



ELECTORAL ACT
2010
SIMPLIFIED

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INTRODUCTION

A lot of times, the average citizen is unable to speak or articulate in clear language or factually, the actual contents or details of the law or issues governing elections in Nigeria. This lack of understanding sometimes affects the manner in which the average citizen participates in the electoral process in Nigeria.

In this book, relevant portions of the Electoral Act 2010 have been reproduced and explained to achieve better understanding of its contents. Thus the aim is to aggregate into simple and accessible language and in one volume, the Electoral Act so that the ordinary citizen is educated on Election Matters. It also aims to create awareness among citizens on all of the issues and laws governing elections to enable them to participate in elections in a well-informed manner.

GENERAL PROVISIONS OF THE ACT

ABOUT THE ACT

The **Electoral Act, 2010** was passed by the National Assembly on 29 July 2010 and signed into law by President Goodluck Jonathan on 20 August 2010. The law provides the basic legal framework for regulating the conduct of Federal, State and Area Council Elections in Nigeria.

There are two amendments to the 2010 Electoral Act:

The first amendment, the **Electoral (Amendment) Act 2010**, provides for adequate time for the Independent National Electoral Commission (INEC) to issue notices, receive nomination of candidates from political parties and ensure the proper conduct of political parties.

The second amendment, **Electoral (Amendment) Act (No.2), 2011**, contains only one amendment aimed at abridging the time within which INEC shall stop the registration of voters before any general election under the Act from 60 days to 30 days.

THE ELECTORAL ACT SPELLS OUT THE FOLLOWING:

- » The body responsible for conducting elections in Nigeria.
- » How elections are conducted and the method of voting.
- » Conditions for voter eligibility.
- » The legal requirements for being included on the voters register.
- » Conditions under which an election may be delayed or postponed, and the actions to be taken to reschedule such election.
- » Election offences and their penalties.
- » Nominations criteria for candidates and political parties.
- » Regulations for electoral campaigns.
- » The process for counting of votes and declaring election results.
- » Election Procedure for Area Councils.
- » Mode of determination of Election Petitions arising from elections.

ABOUT INEC

The 1999 Constitution of the Federal Republic of Nigeria vests the power and authority to organize and conduct elections in the Independent National Electoral Commission (INEC). INEC is established under Section 153 of the Constitution.

The Electoral Act specifies the powers of INEC and describes how it will be organized to carry out its executive, administrative and financial business, as well as how it will be structured to administer the elections.

Powers & Functions of INEC

- » Civic and Voter Education ~ Sections 2 and 154
- » Organising Elections
- » Organising Referendum
- » Political Party Regulation
- » Constituency Delimitation
- » Recruiting Staff
- » Scheduling Elections
- » Issuing Election Forms
- » Sorting and Counting Ballots
- » Cancelling Election Results
- » Maintenance of the Voters Register- **Section 9**
- » Print and issue of voter's register ~ **Section 15**
- » Print and issue of voters card ~ Section 16
- » Issue of duplicate voters card ~ **Section 18**
- » Registration and deregistration of Political Parties ~ **Section 78**
- » Giving notice of elections ~ **Section 30**
- » Establishment of Polling Units ~ **Section 42**
- » Prosecution of Electoral Offences ~ **Section 150**

STRUCTURE OF INEC

Electoral Commissioners ~ Section 6

- » The INEC Chairman is the Chief Electoral Commissioner
- » INEC has 12 National Commissioners
- » INEC has 37 Resident Electoral Commissioners; one for each State of the Federation and one for the FCT
- » There is an INEC office in in each State of the Federation and Federal Capital Territory headed by the Resident Electoral Commissioner (REC)
- » They perform such functions as may be assigned or delegated to them by the Commission.
- » RECs hold office for a period of 5 years

Criteria for Commissioners' Eligibility ~ Section 6

- » For the Chief Electoral officer i.e. the INEC Chairman – must not be less than 50 years
- » For other Electoral Commissioners – must not be less than forty years old
- » The Chairman and Commissioners must be persons of unquestionable integrity

Secretary & Other Staff Of The Commission ~ Section 8

- » The Secretary is head of the Commission's secretariat and is responsible for its administration. He/she is responsible for the direction and control of all other employees of the Commission.

Committees Of The Commission ~Section 7

- » The Commission may delegate powers or responsibilities to any committee/s that it establishes

Other Powers & Functions of the Commission

The Commission may delegate any of its powers and functions to any National Electoral Commissioner, Resident Electoral Commissioner, Electoral Officer or any officer under the provisions of this Act ~ **Section 152**

The Commission is vested with the power of issuing regulations, guidelines or manuals to give effect to the provisions of the Act ~ **Section 153**. It is also responsible for producing a Gazette containing the guidelines for the elections particularly on the step by step recording of the polls in the electoral forms beginning from the polling unit to the last collation centre where election results are announced ~ **Section 73**

The Commission may raise awareness of its functions through civic education, print and electronic media. This is consistent with the mandate conferred on the Commission in **Section 2(a) and (b)** to carry out voter education ~ **Section 154**

Any defect or error on the part of an official of the Commission in relation to any notice, form or document issued to him or any act committed by him remains valid unless declared invalid by a competent Court or Tribunal ~ **Section 155**

VOTERS AND VOTER REGISTRATION

Voter Registration

Political participation through the right to vote is a fundamental right guaranteed in democratic governments. This means that eligible citizens have access to the political process through the exercise of the right to vote.

Provisions on voter registration are covered under **Sections 9-23**, (Part III) of the Electoral Act. This process ensures that only eligible voters vote at elections.

Qualification for Registration: Section 12

- A person can only qualify to register as a voter if he/she is:
 - A Nigerian citizen
 - Have attained the age of 18 years
 - Lives, works or originates from the Local Government Area Council or Ward covered by the Registration Centre
 - Present him/herself to be registered
 - Not subject to legal incapacity to vote under any law, rule or regulation in force in Nigeria.
- » A person is not allowed to register in more than one registration center or register more than once in the same Registration Centre ~ **Section 12 (2)**. However, a voter may ask for his name to be transferred to a voters list outside the constituency/area where he originally registered ~ **Section 13**.
- » A registration officer and an update officer can demand from any applicant any information he deems necessary to ascertain whether an applicant meets the qualification criteria of a voter ~ **Section 14(a)**
- » Voters are permitted to own only one voters card ~ **Section 16(2)**
- » Voters and Political parties can request for a certified copy of the voters register in the State, Local Government, Area Council or any registration area within it, upon payment of specified fees/charges to the Commission ~ **Section 15**
- » The Commission is responsible for the design, print and issuance of voters' cards to voters whose names appear in the register ~ **Section 16(1)**
- » An Electoral Officer is responsible for the voters register for his Local Government Area ~ **Section 17**
- » The Commission has proprietary rights over issued voters' cards ~ **Section 22**

- » The owner of a voter's card that is lost, destroyed, defaced, torn or otherwise damaged may apply in person no less than 30 days before polling day to the Electoral Officer for the issuance of a duplicate voter's card. His application must detail the circumstances of the loss, destruction, defacement or damage ~ **Section 18(1)**
- » The Commission shall by notice state a period of between 5 and 14 days during which a copy of the voters' register for each Local Government, Area Council or Ward shall be displayed for public scrutiny and during which any objections pertaining to the register shall be raised~ **Section 19(1)**
- » An objection or claim under this section must be addressed to the REC through the Electoral Officer in charge of the Local Government or Area Council ~**Section 19(3)**
- » A supplementary voters list integrated with the voters' register must be published not later than 30 days before a general election ~ **Section 20**
- » A Revision Officer may be appointed to hear and determine claims concerning the objection of any entry or omission from the preliminary list of voters ~ **Section 21**

The Voters Register

- INEC is required to continuously compile, maintain and update a National Register of Voters ~ **Section 9(1)**
- This includes a register of voters for each State of the Federation and the FCT ~ **Section 9(2)**
- INEC must also maintain a Register of Voters for each Local Government or Area Council within each State and the FCT ~ **Section 9(3)**

Continuous Voter Registration

- INEC is mandated to provide for continuous registration of all persons who are qualified to be registered as voters ~ **Section 10**
- Each applicant for continuous registration must appear in person with either their (a) birth or baptismal certificate (b) national passport, identity card or drivers license or (c) any other document that will prove his identity, age and nationality.

Closing of the Voters Register

- The registration of voters, updating and revision of the voters register shall stop not later than 60 days before any election covered by the Act.

Transfer of Registered Voters

- A registered voter who resides in a constituency other than the one in which he/she registered may request a transfer to enable him/her vote in his new location. Such person may apply to the REC of the State where he currently resides for his name to be entered on the transferred voters' list for the constituency. However, his application must be accompanied by his voter's card and made not less than 30 days before the election in the constituency where he resides. The procedure for such transfer is contained in **section 13** of the Act.

Offences in Relation to Voter Registration			
Section	Offence	Actor	Penalty
12 (3)	Multiple voter registration: registering in more than one registration centre or registering more than once in the same registration centre.	Individual	Fine up to N100, 000 or imprisonment for up to one year or both
16 (3)	Holding more than one valid voter's card	Individual	Fine up to N100, 000 or imprisonment for up to one year or both.
18(4)	Issuance of voter's card on polling day or less than 30 days before polling day	Electoral officer or any other officer duly authorized for that purpose by the Resident Electoral Commissioner (REC)	Fine up to N200,000 or imprisonment up to two years or both
23	Buying or selling of voter's card by a person on his own behalf or on behalf of another person	Individual	Fine up to N500,000 or imprisonment up to two years or both
24 (1)	Making a false statement in an application for registration as a voter -Not providing required information during registration without just cause - Signing registration form with another's name -Making false declaration relating to registration -Registering or procuring registration for oneself or another on another voter's register while being registered already or when not entitled to do so. -Procuring registration of a fictitious person	Individual	Fine up to N100, 000 or imprisonment for up to one year or both.
24 (2)	Causing, inducing or hindering any person or persons to refrain from registering as a voter(s)	Individual	Fine up to N500, 000 or imprisonment up to 5 years or both

POLITICAL PARTIES

Political Parties

A “Political Party” includes any association of persons whose activities include canvassing for votes in support of a candidate for election under this Act and registered by the Commission ~ **Section 156**

Section 40 of the **1999 Constitution** provides for the Right to Freedom of Assembly from which can be inferred the right to form or join a Political Party. The Constitution also stipulates provisions on the formation of such groups in **Sections 221 – 229** while the Electoral Act in **Sections 78 – 102** contains provisions and regulations on Political Parties.

