This factsheet contains amendments to the 2010 Electoral Act passed by the 7th National Assembly and assented to by President Goodluck Jonathan on 26th March 2015.

The Principal Act was enacted in August 2010 and amended subsequently in December 2010. It was amended for a second time in 2011. This would be the third amendment to the Act.

Below is a summary of the amendments to the Act i.e. The Electoral (Amendment) Act, 2015:

<table>
<thead>
<tr>
<th>PROVISION</th>
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<tr>
<td>SECTION 8 (1)</td>
<td>Secretary and other Staff of the Commission: This section provides for the appointment, qualification and functions of the Secretary to the Independent National Electoral Commission (INEC) but does not stipulate the tenure of office for the Secretary.</td>
<td>This amendment now provides a 4 year tenure for the Secretary from the date of his/her appointment. On expiration, this term may be renewed for another 4 years only.</td>
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<td>SECTION 13 (2)</td>
<td>Transfer of Registered Voters: Transfer of registered voters from one center to another shall be made not less than 30 days before election date in the applicant’s residence</td>
<td>The amendment now requires that the transfer of registered voters be concluded at least 60 days before the election date. It also amends the Principal Act so that the application for transfer “shall be accompanied by a copy of the applicant’s voter card….“</td>
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<td>SECTION 18 (1) and (3)</td>
<td>Powers to Issue Duplicate Voters’ Cards: An application to the Electoral Officer to issue a duplicate voter’s card when the original is lost, destroyed, defaced, torn or otherwise damaged must be made not less than 30 days before polling day. Also, the duplicate card should not be issued less than 30 days before polling day.</td>
<td>The amendment alters the period in both cases to 60 days. This is to give INEC more time to focus on the election.</td>
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<td>SECTION 26 (1)</td>
<td>Postponement of Elections: The Commission may postpone an election where there is a reason to believe that either a serious breach of the peace is likely to occur on the said date or it is impossible to conduct the elections as a result of natural disasters or other emergencies. Where this happens, the Commission may postpone the date for the holding of the postponed election provided its reason for postponement is cogent and verifiable.</td>
<td>The amendment to section 26(1) mandates INEC to “as far as possible” ensure that persons displaced as a result of the emergency are not disenfranchised. Other amendments include renumbering the existing subsection 26 of the principal Act and removing the words in the marginal note and substituting it with “Conduct and Postponement of Election in Emergency”</td>
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<td>SECTION 28 (1)</td>
<td>Oath of Neutrality by Election Officers: All staff appointed by the Commission taking part in the process of elections must affirm/swear an Oath of Neutrality before the High Court.</td>
<td>The amendment provides that the Oath can be sworn before a High Court or any Court of law or before a Commissioner for Oaths.</td>
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<td>SECTION 29</td>
<td>Appointment of other officers for the conduct of registration of voters and elections: Provision allows INEC to appoint and designate officers for registration and other election duties provided that they do not belong to any political party or openly support a candidate</td>
<td>Proposed amendment inserts a new subsection (3) that vests INEC with the power to request the deployment and assignment of security personnel for the purposes of an election or registration of voters with a condition that INEC shall request for the deployment of the Armed Forces only for the purpose of securing the distribution and delivery of election materials.</td>
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<td>SECTION 45 (1)</td>
<td>Polling Agents: Details the procedure for political parties that choose to appoint a polling agent. Current provision includes that the political party sends the name and address of the agent to the electoral officer of the Local Government/Area Council at least 7 days before the election date</td>
<td>This amendment provides that in addition to the name and address of the polling agent, two passport photographs and a sample signature of the polling agent must be sent to the Electoral Officer. The amendment also changes the notice period required to inform the Electoral Officer of the appointment of a polling agent from 7 days to 14 days before the election date.</td>
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<td>SECTION 52 (2)</td>
<td>Conduct of Poll by Open Secret Ballot: Expressly prohibits the use of electronic voting in elections.</td>
<td>The amendment removes the prohibition on e-voting. Voting shall now be in accordance with the procedure determined by INEC.</td>
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<td>SECTION 65</td>
<td><strong>Post-election Procedure and Collation of Election Results:</strong> Provides that after recording an election result, the Presiding Officer shall announce the result and deliver same and the election materials under security to persons prescribed by INEC.</td>
<td>With this amendment, election results and materials being delivered under security to persons prescribed by INEC shall be accompanied by the candidates or their polling agents where available.</td>
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<td>SECTION 77 (1)</td>
<td><strong>Access to Election Documents:</strong> The Resident Electoral Commissioner is required to issue election documents or its Certified Copies within 7 days upon application by any party to an election petition.</td>
<td>The amendment extends the time to 14 days. It also amends the provision by providing for the issuance, in this case, of CTC documents, which was optional in the previous provision.</td>
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<td>SECTION 94</td>
<td><strong>Conduct at Political Rallies and Processions:</strong> Deals with the conduct of the Police and members of Political Parties during campaigns and processions. It provides that the Police shall provide adequate security for the peaceful conduct of political rallies and processions.</td>
