



THE SENATE
FEDERAL REPUBLIC OF NIGERIA

ELECTORAL ACT NO. 6, 2010 (AMENDMENT) BILL, 2018
(SB. 699)

A BILL
FOR
AN ACT TO AMEND THE PROVISIONS OF THE ELECTORAL ACT NO 6
2010 AND FOR OTHER RELATED MATTERS 2018

FIRST READING

WEDNESDAY, 10TH OCTOBER, 2018

SECOND READING

WEDNESDAY, 10TH OCTOBER, 2018

THIRD READING AND PASSAGE

TUESDAY, 23RD OCTOBER, 2018

ELECTORAL ACT NO. 6, 2010 (AMENDMENT) BILL, 2018



Arrangement of Clauses

Clause

1. Amendment of the 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 30.
8. Amendment of Section 31.
9. Amendment of Section 33.
10. Amendment of Section 34.
11. Amendment of Section 36.
12. Amendment of Section 38.
13. Amendment of Section 44.
14. Amendment of Section 48.
15. Amendment of Section 49.
16. Amendment of Section 52.
17. Amendment of Section 53.
18. Amendment of Section 63.
19. Amendment of Section 65.
20. Amendment of Section 67.
21. Amendment of Section 76.
22. Amendment of Section 78.
23. Amendment of Section 82.
24. Amendment of Section 85.
25. Amendment of Section 87.
26. Amendment of Section 91.
27. Amendment of Section 99.
28. Amendment of Section 100.
29. Amendment of Section 112.
30. Amendment of Section 120.
31. Amendment of Section 138.
32. Amendment of Section 139.
33. Amendment of Section 140.
34. Amendment of Section 143.
35. Amendment of Section 151.
36. Amendment of Section 156.
37. Amendment of First Schedule
38. Citation.

[] Commencement.

1. The Electoral Act No. 6, 2010 (in this Bill referred to as "the Principal Act") is amended as set out in this Bill -	Amendment of the Electoral Act No. 6, 2010
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Amendment of
section 8.

Amendment of
section 9.

4. Section 15 of the Principal Act is amended by inserting after the word "printed", in line 1, the words, "reproduced, copied, duplicated or saved in an electronic format"

Amendment of
section 18.

- | | | | |
|-----|--|--------------------------|----|
| 6. | Section 19 of the Principal Act is amended by- | Amendment
section 19. | of |
| | (a) substituting for subsection (1), a new subsection "(1)"- | | |
| | " (1) Subject to the provisions of section 9(5) of this Bill, the Commission shall, not later than 30 days to a general election, appoint a period of 7 days during which a copy of the voters' register for each Local Government, Area Council or Ward shall be displayed or published for public scrutiny at every Registration Area and on its official website or any website established by the Commission for that purpose."; | | |
| | (b) inserting after subsection (1), a new subsections "(2)" and "(3)"- | | |
| | "(2) Upon displaying or publishing the voters register in accordance with this section, the Commission shall accept and consider objections and complaints in relation to the names omitted or included in the voters' register or in relation to any necessary correction, within 14 days of publishing the voters register in accordance with this section." | | |
| | "(3) An official or staff of the Commission who willfully fails to display or publish the voters' register as provided under subsection (1) of this section commits an offence and is liable on conviction to imprisonment for a term of six months or a fine of N100,000 or both." | | |
| 7. | Section 30 of the Principal Act is amended by substituting for the figure, "90", in line 1, the figure "150". | Amendment
section 30. | of |
| 8. | Section 31 of the Principal Act is amended substituting for subsection (6) and (8), new subsections "(6)" and "(8)"- | Amendment
section 31. | of |
| | "(6) If the Court determines that any of the information contained in the Affidavit is false, the Court shall issue an order disqualifying the candidate from contesting the election, if already elected, shall not be eligible to re-contest another election which shall be conducted within 90 days by the Commission. | | |
| | "(8) A political party which presents to the Commission the name of a candidate who does not meet the qualification stipulated in this section commits an offence and is liable on conviction to a fine of ₦5, 000, 000." | | |
| 9. | Section 33 of the Principal Act is amended by inserting after the word, "candidate", in line 3, a proviso"- | Amendment
section 33. | of |
| | "Provided that in the case of such withdrawal or death of a candidate, the political party affected shall within 10 days of the occurrence of the event hold a fresh primary election to produce and submit a fresh candidate to the Commission for the election concerned." | | |
| 10. | Section 34 of the Principal Act is amended by inserting new subsections "(2)" - "(4)"- | Amendment
section 34. | of |
| | "(2) Any candidate who observes his name or that of his party missing on the list published in accordance with subsection (1) above, shall notify the Commission in writing, signed by himself and supported with an affidavit not later than 28 days to the election. | | |
| | "(3) Where the candidate fails to notify the Commission in accordance with subsection (2), the candidate shall be deemed to have waived his right. | | |
| | "(4) The Commission shall produce ballot papers for the relevant elections in accordance with the list published after corrections in conformity with subsection (2)." | | |
| 11. | Section 36 of the Principal Act is amended by - | Amendment
section 36. | of |

