shall not be sanctioned for the	
21	benefits derived while in office."	
22	40. Section 151 of the Principal Act is amended by inserting, after	
23	subsection (2), a new subsection "(3)"-	
24	"(3) Where there is a breach of an order of a court or tribunal	
25	directed at the Commission particularly, order to produce, inspect or take	
26	copies of electoral materials, such disobedience shall attract court sanctions,	
27	which shall include the committal by the Tribunal or Court of the	Amendment of Section 156
28	Commission's official to whom the order is directed to summary conviction	
29	to imprisonment for a term of at least two years, without an option of	
30	fine."	

1 **41.** Section 156 of the Principal Act is amended by inserting, in
2 alphabetical order, the following interpretations-

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

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

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

14 "number of unaccredited voters" as used in section 49 (1) of this Act, means
15 number of intending voters not accredited to vote in a polling unit under section
16 49(1) of this Act;

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

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

26 "Returning Officer" means a person appointed by the Commission to be in
27

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

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