<td>This amendment inserts new provisions emphasizing that the role of the Police at political rallies is strictly for the provision of adequate security notwithstanding the provisions of any other law or regulations stating the contrary. It further provides that no political party, aspirant or candidate should be prevented from holding rallies, processions and meetings at any time as long it is for a constitutional political purpose. Additionally, the provision mandates the Police to resolve conflicts pertaining to a clash of time and venue for such rallies or processions between political parties where the need arises.</td>
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<td>SECTION 111 (3) (6) (7)</td>
<td><strong>Election of Area Council Chairman:</strong> Deals with the procedure for electing an Area Council Chairman where there are two or more candidates nominated for the election. The subsections in question provides for the Commission to make arrangements for a second election within 7 days where no candidate is duly elected.</td>
<td>The amendment here extends the time the Commission can make such arrangements where no candidate is duly elected from 7 days to 14 days.</td>
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<td>SECTION 115</td>
<td><strong>Removal of Chairman or Vice Chairman:</strong> Outlines the procedure for removal of the Chairman or Vice Chairman of an Area Council. The provision however does not provide for removal on grounds of permanent incapacity nor for filling of vacancies arising from such permanent incapacity, death or resignation of a Chairman or Vice-Chairman.</td>
<td>This amendments inserts new provisions (115A &amp; B) to fill the lacuna in the current provision: 115A outlines a detailed procedure for the removal of an Area Council Chairman or Vice Chairman on grounds of permanent incapacity. 115B empowers the Vice Chairman to hold the office of the Chairman where the office of the Chairman becomes vacant by reason of death, resignation, permanent incapacity or removal of the Chairman from office. It also provides for the discharge of functions of the Vice Chairman where his office becomes vacant.</td>
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<td>SECTION 123</td>
<td><strong>Dereliction of Duty:</strong> Provides penalties for election officers who breach their election duties.</td>
<td>The amendment here prescribes a maximum fine of N500, 000, twelve months imprisonment or both for polling officers, political parties or polling agents who conspire to make a false declaration of result.</td>
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<td>SECTION 133 (3)</td>
<td><strong>Proceedings to Question an Election:</strong> Provides that election tribunals shall be constituted not later than 14 days before the election.</td>
<td>The time for the constitution of election tribunals is changed to “not later than 30 days before the election.”</td>
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<td>SECTION 135</td>
<td><strong>Establishment of Area Council Election Tribunal:</strong> Provides for the establishment, jurisdiction and composition of an Area Council Election Tribunal. There is however no provision on who appoints the Chairman and Members of the tribunal and the period for its constitution.</td>
<td>This amendment inserts new subsections 4 and 5 that empower the Chief Judge of the Federal Capital Territory to appoint the Chairman and members of the Tribunal. It further provides that the tribunal should be constituted not later than 21 days before the election and should have their registries open for business not later than 8 days before the election</td>
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<td>SECTION 136</td>
<td><strong>Establishment of Area Council Election Appeal Tribunal:</strong>&lt;br&gt;Provides for the establishment, jurisdiction and composition of an Area Council Election Appeal Tribunal.&lt;br&gt;There is no provision on who appoints the members of the tribunal, the period for constitution and quorum</td>
<td>This amendment covers the lacuna on membership, appointment, constitution and quorum by inserting new subsections (5), (6) and (7).&lt;br&gt;The new provision gives the Chief Judge of the High Court of the Federal Capital Territory the power to appoint the Chairman and members of the Tribunal.&lt;br&gt;It provides that the tribunal must be constituted not later than 14 days before the election and that their registries must be open for business not later than 30 days before the election;</td>
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<td>SECTION 138 (1)</td>
<td><strong>Grounds of Petition:</strong>&lt;br&gt;This section provides four grounds on which an Election Petition may be based.</td>
<td>The amendment provides an additional ground for an Election Petition, which is that the person whose election is being questioned submitted to INEC, an affidavit containing false information of a fundamental nature to support his qualification for the election.</td>
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<td>PARAGRAPH 51 OF THE 1ST SCHEDULE</td>
<td><strong>Electoral Officer, etc. as Respondents</strong>&lt;br&gt;Subparagraph (1) of this paragraph, which is contained in the schedule to the Act provides that where the conduct of an election official is questioned in an Election Petition, he shall be deemed to be a Respondent and joined as a necessary party. It further says that the official cannot be excused from opposing the Petition except the Attorney General of the Federation (AG) gives a written consent.&lt;br&gt;Subparagraph (2) goes on to provide for monetary indemnification of the official by the government where the AG refuses consent and the Tribunal or Court awards costs against the official.&lt;br&gt;It is important to note however that section 137 (3) of the Act clearly provides that where an election petition complains of the conduct of an INEC official(s), such official(s) shall not be named as a respondent in the suit and that the Commission shall be named as the respondent instead and deemed to be defending the petition on behalf of itself and its officers.</td>
<td>The amendment deletes subparagraphs 1 and 2.&lt;br&gt;The purpose of this amendment is unclear but it appears that it is aimed at clarifying the provisions of the Act on this issue, which appeared to be conflicting.&lt;br&gt;Deleting this provision now seems to buttress section 137 (3), which says that the election official(s) in question need not be joined as a Respondent.</td>
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ELECTORAL (AMENDMENT ACT), 2015