- » INEC has the power to register political parties and outlines the procedure for such registration. An application for registration as a political party shall be duly submitted to the Commission not later than 6 months before a general election ~ **Section 78**.
- » INEC has powers to de-register political parties on the following grounds
 - Breach of any of the requirements for registration; and,
 - Failure to win a seat in the Presidential, Governorship, National or State Assembly elections ~ **Section 78**
- » An association that has been refused registration by INEC can challenge the decision in a court of law ~ **Section 79**
- » Political Parties are required to be a body corporate with perpetual succession and a common seal. They can sue and be sued ~ **Section 80**
- » Political Parties are required to register their party symbol with INEC ~ **Section 82**. The Act however disallows certain symbols to be used by Parties. They include:
 - Coat of arms of the federation,
 - Coat of arms of any other country,
 - Any symbol which has been registered by another Political Party,
 - Any device or emblem associated with the official acts of Government, Armed Forces of the Federation, the Nigeria Police, the regalia of a Chief, any tribe or ethnic group, any religion or cult, any portrait of a person living or dead.
- » **Section 84:** Allows for merger of political parties on the approval of INEC. This section outlines the procedure for such merger
- » **Section 85:** Requires Political Parties to give INEC notice of their congress convention, congress, conference or meeting convened for the purpose of electing members of its executive committees, other governing bodies or nominating candidates for any of the elective offices specified under the Act.

- » **Section 86:** Empowers INEC to monitor activities of political parties meaning that parties are required to provide information sought by INEC to the Commission; particularly information relating to activities of the party.
- » **Section 87:** Requires that Political Parties hold primaries for aspirants seeking elective positions. The section further outlines the procedure for nomination of candidates by parties

Election Expenses & Campaign Finances of Parties

- » **Sections 88 – 93** contain provisions on campaign financing, election expenses and funding limits allowed by INEC.
- » Political Parties are barred from holding any fund outside of Nigeria or retaining funds remitted to it from outside the country ~ **Section 88** (see also, **section 225 (2)** of the Constitution)
- » INEC has powers to place a limit on the amount of funds or assets an individual or group can contribute to a Political Party ~ **Section 90**. Going above this limit will attract sanctions.
- » **Section 91** provides for limits on election expenses. (See the table below)
- » Political parties are not allowed to accept/keep anonymous contributions ~ Section 93.
- » Political parties are required to keep accounts and records and make these available to the Commission upon request ~ **Sections 89 (3) and 93 (2)**
- » Election Expenses means “*expenses incurred by a political party within the period from the date notice is given by the Commission to conduct an election up to and including, the polling day in respect of the particular election.*” ~ **Section 92 (1)**

Maximum Election Expenses Allowed Under The Act			
Position Contested	How Much	Penalty in Case of Default	
Presidential	N 1, 000, 000, 000 – One Billion Naira	N1, 000,000 - One Million Naira fine or imprisonment of 12 months or both	
Governorship	N 200, 000, 000 – Two Hundred Million	N 800,000 - Eight hundred thousand Naira fine or 9 months imprisonment or both	
Senate	N 40,000, 000 - Forty Million Naira	N 600,000 - Six hundred thousand Naira fine or 6 months imprisonment or both	
House of Representatives	N 20, 000, 000 – Twenty Million Naira	N 500,000 - Five Hundred Thousand Naira fine or 5 months imprisonment or both	
State Assembly	N 10, 000, 000 - Ten Million Naira	N 300,000 - Three hundred thousand Naira fine or 3 months imprisonment or both	
Area Council Chairmanship	N 10, 000, 000 – Ten Million Naira	N 300,000 - Three hundred thousand Naira fine or 3 months imprisonment or both	
Area Council Councillorship	N 1, 000, 000 – One Million Naira	N 100,000 - One hundred thousand Naira fine or 1 month imprisonment or both	
The maximum donation amount from an individual or other entity is N1, 000, 000 – One Million Naira. The penalty for exceeding this amount is a maximum fine of N500, 000 or 9 months imprisonment or both. Section 91 (9) & (11)			
Offences Related to Campaign Financing			
Section	Offence	Actor	Penalty
88	Holding or possession or retention of funds or assets outside Nigeria or remitted from outside Nigeria by Political Parties in contravention of *section 225(3) (a) of the Constitution.	Political Party	Forfeiture of funds or assets purchased with such funds to INEC In addition, party may be liable to a fine of not less than N500,000.00
91 (9) & (11)	Knowingly donating more than N1,000,000 to a candidate for election	Individual or other done	Maximum fine of N500,000.00 or 9 months imprisonment or both
91(12)	Falsifying, conspiring or aiding a candidate to falsify documents related to election expenditure or donation. Aiding and abetting breach of any of the provisions relating to limitation on election expenses.	Candidate's Accountant	10 years imprisonment

Offences Related to Campaign Financing			
Section	Offence	Actor	Penalty
92 (3) (a) and (b)	Failure to file audited returns on election expenses with INEC within 6 months after an election	Political Party	Maximum fine of N1, 000,000 for failure to file returns. Filing outside stipulated time of “6 months” may attract a maximum penalty of N200, 000 per day for the period after the return date is due until submitted to INEC
92 (6)	Incurring election expenses beyond limit stipulated in the Act	Political Party	Maximum fine of N1,000,000.00 and Forfeiture of amount in excess of prescribed limit to the Commission
<p>*Section 225 (3) (a) of the Constitution prohibits political parties from holding or possessing funds or other assets outside Nigeria. It further prohibits parties from retaining any funds or any other assets remitted or sent to it from outside Nigeria.</p>			

Financial Reporting Requirements for Parties

- Political Parties in Nigeria are required to submit the following financial reports to INEC:
 - » Annual Report ~ **section 89(1)**;
 - » Election Contributions Report ~ **section 93 (4)**; and,
 - » Election Expenses Report ~ **section 92 (3)**.
- Pursuant to its powers to issue guidelines, INEC usually issues manuals on political party financial reporting to guide political parties on reporting to the Commission.

Procedure for Nomination of Candidates

- Section 87 of the Electoral Act outlines the procedure for nomination of candidates for elections by Political Parties. This provision includes that:
- Political parties wishing to participate in elections must hold primaries to nominate their candidates
- Primaries could be direct (where party members nominate candidates directly) or indirect (where delegates nominate party candidates).
- For indirect primaries, parties must adopt the procedure outlined in the Act.

» Procedure for Presidential Primaries:

- The party must hold a special presidential convention where delegates shall vote for each aspirant; and
- The aspirant with the highest number of votes at the end of voting shall be declared the winner of the primaries and his/her name sent to the INEC as the party candidate.

» Procedure for Governorship Primaries:

- The party must hold a special congress in the State Capital where delegates shall vote for each aspirant; and
- The aspirant with the highest number of votes at the end of voting shall be declared the winner of the primaries and his/her name sent to the INEC as the party candidate.

» Procedure for Primaries for Federal and State Legislative Positions:

- The party must hold special congresses in the Senatorial District, Federal Constituency or the State Assembly Constituency as the case may be on specified dates where delegates shall vote for each aspirant; and
- 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 party candidate.

- » Where there is only one aspirant in a political party for any of the aforesaid positions: the party shall convene a special convention or congress to confirm such aspirant and his/her name forwarded to the Commission as the party candidate.

Note: Sections 65, 66, 106, 107, 131 and 177 of the 1999 Constitution (as amended) stipulates the required qualification for candidates.

Political Campaigns & Rallies

- Political Parties are expected to imbibe certain conduct during their political rallies and campaigns. Some of the Electoral requirements that pertain to campaign conduct also extend to the media.
- **Sections 94 – 102** makes provisions relating to campaigns by Political Parties and expected conduct during campaigns.
- The Commissioner of Police in each State of the Federation and the Federal Capital Territory is mandated to provide adequate security for processions and political rallies holding in their State or the Federal Capital Territory respectively ~ **Section 94(1)**
- Political campaign or slogans must not contain abusive language or use language in a manner disrespectful to religious, ethnic or tribal beliefs ~ **Section 95 (1)**. Further, abusive, slanderous, extreme, vile insinuations or inferences likely to provoke violence must not be used in political campaigns ~ **Section 95(2)**
- Places designated for religious worship, the police station and public offices cannot be used for political campaigns, rallies and processions nor to promote, propagate, attack political parties, their candidates, programmes or ideologies ~ **Section 95(3)**
- The use of fear and intimidation such as in the use of masquerades, physical force or coercion in any form including the retention and use of private security organizations, groups or individuals for the purpose of providing security at processions is prohibited in **Section 95(4)(5) and (6)**.