(a) inserting after the word, "days", a "proviso"-

"Provided that the political party whose candidate died may, if it intends to continue to participate in the election, conduct a fresh primary election within 7 days of the death of its candidate and submit a new candidate to the Commission to replace the dead candidate".

(b) inserting after subsection (2), a new subsection "(3)"-

"(3) if after the commencement of poll and before declaration of a winner, a leading candidate whose votes affect the results of the election dies:

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

(b) the political party whose candidate died may, if it intends to continue to participate in the election, conduct a fresh primary within 7 days of the death of its candidate and submit a new candidate to the Commission to replace the dead candidate.

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

12. Section 38 of the Principal Act is amended by -

Amendment
section 38. of

(a) Inserting new subsections "(2)" - "(5)"-

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

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

(4) where it is determined that there has been a substantial compliance with this provision in respect of the polling unit, the elections at that polling unit shall not be invalidated.

(5) A Presiding Officer who contravenes subsection (3) or (4), commits an offence and is liable on conviction to at least a term of one year imprisonment or a fine of ₦1,000,000, or both."

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

Amendment
section 44. of

"(3) The Commission shall, not later than 40 days to an election, invite in writing, a political party that nominated a candidate in the election to inspect its identity appearing on samples of relevant electoral materials proposed for the election, and the political party shall state in writing within two days of being so invited by the Commission that it approves or disapproves of its identity as it appears on the samples.

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

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

14. Section 48 of the Principal Act is amended by substituting for subsection (1) a new subsection "(1)"-
" (1) At the hour fixed for opening of the poll before the commencement of accreditation and voting, the Presiding Officer shall open the empty ballot box and show same to such persons as may lawfully be present at the Polling unit and shall then close and seal the box in such manner as to prevent its being opened by unauthorized person(s)."
Amendment of section 48.
15. Section 49 of the Principal Act is amended by substituting for subsections (1) and (2), new subsections "(1)", "(2)", "(3)" and "(4)"-
" (1) A person intending to vote in an election shall present himself with his voter's card to a Presiding Officer for accreditation at the polling unit in the constituency in which his name is registered.
 (2) The Presiding Officer shall use a Smart Card Reader or any other similar technological device that may be prescribed by the Commission from time to time for the accreditation of voters, to verify, confirm or authenticate the particulars of the voter in the manner prescribed by the Commission.
 (3) The presiding officer shall on being satisfied with the accreditation of the voter in the manner prescribed by the Commission issue the voter a ballot paper and indicate on the register that the person has voted
 (4) where a smart card reader deployed for accreditation of voters fails to function in any polling unit and a fresh card reader is not deployed 3 hours before the close of the election in that unit or units, then the election shall not hold but be rescheduled and conducted within 24 hours thereafter.
 Provided that where the total possible votes from all the affected card readers in the unit or units do not affect the overall result in the constituency or election concerned, the commission shall notwithstanding the fact that a fresh card reader is not deployed as stipulated, announce the final results and declare a winner."
Amendment of section 49.
16. Section 52 of the Principal Act is amended by inserting a new subsection (4)-
" (4) The Commission shall adopt electronic voting in all elections or any other method of voting as may be determined by the Commission from time to time."
Amendment of section 52.
17. Section 53 (2) of the Principal Act is amended by substituting for the word "registered", the word, "accredited"
Amendment of section 53.
18. Section 63 of the Principal Act is amended substituting for subsection (4), a new subsection "4"-
"(4) Presiding Officer shall announce the result at the polling unit and transmit same in the manner prescribed by the Commission."
Amendment of section 63.
19. Section 65 of the Principal Act is amended by inserting after subsection (1), new subsections "(2)" and "3"-
"(2) The Commission shall compile, maintain and update on a continuous basis, a Register of Election Results to be known as the National Electronic Register of Election Results which shall be a distinct database or repository of polling unit by polling results, including collated election results, of each election conducted by the Commission in the Federation, and the Register of Election Results shall be kept in electronic format by the Commission at its National Headquarters.
 (3) Any person or political party may obtain from the Commission, on payment of such fees as may be determined by the Commission, a certified true copy of any election result kept in the National Electronic Register of Election Results for a State, Local Government, Area Council, Ward or Polling Unit, as the case may be and the certified true copy may be in printed or electronic format."
Amendment of section 65.
20. Section 67 of the Principal Act is amended by inserting after subsection (3), new subsections "(4)" -
Amendment of

"(9)" -

section 67.