ARRANGEMENT OF SECTIONS

Section

1. Amendment of Electoral Act No.6, 2010
2. Amendment of section 8 (1)
3. Amendment of section 13 (2)
4. Amendment of section 18
5. Amendment of section 26
6. Amendment of section 28
7. Amendment of section 29
8. Substitution for section 45 (1)
9. Amendment of section 52
10. Amendment of section 65
11. Amendment of section 77
12. Amendment of section 94
13. Amendment of section 111
15. Amendment of section 123
16. Substitution for section 133
17. Substitution for section 135
18. Amendment of section 136
19. Amendment of section 138
20. Amendment of paragraph 51 to the First Schedule
21. Citation
ELECTORAL (AMENDMENT) ACT, 2015

A Bill For An Act to amend the Electoral Act No.6, 2010 to provide for tenure of office of Secretary, power to issue duplicate voter’s card, determine voting procedure; and for related matters.

[Commencement]

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

Amendment of Electoral Act No. 6 2010
1. The Electoral Act No.6, 2010, in this Act referred to as “the Principal Act” is amended as set out in this Act.

Amendment of Section 8 (1)
2. Section 8 (1) of the Principal Act is amended by inserting after paragraph (b), a new paragraph “(c)”: 
   “(c) hold office for a period of 4 years from the date of his appointment which may be renewable for another period of 4 years only.”

Amendment of Section 13 (2)
3. Section 13 (2) of the Principal Act is amended by:
   (a) inserting after the word “by” in line 2, the words “a copy of”; and
   (b) substituting the figure “30” in line 2, the figure “60”

Amendment of Section 18
4. Section 18 (1) and (3) of the Principal Act is amended by substituting for the expression “thirty (30)” in line 2, the expression “sixty (60)”.

Amendment of Section 26
5. Section 26 of the Principal Act is amended by –
   (a) inserting a new subsection “(1)”:
   “(1) In the event of an emergency affecting an election, the Independent National Electoral Commis-
   sion shall, as far as possible, ensure that persons displaced as a result of the emergency are not disen-
   franchised”;
   (b) renumbering the existing section 26 appropriately; and
   (c) substituting for the marginal note, a new “marginal note”:
   “Conduct and Postponement of Election in Emergency”

Amendment of Section 28 (1)
6. Section 28 (1) of the Principal Act is amended by substituting for the words “the High Court” in line 2, the words “any court of law or Commissioner for Oaths”.