Time for Campaigns

- Political campaigns in public must commence 90 days before polling day and end 24 hours prior to the election date in accordance with any other rules and regulations stipulated for candidates and their parties by INEC ~ **Sections 99(1) and 100(1)**.
- A person, print or electronic media or body corporate must not broadcast, publish, advertise or circulate any material for the purpose of promoting or opposing a political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbill or any print or electronic media whatsoever called 24 hours immediately before polling day ~ **Section 101**

Offences Related to Political Campaigns			
Section	Offence	Actor	Penalty
81	Contravention of section 227 of the Constitution, which prohibits organizing or training or equipping of quasi-military groups by Political Parties i.e. any person or group of persons trained for the purpose of forcing, coercing or promoting any political objective or interest	Political Party/ Individual	FFor Political Parties: (a) N 500,000.00 for the first offence; (b) N 700,000.00 for any subsequent offence; and (c) N 50,000 for every day that the offence continues. For person/group aiding or abetting a political party: Fine of N500,000 or 3 years imprisonment or both.
94(2)	Possession of offensive weapon or missile at a rally/procession/voting centre	Unauthorized Individuals. Security officials authorized to be present at said locations are excluded.	Maximum fine of N2,000,000 or imprisonment for a term of 2 years or both
95	1.) Using abusive, slanderous, provocative language during campaigns 2.) Using places of worship, public office or police stations for campaigns/rallies/processions or promotion 3.) Use of masquerades at campaigns 4.) Use of private security organizations, groups or individuals to secure candidate(s) or political party at campaigns/ rallies/ elections	Political Party/ Candidate/Individual	For individuals: Maximum fine of N1,000,000 or 12 months imprisonment For Political Parties: Fine of N2,000,000 in the first instance, and N1,000,000 for any subsequent offence
95(5)	Use of specially trained forces or quasi-military groups (Same provision as in Section 227 of the 1999 Constitution. Similar to Section 81 of the Electoral Act)	Political Party/ Member of a Political Party	For individuals: Maximum fine of N1,000,000 or imprisonment for the term of 12 months. For Political Parties: Fine of N2,000,000 in the first instance, and N1,000,000 for any subsequent offence. For any person(s) aiding or abetting a political party: fine of N500,000 or 3 years imprisonment or both.

Offences Related to Political Campaigns			
Section	Offence	Actor	Penalty
96	Directly or indirectly threatening a person with the use of force or violence during any political campaign to compel support to or refrain from supporting a political party or candidate.	Individual/Political Party	For individuals: Maximum fine of N1,000,000 or imprisonment for a term of 12 months For Political Parties: Fine of N2,000,000 in the first instance, and N500,000 for any subsequent offence
99	Early or late campaigning by Parties i.e. procuring adverts, political broadcasts or campaign more than 90 days before the date of an election, or less than 24 hours before polling day.	Political Party/ Political Party Agent	Maximum fine of N500,000
100	Breach of provisions relating to media broadcast of campaigns i.e. not allocating equal media time or air time to political parties seeking to broadcast election campaign adverts	Public Media Houses/Institutions	Maximum fine of N500,000 in the first instance. Maximum fine of N1,000,000 for subsequent conviction
101	Broadcasting, publishing, advertising or circulation of election campaign materials through the media during the 24 hours before polling day or on polling day	Public Media Institutions (print and electronic inclusive) / Individuals If perpetrator is a body corporate, then every principal officer of that body	For body a corporate: maximum fine of N1,000,000 For individuals: maximum fine of N500,000 or to imprisonment for 12 months.
102	Religious, tribal, or sectional based political campaigning or broadcasting	Party Candidate/ Individual/ Association	Maximum fine of N1,000,000 or imprisonment for twelve months or to both.

ELECTION PROCEDURE

Order of Elections in Nigeria

1. Senate and House of Representatives
2. Presidential
3. State Houses of Assembly and Governorship

Order of Elections

Section 25 provides for the order of elections into the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the Membership of the Senate, the House of Representatives and the House of Assembly of each State in the following order:

- Senate and House of Representatives;
- Presidential election; and
- State Houses of Assembly and Governorship elections.

Notice of Elections

Section 30: Requires INEC to put out a notice of elections and bye-elections and indicate the time frame for so doing.

Postponement of Elections

INEC can postpone elections in any area but only for cogent and verifiable reasons -- **Section 26**. INEC may postpone elections in the following circumstances:

- » Where INEC has reason to believe that a serious breach of peace is likely to occur if elections proceed on the date fixed; or
- » Natural disasters or emergencies make the conduct of elections impossible.
- Where any of the above happens, there shall be no return for election made in the areas, until the holding of polling in the affected areas except INEC decides otherwise. In other words, INEC has the discretion to either announce or not announce election results in this area - **Section 26 (3), (4) & (5)**
- INECs decision to postpone elections can be challenged in court ~ Section 26 (5)

Appointment of Election Officers

- The Commission has powers to appoint and designate officers for elections or registration of voters.
- INEC should not appoint a person who is a member of a Political Party or who has openly expressed support for any candidate as an Electoral Officer ~ **Section 29**

- Persons who hold elective positions and registered members of political parties are specifically prohibited from acting as Returning Officer, Electoral Officer, Presiding Officer or Poll Clerk. Similarly Returning Officers, Electoral Officers and Presiding officers are prohibited from contesting elections ~ **Section 146**
- Electoral Officers are mandated to affirm or swear to an Oath of Loyalty and Neutrality indicating that they would not accept bribe or gratification from any person, and shall perform their functions and duties impartially and in the interests of the Federal Republic of Nigeria without fear or favour ~ **Section 28**
- Certain Electoral Officers have powers to announce election results ~ **Section 27**

Submission of Party Nominations to INEC & Disqualification of Candidates

- **Section 31** (as amended) requires Political Parties to submit their list of candidates to INEC not later than 60 days before the date of general elections.
- It further provides that the Commission “shall not reject or disqualify the candidate(s) for any reason whatsoever” thus compelling INEC to accept such list or nominations without question

Election Officers Authorized to Announce Election Results

- Presiding Officer at the Polling Unit
- Ward Collation Officer at the Ward Collation Centre
- Local Government or Area Council Collation Officer at the Local Government/Area Council Collation Centre
- State Collation Officer at the State Collation Centre
- Returning Officers ~ Section 27

Publication of Nominations by INEC

- INEC to publish particulars of a nominated candidate in the constituency where he intends to contest the elections ~ **Section 31(3)**
- INEC to publish the names and addresses of all nominated candidates at its offices or on its website, at least 30 days before the election date ~ **Section 34**

Change, Withdrawal, Death of Candidate

- Save for death or withdrawal of a candidate, Political Parties are not allowed to change the name of candidates they have submitted to INEC pursuant to **section 31 ~Section 33**.
- » However, **Section 35** allows a candidate to withdraw upon notice to his party. The party on its part is required to forward the notice of withdrawal to INEC not later than 45 days to the election.

- » **Section 36** empowers INEC to postpone elections where a candidate dies after delivery of nomination paper and before start of polls.

Multiple Nominations

- » **Section 37** prohibits multiple nomination of a candidate and voids the nomination of a candidate who knowingly allows him/herself to be nominated by more than one political party or constituency.

Contested Elections

Polls are required:

- » Where more than one person has been validly nominated after close of delivery of nomination papers and withdrawal of candidates/close of nominations (where more than one person has been validly nominated after close of nominations) ~ **Section 39, 40 (b)**
- » In Presidential and Governorship elections, whether or not only one person is the valid nominee/sole candidate standing for such elections ~ **Section 40**

Disqualification of Nominated Candidates

INEC lacks the power to disqualify nominated candidates. One major amendment to the Electoral Act in 2010 was to prohibit INEC from rejecting or disqualifying nominated candidate(s) for “any reason whatsoever.” The consequence of this amendment is that INEC is compelled to accept nomination lists from Political Parties without question and therefore unable to disqualify candidates who did not get nominated in accordance with the provisions of the Act ~ **Section 31**

Uncontested Elections

- » For other elections however, i.e. other than Presidential or Governorship elections, if at the close of nominations the only person who is validly nominated is the sole candidate standing for elections, then that candidate will be declared elected. In other words, it is an uncontested election and no polling/elections would be required ~ **Section 41**

Polling

- » INEC to establish polling units in each registration area and to assign voters to each polling unit. **Section 42**
- » INEC to provide Ballot Boxes, Election Forms and other election materials ~ **Section 43**
- » INEC has the duty of prescribing the format of ballot papers ~ **Section 44**

Polling Agents

Section 45 allows parties to appoint polling agents. Polling agents are political party members accredited to observe election procedures on behalf of their parties and to report on the process. They also protect the interest of their candidate in the electoral process. A person holding political office, or who recently held political office is not allowed from being a polling agent.

Date and Time of Elections

- » Elections are to take place on the date and time appointed by INEC ~ **Section 47**
- » INEC must notify the public of the date and time for elections, persons entitled to vote and location of polling units not later than 14 days before the date of the elections ~ **Section 46**

Ballot Box

- » Before start of voting, the empty Ballot box must be opened by the Presiding Officer and displayed to persons lawfully present at the polling unit and then closed back and sealed. Afterwards, it should be kept in full view of all present until after voting ~ **Section 48.**

Polling Agents

- » The Act defines a Polling Agent in **Section 156** as “a person representing a Political Party or independent candidate at the Polling Unit, Ward, Local Government, Federal Constituency, Senatorial District, State or Federal Collation Centres.” **Section 45** allows parties to appoint polling agents. Polling agents are political party members accredited to observe election procedures on behalf of their parties and to report on the process. They also protect the interest of their candidate in the electoral process. A person holding political office or who recently held political office is disallowed from being a polling agent.

Polling Agents are allowed:

- » To be present at the distribution of election materials from the office to the polling booth ~ **Section 43 (3)**
- » To be present at the distribution of materials, voting, counting, collation and announcement of election results ~ **Section 43 (4)** of the Act as amended, 2010.
- » To challenge the right of a person to receive ballot paper in accordance with the provisions of the Act (by informing the Presiding Officer - See **section 59**) ~ **Section 50**

Open Secret Ballot Voting

Voting is by open secret ballot and all ballots must be deposited in the ballot box in the open view of the public ~ **Section 53**

Section 125 however provides for secrecy of voting and **Section 148** prevents persons that have voted from being coerced to state who they have voted for in a Court or Tribunal in an Election Petitions case.