" (4) A Collation Officer or Returning Officer at an election shall collate and announce the result of an election, subject to his verification and confirmation that the:

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

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

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

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

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

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

(c) date of accreditation recorded and transmitted directly from each polling unit where the result is disputed, as prescribed under section 49 (2) of this Bill; and

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

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

(8) Where the dispute under subsection (6) arose at the final level of collation and the Returning Officer has satisfied the provision of subsection (6), the Returning Officer shall accordingly declare the winner of the election.

(9) a Returning Officer or Collation Officer, as the case may be, commits an offence if he intentionally collates or announces false result, he shall be liable on conviction, to a term of at least 5 years imprisonment, without an option of fine."

1. Section 76 of the Principal Act is amended inserting after subsection (1), a new subsection "(2)" -

Amendment of
section 76.

" (2) (2) an election conducted at a polling unit without the prior recording in the forms prescribed by the Commission of the quantity, serial numbers and other particulars of results sheets, ballot papers and other sensitive electoral materials made available by the Commission for the conduct of the election shall be invalid, provided that the election shall not be invalidated where it is determined that the extent of the non-compliance is not such that would affect the integrity of the process at the polling unit."

2. Section 78 of the Principal Act is amended substituting for subsections (4) and (5) new subsections "(4) and (5)" -

Amendment of
section 78.

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

(5) An Association, its Executive Members or Principal Officers who gives false or misleading information, commits an offence and is liable on conviction, in the case of-

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

(b) each Executive or Principal Officer of the Association to imprisonment for a term of six months or a fine of N1,000,000 or both."

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

Amendment
Section 82.

of

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

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

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

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

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

(c) its use will not be offensive or otherwise objectionable.

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

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

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

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

Amendment
section 85.

of

25. Substitute for Section 87 of the Principal Act, a new Section "87" -

Amendment
section 87.

of

"87. (1) A political party seeking to nominate candidates for elections under this Act shall hold direct or indirect primaries for aspirants to all elective positions.

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

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

(a) N150,000.00 for a Ward Councillorship aspirant in the FCT;

(b) N250,000.00 for an Area Council Chairmanship aspirant in the FCT;

(c) ₦500,000.00 for a House of Assembly aspirant;

(d) ₦1,000,000.00 for a House of Representatives aspirant;

(e) ₦2,000,000.00 for a Senatorial aspirant;

(f) ₦5,000,000.00 for a Governorship aspirant; and

(g) ₦10,000,000.00 for a Presidential aspirant.

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

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

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

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

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

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

(iii) hold a National Convention where it shall present the winner of the primaries to the public as the presidential candidate of the party and the venue of the National Convention shall be determined by the political party, and

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

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

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

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

(iii) hold a State Congress where it shall present the winner of the governorship primaries to the public as the governorship candidate of the party in the governorship election and the venue of the State Congress shall be determined by the political party, and

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

(a) President and former Presidents;

(b) Vice President and former Vice Presidents;

(c) Governors and former Governors;

(d) Deputy Governors and former Deputy Governors;

(e) Senators and former Senators;

(f) Members of the House of Representatives and former Members of the House of Representatives;

(g) Members of State Houses of Assembly;

(h) Chairmen of Local Government Councils; and

(i) Councilors of Wards,

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

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

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

(a) National Assembly;

(b) State Houses of Assembly;

(c) Governorship; and

(d) Presidential.

(13) The dates for the primaries shall not be earlier than 150 days and not later than 90 days before the date of elections to the offices.

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

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

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

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

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

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

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

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

(ii) the governorship aspirant with the highest number of votes at the end of voting shall be declared

the winner of the governorship primaries of the party and the party shall forward the aspirant's name to the Commission as the candidate of the party, for the particular State;

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

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

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

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

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

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

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

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

(19) Where there is only one aspirant for any of the elective positions mentioned in subsection (16) (a) - (d), the party shall convene a special convention or congress, as the case may be, at a designated centre in the particular constituency on a specified date to confirm that aspirant as the candidate of the party and the party shall forward the name of the aspirant to the Commission as the candidate of the party.