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Amendment of Section 29
7. Section 29 of the Principal Act is amended by inserting after subsection (2) a new subsection “(3)”: 

“(3) Notwithstanding the provisions of any other law and for purposes of securing the vote, the Commission shall be responsible for requesting for the deployment of relevant security personnel necessary for elections or registration of voters and shall assign them in the manner determined by the Commission in consultation with the relevant security agencies.

PROVIDED that the Commission shall only request for the deployment of the Nigerian Armed Forces only for the purpose of securing the distribution and delivery of election materials and protection of election officials.”

Substitution for Section 45 (1)
8. Substitute for section 45 (1) of the Principal Act, a new section 45 “(1)”: 

“(1) Each political party may, by notice in writing addressed to the Electoral Officer of the Local Government Area or Area Council, appoint a polling agent for each polling unit and collation center in the Local Government Area or Area Council for which it has a candidate and the notice, which sets out the name and address of the polling agent, shall be accompanied by two passport photographs of each polling agent and sample signature of the polling agent and be given to the Electoral officer at least 14 days before the date fixed for the election:

PROVIDED that no person presently serving as Chairman or Member of a Local Government or Area Council, Commissioner of a State, Deputy Governor, or Governor of a State, Minister or any other person holding political office under any tier of Government and who has not resigned his appointment at least 3 months before the election shall serve as a polling agent of any political party, either at the polling unit or at any centre designated for collection of results of election.

Amendment of Section 52
9. Section 52 of the Principal Act is amended by substituting for subsection (2), a new subsection “(2)”: 

“(2) Voting at an election under this Act shall be in accordance with the procedure determined by the Independent National Electoral Commission.”

Substitution for Section 65
10. Substitute for section 65 of the Principal Act, a new section “65”:

“Post-election procedure and collation of election results
65. After the recording and announcement of the result, the presiding officer shall deliver same along with election materials under security and accompanied by the candidates or their polling agents, where available, to such person as may be prescribed by the Commission.”

Amendment of Section 77
11. Section 77 (1) of the Principal Act is amended by substituting for subsection (1), a new subsection “(1)”: 

“(1) The Resident Electoral Commissioner in a State where an election is conducted shall, within 14 days after an application is made to him by any of the parties to an election petition, cause a certified true copy of such document to be issued to the said party.”
Amendment of Section 94

12. Section 94 of the Principal Act is amended by inserting after subsection (3), new subsections “(4)” and “(5)”: “(4) Notwithstanding any provision in the Police Act, the Public Order Act and any regulation made thereunder or any other law to the contrary, the role of the Nigeria Police Force in political rallies, processions and meetings shall be limited to the provision of adequate security as provided in subsection (1) of this section.

(5) For the avoidance of doubt, no registered Political Party in Nigeria, its aspirants or candidate shall be prevented from holding rallies, processions or meetings at any time for their constitutional political purposes, and the Police shall in a consultative manner, resolve any conflict of time and venue between and amongst parties where such arises.”

Amendment of Section 111

13. Section 111 of the Principal Act is amended in subsections (3), (6) and (7), by substituting for the figure “7”, the figure “14”.

Insertion of new sections “115A – 115B”


“Permanent incapacity of Chairman or Vice-Chairman of an Area Council

115A (1) The Chairman or Vice-Chairman of an Area Council shall cease to hold office if:
(a) by resolution passed by two-thirds majority of all members of the Executive Council of the Area Council, it is declared that the Chairman or Vice-Chairman is incapable of discharging the functions of his office; and

(b) the declaration in paragraph (a) of this subsection is verified, after such medical examination panel established under subsection (4) of this section in its report to the Speaker to the Area Legislative Council.

(2) Where the medical panel certifies in its report that, in its opinion, the Chairman or Vice-Chairman is suffering from such infirmity of body or mind as renders him permanently incapable of discharging the functions of his office, a notice signed by the Speaker of the Area Legislative Council shall be published in the Official Gazette of the Area Council.

(3) The Chairman or Vice-Chairman shall cease to hold office as from the date of publication of the notice of the medical report pursuant to subsection (2) of this section.