Electronic voting is prohibited for the time being ~ **Section 52**

Disabled Voters

A person may accompany blind and incapacitated voter's to a polling unit. Furthermore, INEC is required to make provisions for them to through the use of a Braille, large embossed print, electronic devices or even sign language interpretation ~ **Section 56**

Voting Procedure

- » A voter must present himself and his voter's card to the Presiding Officer
- » The Presiding Officer shall then confirm that the voter's name is on the voters register, issue a ballot paper to the voter and mark him/her as having voted ~ **Section 49**
- » The Act permits separate voting queues for men and women where the culture does not permit men and women to be on the same queue ~ **Section 51**
- » Electronic voting is prohibited for the time being ~ **Section 52.**
- » Although this is not practiced yet, **Section 56** appears to allow INEC to make electronic devices available for blind or incapacitated voters.
- » Voting is by open secret ballot and all ballots must be deposited in the ballot box in the open view of the public ~ **Section 53**
- » Voting for more than one candidate in one election is not allowed. Following this; INEC is mandated to void elections results in a polling unit where the number of votes cast exceeds the number of registered voters. However, INEC may chose to do otherwise and announce the result if it feels the results of the elections on the whole will not be substantially affected by the result from the affected polling unit ~ **Section 53.**
- » A voter is not allowed to make any mark on a ballot paper that identifies him/her. A voter is only allowed to cast his/her vote by applying their thumbprint marked with indelible ink on the ballot paper. Doing otherwise will cause the ballot paper to be rejected ~ **Section 54.**

- » Where the above occurs, the Act requires the Presiding Officer to mark “Rejected” on the ballot paper and not count it. The Returning Officer may overrule the Presiding Officer on this issue, however, his decision, which is deemed final at the polling unit, may be reviewed by an Election Tribunal or Court ~ **Section 67**
- » A voter must appear in person to vote ~ **Section 57**. And he must vote in the polling unit where he has been assigned - **Section 58**.
- » Voters cannot vote on damaged ballot paper ~ **Section 55**
- » **Section 56** makes provisions for blind and incapacitated voters, allowing persons to accompany them to vote and for INEC to make provisions for them to vote through the use of Braille, large embossed print, electronic voting or even sign language interpretation.
- » A Presiding Officer can order a police officer to arrest a person impersonating a voter or a person who he believes is under the age of voting i.e. 18 years ~ **Section 59**
- » **Section 60:** provides for the use of tendered ballots. A tendered ballot is issued where someone claims to be entitled to vote and applies for a ballot paper to do so, but records indicate that another person has voted in the name given by the claimant.

Tendered Ballot

This is issued in a situation where someone applies for a ballot paper to vote, whereas records indicate that another person has voted in the name given by the claimant ~ **Section 60**
The Act requires the Presiding Officer to enter the name of the voter and his number in the voters register on a list to be called “tendered vote list” and the tendered vote list shall be produced in any legal proceedings arising out of the election. The aim is to regulate conduct of voters at polling units and prevent disruptive situations.

Conduct at Polling Units, Vote Counting & Collation

Powers & Duties of the Presiding Officer at Polling Units

- » The Presiding Officer regulates the admission of voters to the polling unit and can exclude persons other than those lawfully entitled to be admitted such as accredited observers, polling agents and Poll Clerks ~ **Section 61(1)**
- » He may also remove any person who behaves in an unruly manner ~ **Section 61(2)**
- » Such persons may only re- enter the polling unit on the day of the election with the approval of the Presiding Officer ~ **Section 61(3)**
- » **Section 61(4);** The powers given to the Presiding officer to exclude disruptive persons or persons charged with the commission of an offence must not be abused to prevent a lawfully entitled voter from voting.

- » In the absence of a Presiding Officer, the Poll Clerk assumes all his powers ~ **Section 61(5)**
- » The Presiding officer must declare the polls closed at the time set for closing. At this time, only persons inside the polling unit who have not voted are allowed to remain in the polling booth until their votes are cast ~ **Section 62**

Vote Counting

- » The Presiding Officer must count the votes at the polling unit and enter the votes scored by each candidate into the form prescribed by INEC ~ **Section 63 (1)**
- » Subsequently, this form must be signed and stamped by the Presiding Officers and counter-signed by candidates or their polling agents if they are at the polling unit ~ **Section 63(2)**
- » Thereafter, a copy of the forms must be given to the Polling Agents and the Police by the Presiding officer ~ **Section 63(3)**. This process is applicable to result forms completed at the ward, local government, state and national level ~ **Section 74**
- » However, while **Section 63** is limited to the result forms at the “polling unit”, the scope of Section 74 appears to be wider as it addresses result forms made at the “ward, local government, state and national level”
- » The Presiding Officer must count and announce the result at the Polling Unit ~ **Section 63(4)**
- » In certain instances after the counting of votes, a candidate or a polling agent may request that the Presiding Officer recount the votes. In such cases, the Presiding Officer should do so, but only once ~ **Section 64**
- » After voting, the Presiding Officer has a duty to deliver the result of the elections after it has been recorded and any election materials under security to persons that have been approved by INEC ~ **Section 65**
- » Similarly, **Section 72** gives the Chief Electoral Commissioner or any officer he delegates as responsible for the official custody of all the documents given by the Returning Officers.

Unmarked & Rejected Ballots

- » Ballot papers that do not bear the official mark that were furnished to the Presiding Officer of the polling unit will not be counted. An exception to this is where the Returning Officer is satisfied that the ballot paper is from the book of ballot papers which was furnished to the Presiding officer for use at the election in question ~ **Section 66**
- » Where a voter writes on or marks a ballot paper by which he may be identified the Presiding Officer shall write “Rejected“ on the ballot paper unless the Returning Officer

disagrees. However, where the objection to the Presiding officer's decision is not by the Returning Officer but by a candidate or a polling agent, the Presiding officer shall mark the ballot paper with "Rejected but objected to" ~ **Section 67**

- » The Presiding Officer must prepare a statement that states the number of ballot papers that were rejected, the reasons they were rejected, and their serial number(s). A candidate or polling agent can request to copy the statement of the Presiding Officer ~ **Section 67(3)**
- » The Returning Officer's decision on an unmarked ballot paper, rejected ballot paper and the scores and return of each candidate is final unless a Court or a Tribunal reviews it ~ **Section 68(1)**

Emergence of Winner of Elections & Declaration of Results

- » **Section 69** of the Act provides that election results shall be ascertained by counting votes cast for each candidate and that the candidate with the highest number of votes shall be declared as elected by the Returning Officer. However, this provision is subject to sections 133, 134 and 179 of the 1999 Constitution, which provides for the procedure in which a candidate can emerge winner in a Presidential and Governorship election.
- » INEC is required to publish election results on its notice board and website, including the candidates in the elections, their scores and the person declared as winner in that election ~ **Section 71**
- » The Commission is to issue a Certificate of Return within 7 days to a candidate who won an election as proof of his/her win. But, in a case where a Court declares another candidate the successful candidate in an election, the Certificate of Return should be issued to the successful candidate within 48 hours. In the failure of the INEC to do this, a certified true copy of the Court order can be used to swear in the candidate ~ **Section 75**
- » A party to an election petition over an election conducted in a State may request for certified true copies of election documents from the Resident Electoral Commissioner (REC). Failure of the REC to comply with the request, may lead to a penalty of a maximum fine of N 2,000,000 or 12 months imprisonment or both ~ **Section 77**

Declaration of Election Result

The Electoral Act and the Constitution makes provisions on how a candidate in an election emerges the winner.

- » In a presidential, governorship or other election to an elective office, the results shall be ascertained by counting the votes cast for each candidate and the candidate with the highest number of votes shall be declared winner-subject to sections 133, 134 and 179 of the 1999 Constitution ~ **Section 69 of the Act**
- » Furthermore, where two or more candidates have an equal number of votes, which are the highest in an election, a fresh election will be held on a date approved by INEC- **Section 70 of the Act**

When a Candidate is deemed to have been duly elected: Sections 133, 134 and 179, 1999 Constitution

- » **Presidential Elections:**
 - **Single Candidate:**
 - * If the candidate gets a majority of “yes” over “no” votes cast in the election and at least a quarter of votes in at least 24 States and the Federal Capital Territory.
 - **Two or more Presidential Candidates:**
 - * The candidate has a majority of votes cast at the elections; and
 - * He/she has not less than a quarter of the votes in at least two-thirds of the States (i.e. usually 24 States) and the Federal Capital Territory.
 - * Where a candidate is not elected, there shall be a second election in the manner prescribed in section 134 (4) of the Constitution.
- » **Governorship Elections**
 - **Single Candidate:**
 - * If the candidate gets a majority of “yes” over “no” votes cast in the election; and
 - * At least a quarter of votes in at least two-thirds of all the local government areas in the State.
 - * If the candidate fails to be elected, there shall be fresh nominations.
 - **Two or more Governorship Candidates:**
 - * If the candidate has a majority of votes cast at the elections; and
 - * He/she has not less than a quarter of votes in at least two-thirds of all the local government areas in the State.
 - Where a candidate is not elected, there shall be a second election in the manner prescribed in section 179 (4) of the Constitution.

ELECTION PETITIONS

Election Petitions

Election petitions are used to inquire into the validity of an election or to challenge an election result. It is the legal means of contesting that a declared or returned candidate did not win an election.