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

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

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

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

26. Section 91 of the Principal Act is amended by substituting for subsections (1)- (7) and (9) -(10) new subsections "(1)- (7)" and "(9) -(10)" - Amendment of section 91.

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

(2) The maximum election expenses to be incurred by a candidate at a Presidential election shall not exceed ₦5, 000,000,000.00.

(3) The maximum amount of election expenses to be incurred by a candidate in respect of Governorship election shall not exceed ₦1, 000,000,000.00.

(4) The maximum amount of election expenses to be incurred by a candidate in respect of Senatorial and House of Representatives seat shall not exceed ₦250, 000,000.00 and ₦100, 000,000.00 respectively.

(5) In the case of State Assembly election, the maximum amount of election expenses to be incurred by a candidate shall not exceed ₦30, 000,000.00.

(6) In the case of a Chairmanship election to an area Council, the maximum amount of election expenses to be incurred shall not exceed ₦30, 000,000.00.

(7) In the case of Councillorship elections to an area council, the maximum amount of election expenses to be incurred shall not exceed ₦5, 000,000.

(9) No individual or other entity shall donate to a candidate more than ₦10, 000, 000.00.

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

27. Section 99 of the Principal Act is amended by substituting for the figures, "90" the figures, "150" Amendment of section 99.

28. Section 100 of the Principal Act is amended by substituting for subsection (6)-new subsection "(6)" - Amendment of section 100.

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

(a) a public media to a fine of ₦2,000,000.00 in the first instance and to a fine of ₦5,000,000.00 for subsequent conviction; and

(b) Principal Officers and other officers of the media house to a fine of ₦2,000,000.00 or to imprisonment for a term of 12 months."

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

" (4) If after the commencement of poll and before the announcement of the final result and declaration of a winner, a leading candidate whose votes affects the final result dies –

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

(b) the political party whose candidate died may, if it intends to continue to participate in the election, conduct a fresh primary within 7 days of the death of its candidate and submit a new candidate to the Commission to replace the dead candidate; and

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

Section 120 of the Principal Act is amended by – Amendment of
section 120.

(a) Subsection 120(d), by substituting the figure "~~N~~1,000,000.00", the figure "N2,000,000.00".

(b) Subsection 120(d), by substituting the figure and word "12 months", the figure and word "2 years".

(c) Inserting a new subsection "120(e)"-

"(e) any person who procures, deals, obtains, or possesses any fake voters' card, commits an offence and is liable on conviction to a maximum of 5 years imprisonment with an option of fine".

Section 138 of the Principal Act is amended by substituting for section 138 a new section 138– Amendment of
section 138.

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

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

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

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

(d) subject to the provisions of this Act, the petitioner or its candidate was validly nominated but unlawfully excluded from the election.

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

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

32. Section 139 of the Principal Act is amended by substituting for subsection (1) a new subsection (1)– Amendment of
section 139.
- " (1) An Election shall not be invalidated by reason of non-compliance with the provisions of this Act and published-manuals, guidelines, regulations, procedures or directives issued by the Commission for the conduct of the election, if it appears to the Election Tribunal or Court that the election was conducted substantially in accordance with the principles of this Act and that the non-compliance did not affect substantially the result of the election."
33. Section 140 of the Principal Act is amended by inserting after subsection (3), a new subsection "(4)"- Amendment of
section 140.
- "(4) Subject to the provisions of this Act, If, at the point of display or distribution of ballot papers by the Commission, a candidate or his agent discovers that his name or the name or logo of his party is omitted, a candidate or his agent shall notify the Commission and the Commission shall -
- (a) postpone the election to rectify the omission; and
- (b) appoint another date to conduct the election not later than 90 days;
- where the election is postponed due to omission of a political party's name or logo, the Commission's Officer responsible for such printing of party names or logos commits an offence and is liable on conviction to a fine of N2,000,000.00 or imprisonment for 2 years or both."
34. Section 143 of the Principal Act is amended by substituting for section 143, a new section "143"- Amendment of
section 143.
- "143. (1) Where the nomination of an elected candidate is nullified by the Court and notice of appeal against the decision is given within the stipulated period for appeal, the elected candidate shall notwithstanding the contrary decision of the court remain in office pending the determination of the appeal.
- (2) Where the Appellate court determines that a candidate was not validly nominated, the elected candidate shall, notwithstanding the contrary decision of the Court, remain in office within the period for which an appeal may be filed and shall not be sanctioned for the benefits he derived while in office pursuant to this section, provided that where the Appellate Court in this instance is the Supreme Court, the candidate shall cease to hold that office.
- (3) Where the Election Tribunal or the Court, as the case may be, determines that a candidate returned as elected was not validly elected, then if notice of appeal against that decision is given within twenty-one days from the date of the decision, the candidate returned as elected shall, notwithstanding the contrary decision of the Election Tribunal or the Court, remain in office pending the determination of the appeal.
- (4) Where the Election Tribunal or the Court, as the case may be, determines that a candidate returned as elected was not validly elected, the candidate returned as elected shall, notwithstanding the contrary decision of the Election Tribunal or the Court, remain in office pending the expiration of the period of twenty-one days within which an appeal may be brought.
- (5) where the election is nullified by the Court and notice of appeal against the decision is given within the stipulated period for appeal, the elected candidate shall, notwithstanding the contrary decision of the Court remain in office and enjoy all the benefits that accrued to the office pending the determination of the appeal and shall not be sanctioned for the benefits derived while in office."
35. Section 151 of the Principal Act is amended by inserting after subsection (2) a new subsection "(3)"- Amendment of
section 151.
- " (3) Where there is a breach of an order of a Court or Tribunal directed at the Commission