(4) The medical panel to which this section relates shall be appointed by the Speaker of the Area Legislative Council and shall consist of five medical practitioners in Nigeria –
(a) one of whom shall be the personal physician of the holder of the office concerned; and

(b) four other medical practitioners who have, in the opinion of the Speaker of the Area Legislative Council, attained a high degree of eminence in the field of medicine relative to the nature of examination to be conducted in accordance with the provisions of this section.
(5) In this section, the reference to “Executive Council of the Area Council” is a reference to the body of Supervisory Councilors of the Area Council, established by the Chairman and charged with such responsibility for the functions of government as the Chairman may direct”.

**Discharge of Functions of Chairman or Vice-Chairman of an Area Council**

115B (1) The Vice Chairman of an Area Council shall hold the office of the Chairman of the Area Council if the office of the Chairman becomes vacant by reason of death, resignation, permanent incapacity or removal of the Chairman from office for any other reason in accordance with section 115 or 116 of this Act.

(2) Where any vacancy occurs in the circumstances mentioned in subsection (1) of this section during a period when the office of Vice-Chairman of the Area Council is also vacant, the Speaker of the Area Legislative Council shall hold office of the Chairman of the Area Council for a period of not less than three months, during which there shall be an election of a new Chairman of the Area Council who shall hold office for the unexpired term of office of the last holder of the office.

(3) Where the office of the Vice-Chairman becomes vacant –

(a) by reason of death, resignation, permanent incapacity or removal in accordance with section 115 or 116 of this Act,

(b) by his assumption of the office of Chairman of an Area Council in accordance with subsection (1) of this section, or

(c) for any reason,

the Chairman shall nominate and, with the approval of the legislative arm of the Area Council, appoint a new Vice-Chairman.”

**Amendment of Section 123**

15. Section 123 of the Principal Act is amended by inserting after subsection (3), a new subsection “(3A)”:

“(3A) Any Polling Officer, Political Party or Party Agent who conspires to make false declaration of result of an election commits an offence and is liable on conviction to a maximum fine of N500,000:00 or 12 months imprisonment or both.”

**Amendment of Section 133 (3)**

16. Section 133 (3) of the Principal Act is amended, in paragraph (a) by substituting the figure “14”, the figure, “30”.

**Amendment of Section 135**

17. Section 135 of the Principal Act is amended by inserting new subsections “(4)” and “(5)”:

“(4) The Chairman and other members of the Area Council Election Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja.
(5) The Area Council Election tribunal shall –
(a) be constituted not later than 21 days before the election; and
(b) when constituted, open their registries for business not later than 8 days before the election.”

Amendment of Section 136
18. Section 136 of the Principal act is amended by inserting new subsections “(5)”, “(6)” and “(7)”:“(5) The Chairman and other members of the Area Council Election Appeal Tribunal shall be appointed by the Chief Judge of the High Court of the Federal Capital Territory, Abuja.
(6) The Area Council Election Appeal Tribunal shall –
(a) be constituted not later than 14 days before the election; and
(b) when constituted, open their registries for business not later than 30 days after the election.
(7) The quorum of the Area Council Election Appeal Tribunal when hearing any appeal from decisions of the Area Council Election Tribunal shall be all three members of the Appeal Tribunal.”

Amendment of Section 138
19. Section 138 (1) is amended by inserting a new paragraph “(e)”:“(e) That the person whose election is questioned had submitted to the Commission affidavit containing false information of a fundamental nature in aid of his qualification for the election.”

Amendment of Paragraph 51 to the First Schedule
20. Paragraph 51 of the First Schedule is amended by deleting subparagraphs “(1)” and “(2).”

Citation
21. This Act may be cited as the Electoral (Amendment) Act, 2015.
About PLAC

Policy and Legal Advocacy Centre (PLAC) is a non-governmental organization committed to strengthening democratic governance and citizens’ participation in Nigeria. PLAC works to enhance citizens’ engagement with state institutions, and to promote transparency and accountability in policy and decision-making processes. The main focus of PLAC’s intervention in the democratic governance process is on building the capacity of the legislature and reforming the electoral process. Since its establishment, PLAC has grown into a leading institution with capacity to deliver cutting-edge research, policy analysis and advocacy. PLAC receives funding support from donors and other philanthropic sources.