Part VIII of the Electoral Act deals with the procedure governing Election Petitions

- Election petitions are used to present a legal grievance that an election was fraudulent or by contesting that a declared candidate is not the successful winner ~ **Section 133(1)**
- It can only be presented to a competent court or tribunal by a candidate in an election or a political party who participated in an election ~ **Section 137(1)**
- The Court of Appeal hears Presidential and Governorship Election Petitions ~ **Section 133 (2)(a)** of the First Alteration Act
- For other elections: an Election Tribunal ~ **Section 133 (2)(b)**
- Election tribunals must be created not later than 14 days before the date of the elections and their registries must open for at least 7 days before the elections ~ **Section 133 (3)**
- **Section 135(1)** mandates the establishment of one or more election tribunals known as Area Council Election Tribunals consisting of a Chairman and two other members in the Federal Capital Territory ~ **Section 135 (2)**
- **Section 134: the Area Council Tribunal determines the following:**
 1. Whether any person has been validly elected to the office of Chairman, Vice Chairman or Councillor;
 2. Whether the term of office of such persons in (1) has ceased;
 3. Whether the seat of a member of Area Council has become vacant; and
 4. To determine if a question or petition brought before the Tribunal has been appropriately or improperly brought.
- An Area Council Election Appeal Tribunal shall also be established in the Federal Capital Territory as the only institution to determine all appeals emanating from the decision of the Area Council Election Tribunal. The decision of this tribunal will be final ~ **Section 136**
- In cases where the subject of complaint in the electoral petition is on the conduct of an electoral officer, it is not essential to include them as parties in the petition presented before the court. In this case, INEC should be made a party to the petition and must

take the responsibility on the judgment of the Court on the actions of the conduct of its officers ~ **Section 137(3)**. For this purpose, a legal officer of the Commission or a legal practitioner engaged by the Commission shall represent the Commission ~ **Section 144(1)(a)**, First Alteration Act

- The Attorney General of the Federation or of a State (or one of their legal officers) may represent INEC in an Election Petition with the written consent of the Commission ~ **Section 144(2)**
- **Section 148** prevents persons that have voted from being coerced to state who they have voted for in the Court or Tribunal. This is consistent with the provision in **Section 125** on ballot secrecy.
- The Commission must always consider the recommendations of an Election Tribunal to the Commission regarding the prosecution of any person charged with an electoral offence ~ **Section 149**
- **Section 151** An election tribunal or court has wide powers under the Electoral Act to inspect a document, polling document or any packet in the custody of the Chief National Electoral Commissioner if it is needed to establish, sustain or defend an election petition. It may also compel the Chief National Electoral Commissioner to submit any other documents ~ **Section 151(2)**
- An election tribunal or a Court is prohibited from declaring any person that has not participated in all stages of an election as winner of the said election ~ **Section 141**
- To ensure that election petitions are quickly resolved, it should be fast-tracked and given priority over other cases or matters before the Court or tribunal ~ **Section 142**

Grounds for Petition

- » That the candidate declared to be the winner of an election is not qualified to contest
- » That the winning candidate did not have majority of lawful votes cast at the elections or
- » That the election was marred by corrupt practices or non-compliance with the provisions of the Electoral Act
- » That the Petitioner or its candidate was unlawfully excluded from the election even when he was lawfully nominated

Grounds for Petition

- There are 4 grounds on which an election may be questioned. They include:
 1. That the candidate declared to be the winner of an election is not qualified to contest
 2. That the candidate did not have majority of lawful votes cast at the elections or
 3. That the election was marred by corrupt practices or non-compliance with the provisions of the Electoral Act
 4. That the petitioner or its candidate was unlawfully excluded from the election even when he was lawfully nominated ~ **Section 138(1)**

- Acts or omissions contrary to the instruction or directive of the Commission but not inconsistent with the provisions of the Electoral Act do not suffice to be a ground to question the validity of the election ~ **Section 138(2)**
- Similarly, an election shall not be invalidated if an Election Tribunal rules that the election to a larger extent complied with the provisions of the Electoral Act or that the irregularity did not affect the outcome of the election ~ **Section 139(1)**
- Further, as long as a person has a right or authority to conduct an election or to act as such, an election will not be invalidated due to his defect or lack of title ~ **Section 139(2)**

Nullification Of Election

- **Section 140(1)** provides that where the Tribunal or the Court holds that a candidate who was declared winner was not validly elected, it must nullify the election except in 2 instances:
 1. Where the person who obtained the highest votes at the election was not qualified to contest the election or the election was marred by substantial irregularities or where there is no-compliance with the provisions of the Act. In this case, the court shall declare a fresh election ~ **Section 140 (2)** as amended
 2. Where the candidate who was declared winner did not score the majority of the valid votes cast, it must declare the candidate who scored the highest number of votes cast and who also satisfies the requirements of the 1999 Constitution (as Amended) and the Electoral Act as winner.

ELECTORAL OFFENCES

Sections 117 – 132 of the Act lists offences that are prohibited by the Act as well as their penalties. INEC Legal Officers or lawyers appointed by the Commission can prosecute election offences under the Act. Only the Magistrate Court or the High Court of a State/ Federal Capital Territory - FCT where an offence is committed can try an offence committed under this Act ~ **Section 150**

Table of Electoral Offences			
Section	Offence	Actor	Penalty
117	Crimes or offences against voter registration such as: Destroying or altering voter registration documents; Providing false information or documents for inputting false data into the voters register; Intentional multiple registration; Obstructing a registration officer or a revision officer in the performance of his duties; Impersonating or purporting to be a registration officer or assistant registration officer; Forging a registration card; Carrying out registration or revision of voters at a centre or place not designated by INEC.	Anyone i.e. Voter/ Individual/ Party candidate/ Part agent/ Electoral official etc.	Maximum fine of N1,000,000 or to 12 months imprisonment or both.
118 (1)	Offences in respect of nomination such as : Forging or destroying a nomination paper or result form; Delivering a forged nomination form to an electoral officer; Forging, destroying ballot, paper; Willfully destroying a ballot box and its contents	Any individual	Maximum term of imprisonment for 2 years
118(2)	Committing or attempting to commit an offence relating to unauthorized printing, possession, or importation of ballot paper, result forms or any sort of ballot box		Maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
119	Disorderly behaviour at political meetings after an election date has been announced. Possession of weapons or missiles after election date has been announced	Any individual	Maximum fine of N500,000 or imprisonment for 12 months or both

Table of Electoral Offences			
Section	Offence	Actor	Penalty
120	Fraudulent use of voters cards	Any individual	Maximum fine of N1,000,000 or imprisonment for 12 months or both
121	Using a vehicle/boat owned by any government or public corporation to convey a person to a polling unit	Any individual (except a person ordinarily entitled to use such vehicle)	Maximum fine of N 500,000 or imprisonment for six months or to both.
122	-Impersonating a voter -Voting when not qualified -Applying for ballot paper in the name of another -Procuring another not qualified to vote to vote at an election	Any Individual	Maximum fine of N500,000 or 12 months imprisonment or both
123	Derelection of duty by electoral official: Act or omission to do any act in breach of official duty	Electoral Official/ any officer appointed for the purposes of the Electoral Act	Sanctions are as follows: Maximum fine of N500,000 or imprisonment for 12 months or both.
	-Failure to report promptly at polling unit on an election day without lawful excuse. -Failure to discharge lawful duties at polling unit without lawful excuse	Polling Officer	Maximum fine of N500,000 or imprisonment for 12 months or both.
	Knowingly publishing or announcing false election result or results different from the signed certificate of return	Any Person/individual	36 months imprisonment
	Knowingly delivering or causing to be delivered, a false certificate of return	Returning Officer or Collation Officer	Maximum imprisonment for 3 years without an option of fine.
	Knowingly delivering or causing to be delivered, a false Certificate of return to any news media	Any person/individual	Imprisonment for 3 years
124	Bribery and inducement in elections. Voter coercion. Bribery through gifts or money to voters, or promises of such. Receipt of bribes by voters.	Any person/voters/ candidates etc.	Maximum fine of N500,000 or imprisonment for 12 months or both.

Table of Electoral Offences			
Section	Offence	Actor	Penalty
125	-Violating the secrecy of vote or the right to cast vote freely. -Interfering with a voter's right to vote.	Any person/ Individual	Maximum fine of N100,000 or to imprisonment for 6 months or both.
126	Procuring a person prohibited from voting to do so. Voting when prohibited from so doing. Knowingly propagating false news or statements regarding a candidate before or during an election in order to prejudice the candidate in question.	Any person/ individual	Maximum fine of N100,000 or imprisonment for a term of 6 months or both.
127	Voting by an unregistered person. Knowingly bringing another's voter's card to a polling unit.	Any person/individual	Maximum fine of N100,000 or to imprisonment for a term of 6 months or both
128	Acting or inciting others to act in a disorderly manner during elections	Any person/ individual	Maximum fine of N500,000 or to imprisonment for a term of 12 months or both
129	Election day offences : Doing the following in a polling unit or within a distance of 300 metres of a polling unit on an election day ~ - Canvassing or soliciting for votes; -Persuading a voter not to vote - Shouting slogans concerning the election; - Possession of an offensive weapon -voter intimidation -Exhibiting any type of symbol concerning a political party or the elections -Loitering after voting or after being refused to vote -Blaring siren	Any person/ individual	Fine of N100,000 or imprisonment for 6 months for every such offence.
129(2)	- Convening, holding or attending any public meeting during polling hours -Making unauthorized official announcements over any public address system -Exhibiting party or election-related symbols within the vicinity of a polling unit or collation centre on the day of election	Any person/ individual	Fine of N100,000 or imprisonment for 6 months for every such offence

Table of Electoral Offences

Section	Offence	Actor	Penalty
129(4)	Snatching or destroying election materials on election day	Any person/ individual	24 months imprisonment
130	-Undue influence on voter to vote or refrain from voting through monetary inducement after the date of election has been announced -Corruptly accepting such monetary offer or inducement	Individual/voter	Fine of N100,000 or 12 months imprisonment or both
131	-Threatening use of force, violence or restrain on a voter -Inflicting or threatening to inflict injury on a voter to induce, compel him to vote or refrain from voting -Preventing the exercise of the right to vote through abduction, duress, or fraud -other forms of threats to political aspirants	Any person/ individual	Fine of N1,000,000 or imprisonment for 3 years

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ELECTORAL ACT, 2010

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ELECTORAL ACT 2010

PART I

ESTABLISHMENT AND FUNCTIONS ETC, OF INDEPENDENT NATIONAL ELECTORAL COMMISSION

1. The Independent National Electoral Commission as established by S.153 of the Constitution shall be a body corporate with perpetual succession and may sue and be sued in its corporate name.

Functions of the Commission

2. In addition to the functions conferred on it by the Constitution, the Commission shall have power to:
 - a. Conduct voter and civic education.
 - b. Promote knowledge of sound democratic election processes.
 - c. Conduct any referendum required to be conducted pursuant to the provision of the 1999 Constitution or any other law or Act of the National Assembly.

Establishment of the Independent National Electoral Commission Fund

3. (1) There shall be established for the Commission a fund to be known as Independent National Electoral Commission Fund.
 - (2) There shall be paid into the Fund established in pursuance to subsection (1) of this Section-
 - a. such sums and payments available to the Commission for carrying out its functions and purposes under the Constitution and this Act and all other assets from time to time accruing to the Commission.
 - b. such sums as may, from time to time, be credited to the Fund by way of interest from investments made from the fund.
 - c. aids, grants that may from time to time accrue to the Commission in order to carry out its functions.
 - (3) Disbursements from the fund shall be made in accordance with rules established by the Commission.