particularly, order to produce, inspect or take copies of electoral materials, such disobedience shall attract Court sanctions, which shall include the committal by the Tribunal or Court of the Commission's official to whom the order is directed, to a conviction of imprisonment for at least two (2) years, or a fine of not less than ₦10,000,000.00 or both."

36. Section 156 of the Principal Act is amended by inserting in alphabetical order the following-

Amendment of
Section 156.

"Area Council" means Area Councils recognized and existing by virtue of section 3 (6) of the Constitution and as set out in Part I and Part II of the First Schedule thereof and any additional Area Council provided by an Act of the National Assembly in accordance with the Provisions of the Constitution"

"Candidate" means a person who has secured the nomination of a political party to contest an election for any elective office;

"Civil Servant" means a person employed in the civil service of the Federation or of a State or Local Government as contained in the Constitution of the Federal Republic of Nigeria, 1999 as (amended).

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

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

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

"published manuals, guidelines, regulations, procedures or directives" issued by the Commission for the conduct of the election which is made public by the Commission at least seven (7) days before the date of general elections;

"Returning Officer" means a person appointed by the Commission to be in charge of the conduct of election in a constituency, and this shall include 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;

"Ward Collation Officer" means Registration Area Collation Officer.

This Bill may be cited as the Electoral Act No. 6, 2010 (Amendment) Bill, 2018.

Citation.

First Schedule is amended by –

Amendment of First
Schedule

(a) Inserting immediately after paragraph 41(1), a new paragraph "41(1A)" –

"41(1A). It is not necessary for a petitioner who alleges non-compliance with the provisions of this Act, the published manuals, guidelines, regulations, procedures or directives issued by the Commission for the conduct of elections to call oral evidence if originals or certified true copies of electoral documents or materials used by the Commission to conduct the election in the polling unit where the non-compliance is alleged are listed in the petition and tendered at the trial of the petition by the petitioner in proof of the non-compliance complained of.; and

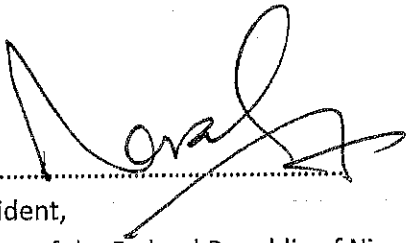
(b) Substituting Sub-paragraph 46(4), a new sub-paragraph "46(4)" –

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

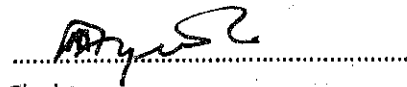
EXPLANATORY MEMORANDUM

The Bill seeks to amend the Electoral Act No. 6 of 2010 to make provisions for the restriction of the qualification for elective office to relevant provisions of the Constitution of the Federal Republic of Nigeria 1999 (as amended); use of Card Readers and other technological devices in elections and Political Party Primaries, to provide 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.

THIS BILL WAS PASSED BY THE SENATE ON TUESDAY, 23RD OCTOBER, 2018



President,
Senate of the Federal Republic of Nigeria



Clerk,
Senate of the Federal Republic of Nigeria