Expenditure of the Commission

4. (1) The Commission may, from time to time, apply the proceeds of the Fund established pursuant to **section 3(1)** of this Act to-
 - a. defray the cost of administration of the Commission.
 - b. reimburse members or members of any Committee set up by the Commission for such expenses as may be expressly authorized by the Commission in accordance with the rates approved by it;
 - c. the payment of the salaries, fees or other remuneration or allowances and pensions, superannuation allowance and gratuities payable to the officers and servants of the Commission, so however that no payment of any kind under this paragraph (except such as may be expressly authorized as aforesaid) shall be made to any person who is in receipt of emoluments from the Government of the Federation or the Government of a State;
 - d. the maintenance of any property vested in the Commission;
and
 - e. in connection with all or any of its functions under this Act.

Annual Estimates and Accounts

5. (1) The Commission shall submit to the Ministry of Finance not later than 31st August in each financial year an estimate of its expenditure and income (including payments to the Independent National Electoral Commission) during the next succeeding financial year.

(2) The Commission shall keep proper accounts in respect of each financial year (and proper records in relation thereto) and shall cause its accounts to be audited as soon as possible after the end of each financial year by the Auditor General of the Federation.

Establishment of office in each State and Federal Capital Territory

6. (1) There shall be established in each State of the Federation and Federal Capital Territory, an office of the Commission which shall perform such functions as may be assigned to it, from time to time, by the Commission.

(2) A person appointed to the office of a Resident Electoral Commissioner shall;
 - (a) be answerable to the Commission; and
 - (b) hold office for a period of five years.
(3) The Resident Electoral Commissioner appointed pursuant to the Constitution may only be removed by the President, Commander-in-Chief of the Armed Forces of the federation acting on an address supported by 2/3 majority of the Senate praying that he be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.

Committees of the Commission

7. The Commission may appoint one or more committees to carry out any of its functions under this Act.

PART II

STAFF OF THE COMMISSION

Secretary to the Commission

8. (1) There shall be a Secretary to the Commission who shall-
 - (a) be appointed by the Commission;
 - (b) have such qualifications and experience to be determined by the Commission as are appropriate for a person required to perform the functions of his office under this Act.
(2) Subject to the general direction of the Commission, the Secretary shall be-
 - (a) responsible for keeping of proper records of the proceedings of the Commission;
 - (b) the head of the Commission's secretariat and be responsible for its administration thereof; and
 - (c) responsible for the direction and control of all other employees of the Commission with the approval of the Commission.
(3) The Commission shall have power to appoint, dismiss and exercise disciplinary control over its staff as may be prescribed by this Act or any other enactment or law.

(4) All employees of the Commission appointed pursuant to subsection (3) of this section excluding such as are appointed on a temporary basis for an honorarium shall have the same right and obligation as provided for in the Pension Reform Act.

PART III

National Register of Voters and Voters' Registration.

9. (1) The Commission shall compile, maintain, and update on a continuous basis, a National Register of Voters, in this Act referred to as the "Register of Voters" which shall include the names of all persons entitled to vote in any Federal, State or Local Government or Area Council elections.
- (2) The Commission shall maintain as part of the National Register of Voters, a register of voters for each State of the Federation and for the Federal Capital Territory;
- (3) The Commission shall maintain as part of the National Register of Voters for each State and the Federal Capital Territory, a Register of Voters for each Local Government/Area Council within the State and the Federal Capital Territory.
- (4) The register of voters shall contain in respect of every person the particulars required in the Form prescribed by the Commission.
- (5) The registration of voters, updating and revision of the register of voters under this section shall stop not later than 60 days before any election covered by this Act.
- (6) The registration of voters shall be at the registration centres designated for that purpose by the Commission and notified to the public.
- Continuous Registration
10. (1) Without prejudice to section 10(5), there shall be continuous registration of all persons qualified to be registered voters.
- (2) Each applicant for registration under the continuous registration system shall appear in person at the registration venue with any of the following documents, namely—
- (a) birth or baptismal certificate;
 - (b) national passport, identity card or driver's licence; or
 - (c) any other document that will prove the identity, age and nationality of the applicant.
- (3) The Commission shall within sixty days after each year make available to every political party, the names and address of each person registered during that year.
- (4) When a general election is notified by the Commission pursuant to section 31 of this Act, the current official register of voters certified by the Commission in accordance with the provision of this Act shall be the official voters' register for those elections.
- (5) In the case of every bye-election conducted under this Act, the official voters' register for use at such

elections shall be the existing current register relating to the senatorial district or the constituency concerned.

(6) As soon as claims and objections have been dealt with or the period for making claims and objections has expired, the supplementary list shall be included in the revised register, which shall be certified by the Commission as the official register of voters for the purposes of any election conducted under this Act and supercedes all previous registers.

Appointment of officers

11. (1) For the purpose of maintaining and updating the Voters' Register, the Commission shall appoint such registration, revision or update officers as it may require, provided that such officers shall not be members of any political party.
- (2) Any person may raise an objection against any officer during the registration or updating exercise provided that failure to raise such objection shall not vitiate the register.
- (3) The officers appointed under subsection (1) of this section shall exercise such functions and duties as may be specified by the Commission, in accordance with the provisions of this Act, and shall not be subject to the direction or control of any person or authority other than the Commission in the performance of their functions and duties.

Qualification for Registration

12. (1) A person shall be qualified to be registered as a voter if such a person:
- (a) is a citizen of Nigeria;
 - (b) has attained the age of eighteen years;
 - (c) is ordinarily resident, works in, originates from the Local Government/Area Council or Ward covered by the registration centre;
 - (d) presents himself to the registration officers of the Commission for registration as a voter; and
 - (e) is not subject to any legal incapacity to vote under any law, rule or regulations in force in Nigeria.
- (2) No person shall register in more than one registration centre or register more than once in the same registration centre.
- (3) Any person who contravenes the provisions of subsection (2) of this section commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment for a term not exceeding one year or both.

Transfer of Registered voters.

13. (1) A person who before the election is resident in a constituency other than the one in which he was registered may apply to the Resident Electoral Commissioner of the State where he is currently resident for his name to be entered on the transferred voters List for the constituency.
- (2) An application under subsection (1) of this section shall be accompanied by the applicant's voters' card and shall be made not less than 30 days before the date of an election in the constituency where the applicant is resident.
- (3) The Resident Electoral Commissioner to whom an application is made under the provision of this Section shall cause to be entered the applicant's name in the 'Transferred Voters' List if he is satisfied that the applicant is resident in a polling area in the constituency and is registered in another constituency.
- (4) Whenever an Electoral Officer on the direction of the Resident Electoral Commissioner enters the name

of any person on the Transferred Voters' List for his constituency he shall-

- (a) assign that person to a polling station or a polling area in his Constituency and indicate in the list the Polling area or polling station to which that person is assigned;
- (b) issue the person with a new voters' card and retrieve his previous voter's card; and
- (c) send a copy of the entry to the Electoral Officer of the constituency where the person whose name has been so entered was originally registered and upon receipt of this entry, that Electoral Officer shall delete the name from his voters' list.

Demand for information regarding registration

14. In the performance of his or her duties under this Act, a registration officer and an update officer shall -
 - (a) demand from any applicant the information necessary to enable him to ascertain whether the applicant is qualified to be registered as a voter in accordance with the provisions of this Act; and
 - (b) require any voter or applicant to complete an application form for the purpose of the registration. However, in the case of an illiterate or disabled person such application form may be completed by the registration officer on the applicant's request.

Power to print and issue register of voters

15. The Commission shall cause a voters' register for each State to be printed, and any person or political party may obtain from the Commission, on payment of such charges, a certified copy of any voters' register for the State or for a Local Government or Area Council or registration area within it.

Powers to print and issue voters' card

16. (1) The Commission shall design, cause to be printed and control the issuance of voters' cards to voters whose names appear in the register.
 - (2) No voter shall hold more than one valid voters' card.
 - (3) Any person who contravenes subsection (2) of this section commits an offence and shall be liable on conviction, to a fine not exceeding N100,000 or imprisonment not exceeding one year or both.
 - (4) The Commission may, whenever it considers it necessary, replace all or any voters' cards for the time being held by voters.

Custody of voters' register

17. Each electoral officer shall take custody of the voters register for his Local Government Area under the general supervision of the Resident Electoral Commissioner.

Power to issue duplicate voters' cards

18. (1) Whenever a Voter's card is lost, destroyed, defaced, torn or otherwise damaged, the owner of such card shall, not less than thirty (30) days before polling day, apply in person to the Electoral Officer or any other officer duly authorized for that purpose by the Resident Electoral Commissioner, stating the circumstances of the loss, destruction, defacement or damage.
 - (2) If the Electoral Officer or any other officer is satisfied as to the circumstances of the loss, destruction,

defacement or damage of the Voter's card, he shall issue to the voter another copy of the voter's original voter's card with the word "DUPLICATE" clearly marked or printed on it, showing the date of issue.

(3) No person shall issue a duplicate voter's card to any voter on polling day or less than thirty (30) days before polling day.

(4) Any person who contravenes subsection (3) of this section commits an offence and is liable on conviction, to a fine not exceeding N200,000 or imprisonment not exceeding two years or both.

Display of the copies of the voters' list

19. (1) Subject to the provisions of section 16(1) of this Act, the Commission shall, by notice, appoint a period of not less than 5 days and not exceeding 14 days, during which a copy of the voters' register for each Local Government, Area Council or ward shall be displayed for public scrutiny and during which period any objection or complaint in relation to the names omitted or included in the voters' register or in relation to any necessary correction, shall be raised or filed.

(2) During the period of the display of the Voters' list under this Act, any person may:

(a) raise an objection on the form prescribed by the Commission against the inclusion in the supplementary Voters' register of the name of a person on grounds that the person is not qualified to be registered as a voter in the State, Local Government/Area Council, Ward or Registration Area or that the name of a deceased person is included in the register; or

(b) make a claim on the form prescribed by the Commission that the name of a person registered to vote has been omitted.

(3) Any objection or claim under subsection (2) of this section shall be addressed to the Resident Electoral Commissioner through the Electoral Officer in charge of the Local Government/Area Council.

Time for publication of supplementary voters' register

20. The supplementary voters' list shall be integrated with the voters' register and published not later than 30 days before a general election.

Revision officer for hearing of claims, etc.

21. (1) The Commission may appoint as a Revision Officer any person to hear and determine claims for and objection to any entry in or omission from the preliminary list of voters and may appoint such number of other persons as it deems necessary to assist the Revision Officer.

(2) Any person dissatisfied with the determination by a revision officer or person or persons assisting a revision officer of his claims or objection as mentioned in subsection (1) of this section, shall within seven days, appeal against the decision to the Resident Electoral Commissioner in charge of that State whose decision shall be final.

Proprietary rights in the voters' card

22. The proprietary rights in any voters' card issued to any voter shall vest in the Commission.

Offences of buying and selling voters' cards

23. Any person who -

(a) is in unlawful possession of any voter's card whether issued in the name of any voter or not; or

- (b) sells or attempts to sell or offers to sell any voter's card whether issued in the name of any voter or not; or
- (c) buys or offers to buy any voters' card whether on his own behalf or on behalf of any other person, commits an offence and shall be liable, on conviction, to a fine not exceeding N500,000 or imprisonment not exceeding two years or both.

Offences relating to registration of voters

24. (1) Any person who-
- (a) makes a false statement in any application for registration as a voter knowing it to be false;
 - (b) after demand or requisition made of him under this Act without just cause, fails to give any such information as he or she possesses or does not give the information within the time specified;
 - (c) in the name of any other person, whether living, dead or fictitious, signs an application form for registration as a voter to have that other person registered as a voter;
 - (d) transmits or is concerned in transmitting to any person as genuine a declaration relating to registration which is false in any material particular, knowing it to be false;
 - (e) by himself or any other person procures the registration of himself or any other person on a voters' register for a State, knowing that he or that other person is not entitled to be registered on that voters' register or is already registered on it or on another voters' register;
 - (f) by himself or any other person procures the registration of a fictitious person; commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment not exceeding one year or both.
- (2) Any person who:
- (a) by duress, including threats of any kind causes or induces any person or persons generally to refrain from registering as a voter or voters;
 - (b) in any way hinders another person from registering as a voter; commits an offence and shall be liable on conviction, to a fine not exceeding N500,000 or imprisonment not exceeding five years.

PART IV

PROCEDURE AT ELECTION

Days of Election

25. (1) Elections into the offices of the President and Vice-President, the Governor and Deputy Governor of a State, and to the Membership of the Senate, the House of Representatives and the House of Assembly of each State of the Federation shall be held in the following order:
- a. Senate and House of Representatives;
 - b. Presidential election; and
 - c. State House of Assembly and Governorship elections.

(2) Elections into the offices of the Chairman and Vice-Chairman and membership of an Area Council shall be held on the dates to be appointed by the Independent National Electoral Commission.

Postponement of election

26. (1) Where a date has been appointed for the holding of an election, and there is reason to believe that a serious breach of the peace is likely to occur if the election is proceeded with on that date or it is impossible to conduct the elections as a result of natural disasters or other emergencies, the Commission may postpone the election and shall in respect of the area, or areas concerned, appoint another date for the holding of the postponed election, provided that such reason for the postponement is cogent and verifiable.

(2) Where an election is postponed under this Act on or after the last date for the delivery of nomination papers, and a poll has to be taken between the candidates nominated, the Electoral Officer shall, on a new date being appointed for the election, proceed as if the date appointed were the date for the taking of the poll between the candidates.

(3) Where the Commission appoints a substituted date in accordance with subsections (1) and (2) of this section, there shall be no return for the election until polling has taken place in the area or areas affected.

(4) Notwithstanding the provision of subsection (3) of this section, the Commission may, if satisfied that the result of the election will not be affected by voting in the area or areas in respect of which substituted dates have been appointed, direct that a return of the election be made.

(5) The decision of the Commission under subsection (4) may be challenged by any of the contestants at a court or tribunal of competent jurisdiction and on such challenge, the decision shall be suspended until the matter is determined.

Announcement of election results

27. (1) The Results of all the elections shall be announced by-

- (a) the Presiding Officer at the Polling unit;
- (b) the Ward Collation Officer at the Ward Collation Centre;
- (c) the Local Government or Area Council Collation Officer at the Local Government/Area Council Collation Centre;
- (d) the State Collation Officer at the State Collation Centre;

(2) The Returning Officer shall announce the result and declare the winner of the election at:

- (a) Ward Collation Centre in the case of Councillor-ship election in the Federal Capital Territory;
- (b) Area Council Collation Centre in the case of Chairmanship and Vice Chairmanship election in the Federal Capital Territory;
- (c) State Constituency Collation Centre in the case of State House of Assembly election;
- (d) Federal Constituency Collation Centre in the case of election to the House of Representatives;
- (e) Senatorial District Collation Centre in the case of election to the Senate;
- (f) State Collation Centre in the case of election of a Governor of a State;
- (g) National Collation Centre in the case of election of the President.
- (h) the Chief Electoral Commissioner who shall be the Returning Officer at the Presidential election.

Oath of Neutrality by election officers

28. (1) All staff appointed by the Commission taking part in the conduct of an election shall affirm or swear before the High Court an Oath of Neutrality as in the second schedule to this Act.
- (2) All Electoral officers, Presiding Officers, Returning Officers and all staff appointed by the Commission taking part in the conduct of an election shall affirm or swear to an Oath of Loyalty and Neutrality indicating that they would not accept bribe or gratification from any person, and shall perform their functions and duties impartially and in the interests of the Federal Republic of Nigeria without fear or favour.

Appointment of other officers for the conduct of registration of voters and elections

29. (1) The Commission shall for the purposes of an election or registration of voters under this Act appoint and designate such officers as may be required provided that no person who is a member of a Political Party or who has openly expressed support for any candidate shall be so appointed.
- (2) The Officers appointed under sub-section (1) of this section shall exercise such functions and duties as may be specified by the Commission, in accordance with the provisions of this Act, and shall not be subject to the direction or control of any person or authority other than the Commission in the performance of their functions and duties.

Notice of election

30. (1) The Commission shall not later than 90 days before the day appointed for holding of an election under this Act publish a notice in each State of the Federation and the Federal Capital Territory-
- (a) stating the date of the election; and
 - (b) appointing the place at which nomination papers are to be delivered.
- (2) The notice shall be published in each constituency in respect of which an election is to be held.
- (3) In the case of a by-election, the Commission shall, not later than 14 days before the date appointed for the election, publish a notice stating the date of the election.

Submission of list of candidates and their affidavits by political parties

31. (1) Every political party shall not later than 60 days before the date appointed for a general election under the provisions of this Act, submit to the Commission in the prescribed forms the list of the candidates the Party proposes to sponsor at the elections.
- (2) The list or information submitted by each candidate shall be accompanied by an Affidavit sworn to by the candidate at the High Court of a State, indicating that he has fulfilled all the constitutional requirements for election into that office.
- (3) The Commission shall, within 7 days of the receipt of the personal particulars of the candidate, publish same in the constituency where the candidate intends to contest the election.
- (4) Any person may apply to the Commission for a copy of nomination form, affidavit and any other document submitted by a candidate at an election and the Commission shall, upon payment of a prescribed fee, issue such person with a certified copy of document within 14 days”.
- (5) Any person who has reasonable grounds to believe that any information given by a candidate in the affidavit or any document submitted by that candidate is false may file a suit at the High Court of a State or

Federal High Court against such person seeking a declaration that the information contained in the affidavit is false.

(6) If the Court determines that any of the information contained in the affidavit or any document submitted by that candidate is false, the Court shall issue an order disqualifying the candidate from contesting the election.

(7) A candidate for an election shall, at the time of submitting the prescribed form, furnish the Commission with an identifiable address in the State where he intends to contest the election at which address all documents and court processes from either the Commission or any other person shall be served on him.

(8) A political party which presents to the Commission the name of a candidate who does not meet the qualifications stipulated in this section, shall be guilty of an offence and on conviction shall be liable to a maximum fine of N500,000.00.

Prohibition of double nomination

32. (1) A candidate for an election shall be nominated in writing by such number of persons whose names appear on the register of voters in the constituency as the Commission may prescribe.

(2) No person shall nominate more than one person for an election to the same office.

(3) Any person who contravenes subsection (2) of this section shall be guilty of an offence and on conviction be liable to a maximum fine of N100,000 or imprisonment for three months or both but his action shall not invalidate the nomination.

(4) No account shall be taken of the signature of a person on a nomination paper where the candidate had died, withdrawn or where the nomination paper was held invalid.

(5) No person who has subscribed as a nominator shall so long as the candidate stands nominated withdraw his nomination.

Political Parties changing candidates

33. No political party shall be allowed to change or substitute its candidate whose name has been submitted pursuant to Section 32 of this Act, except in the case of death or withdrawal by the candidate;

Publication of nomination

34. The Commission shall, at least thirty days before the day of the election publish by displaying or causing to be displayed at the relevant office(s) of the Commission and on the Commission's web site, a statement of the full names and addresses of all candidates standing nominated.

Withdrawal of candidate

35. A candidate may withdraw his candidature by notice in writing signed by him and delivered by himself to the Political party that nominated him for the election and the political party shall convey such withdrawal to the Commission and which shall only be allowed not later than 45 days to the election.

Death of a candidate

36. (1) If after the time for the delivery of nomination paper and before the commencement of the poll, a nominated candidate dies, the Chief National Electoral Commissioner or the Resident Electoral Commissioner shall, being satisfied of the fact of the death, countermand the poll in which the deceased candidate was to participate and the Commission shall appoint some other convenient date for the election within 14 days.

(2) The list of voters to be used at a postponed election shall be the official voters register, which was to be used if the election had not been postponed.

Invalidity of multiple nomination

37. Where a candidate knowingly allows himself to be nominated by more than one political party and or in more than one constituency his nomination shall be void.

Failure of Nomination

38. Where at the close of nomination there is no candidate validly nominated, the Commission shall extend the time for nomination and fix a new date for the election.

Contested Election

39. Subject to any other provisions of this Act, if after the latest time for the delivery of nomination papers and the withdrawal of candidates for an election under this Act, more than one person remains validly nominated, a poll shall be taken.

When poll is required

40. A poll shall take place in accordance with the provisions of this Act with respect to the following, that is-
(a) in the case of an election to the office of President or Governor of a State, whether or not only one person is validly nominated in respect of such office; and

(b) in the case of an election in respect of any other office, if after the expiry of the time for delivery of nomination papers there is more than one person standing nominated.

Uncontested Election

41. (1) If after the expiration of time for delivery of nomination papers and withdrawal of candidates and the extension of time as provided for in this Act there is only one person whose name is validly nominated in respect of an election, other than to the office of the President or Governor, that person shall be declared elected.

(2) Where a person is declared elected under the provision of subsection (1) of this section, a declaration of Result Form as may be prescribed shall be completed and copy thereof issued to the person by the Returning Officer while the original of the form shall be returned to the Commission as in the case of a contested election.

Establishment of polling Units

42. The Commission shall establish sufficient number of Polling units in each Registration Area and shall allot voters to such Polling units.

Ballot Boxes

43. (1) The Commission shall provide suitable boxes for the conduct of elections.
- (2) The forms to be used for the conduct of elections to the offices mentioned in this Act and election petitions arising there from shall be determined by the Commission.
- (3) The Polling Agents shall be entitled to be present at the distribution of the election materials from the office to the polling booth.
- (4) A polling agent shall be entitled to be present at the distribution of election materials, at voting, counting and the collation of election results.
- (5) The Commission shall, before the commencement of voting in each election, provide all election materials for the conduct of such election at the polling unit.

Format of ballot papers

44. (1) The Commission shall prescribe the format of the ballot papers which shall include the symbol adopted by the Political Party of the candidate and such other information as it may require.
- (2) The ballot papers shall be bound in booklets and numbered serially with differentiating colours for each office being contested.

Polling Agents

45. (1) Each political party may by notice in writing addressed to the Electoral Officer of the Local Government or Area Council, appoint a person to attend at each polling unit and collation centre in the Local Government or Area Council for which it has candidate and the notice shall set out the name and address of the polling agent and be given to the Electoral Officer at least 7 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 three (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 collation of results of an election.

(2) Notwithstanding the requirement of subsection (1) of this section, a candidate shall not be precluded from doing any act or thing which he has appointed a polling agent to do on his behalf under this Act.

(3) Where in this Act, an act or thing is required or authorized to be done by or in the presence of a Polling Agent, the non-attendance of the Polling Agent at the time and place appointed for the act or thing or refusal by the Polling Agent to do the act or thing shall not, if the act or thing is otherwise done properly, invalidate the act or thing.

Notice of Poll

46. The Commission shall, not later than 14 days before the day of the election, cause to be published, in such manner as it may deem fit, a notice specifying -
- (a) the day and hours fixed for the poll;
 - (b) the persons entitled to vote; and
 - (c) the location of the polling units.

Hour of Polls

47. Voting in any particular election under this Act shall take place on the same day and time throughout the Federation.

Display of Ballot boxes

48. (1) At the hour fixed for opening of the poll, before the commencement of 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).
- (2) The ballot box shall then be placed in full view of all present, and be so maintained until the close of poll.

Issue of Ballot Papers

49. (1) Any person intending to vote with his voter's card, shall present himself to a Presiding Officer at the polling unit in the constituency in which his name is registered with his voter's card.
- (2) The Presiding Officer shall, on being satisfied that the name of the person is on the Register of Voters, issue him a ballot paper and indicate on the Register that the person has voted.

Right to challenge issue of Ballot Paper

50. A candidate or a Polling Agent may challenge the right of a person to receive a ballot paper on such grounds and in accordance with such procedures as are provided for in this Act.

Separate queues for men and women

51. The Presiding Officer shall separate the queue between men and women if in that area of the country the culture is such that it does not permit the mingling of men and women in the same queue.

Conduct of Poll by Open Secret Ballot

52. (1) (a) Voting at an election under this Act shall be by open secret ballot.
- (2) The use of electronic voting machine for the time being is prohibited.
- (3) A voter on receiving a ballot paper shall mark it in the manner prescribed by the Commission.
- (4) All ballots at an election under this Act at any polling station shall be deposited in the ballot box in the open view of the public.

Over voting

53. (1) No voter shall vote for more than one candidate or record more than one vote in favour of any candidate at any one election.

(2) Where the votes cast at an election in any polling unit exceeds the number of registered voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the Commission and another election may be conducted at a date to be fixed by the Commission where the result at that polling unit may affect the overall result in the Constituency.

(3) Where an election is nullified in accordance with subsection (2) of this section, there shall be no return for the election until another poll has taken place in the affected area.

(4) Notwithstanding the provisions of subsections (2) and (3) of this section the Commission may, if satisfied that the result of the election will not substantially be affected by voting in the area where the election is cancelled, direct that a return of the election be made.

Ballot not to be marked by voter for identification

54. (1) Where a voter makes any writing or mark on a ballot paper by which he may be identified, such ballot paper shall be rejected provided that any print resulting from the staining of the thumb of the voter in the voting compartment shall not be or be deemed to be a mark of identification under this section.

(2) The Commission shall use indelible ink for any thumb mark by voters on ballot papers.

Accidental destruction or marking of Ballot Papers

55. A voter who by accident deals with his ballot paper in such a manner that it may not be conveniently used for voting, may deliver it to the Presiding Officer and if the Presiding Officer is satisfied that the ballot paper is spoilt he shall issue another ballot paper to the voter in place of the ballot paper delivered up, and the spoilt ballot paper shall be immediately marked cancelled by the Presiding Officer.

Blind and incapacitated voters

56. (1) A voter who is blind or is otherwise unable to distinguish symbols or who suffers from any other physical disability may be accompanied into the polling unit by a person chosen by him and that person shall, after informing the Presiding Officer of the disability, be permitted to accompany the voter into the voting compartment and assist the voter to make his mark in accordance with the procedure prescribed by the Commission.

(2) The Commission may take reasonable steps to ensure that voters with disabilities are assisted at the polling place by the provision of suitable means of communication, such as Braille, Large embossed print or electronic devices or sign language interpretation, or off-site voting in appropriate cases.

Personal attendance

57. No voter shall record his vote otherwise than by personally attending at the Polling unit and recording his vote in the manner prescribed by the Commission.

Voting at appropriate Polling Unit

58. No person shall be permitted to vote at any polling unit other than the one to which he is allotted.

Impersonation by Applicant for ballot paper

59. (1) If at the time a person applies for a ballot paper and before he has left the polling unit, a polling agent, polling unit official or security agent informs the Presiding Officer that he has reasonable cause to believe that the person is under the age of 18 years or has committed the offence of impersonation and gives an undertaking on a prescribed form to substantiate the charge in a court of law, the Presiding Officer may order a police officer to arrest that person and the Presiding Officer's order shall be sufficient authority for the police officer so to act.

(2) A person in respect of whom a polling agent, polling official, or security agent gives an information in accordance with the provision of subsection (1) of this section shall not by reason of the information, be prevented from voting, but the Presiding Officer shall cause the words "protested against for impersonation" to be placed against his name in the marked copy of the register of voters or part of the register of voters.

(3) Where a person in respect of whom a declaration is made under subsection (2) of this section, admits to the Presiding Officer that he is not the person he held himself out to be, he shall not be permitted to vote and shall be handed over to the Police.

(4) A person arrested under the provisions of this section shall be deemed to be a person taken into custody by a police officer.

Tendered Ballot Paper

60. (1) If a person claiming to be entitled to vote applies for a ballot paper after some other person has voted in the name given by the claimant he shall, upon satisfactory answers given to any questions put to him by a poll clerk be entitled to receive a ballot paper in the same manner as any other voter; but the ballot paper (in this Act referred to as "the tendered ballot paper") shall be of a colour different from the ordinary ballot papers.

(2) The Presiding Officer shall require the voter to deliver the tendered ballot paper to him instead of allowing it to be put in the ballot box, and the Presiding Officer shall endorse on it the name of the voter and his number in the register of voters.

(3) The ballot paper shall on delivery to the Presiding Officer and in the view of all present be set aside by the Presiding Officer in a packet intended for tendered votes and the tendered ballot paper shall be counted by the Returning Officer.

(4) The Presiding Officer shall, when he tenders a ballot paper under this section, enter the name of the voter and his number in the register of voters on the list to be called tendered vote list and the tendered vote list shall be produced in any legal proceedings arising out of the election.

Conduct at Polling Units

61. (1) The Presiding Officer shall regulate the admission of voters to the polling unit and shall exclude all persons other than the candidates, polling agents, poll clerks and persons lawfully entitled to be admitted including accredited observers, and the Presiding Officer shall keep order and comply with the requirements

of this Act at the polling unit.

(2) The Presiding Officer may order a person to be removed from a polling unit, who behaves in a disorderly manner or fails to obey a lawful order.

(3) A person removed from a polling unit under this section shall not, without the permission of the Presiding Officer, again enter the polling unit during the day of the election, and if charged with the commission of an offence in that polling unit, the person shall be deemed to be a person taken into custody by a police officer for an offence in respect of which he may be arrested without a warrant.

(4) The provisions of subsection (3) of this section shall not be enforced so as to prevent a voter who is otherwise entitled to vote at a polling unit from having an opportunity of so voting.

(5) In the absence of the presiding officer, the Poll Clerk shall enjoy and exercise all the powers of the Presiding Officer in respect of a Polling Unit.

Closing of Poll

62. (1) At the prescribed hour for the close of poll, the Presiding Officer shall declare the poll closed and no more person(s) shall be admitted into the Polling unit and only those already inside the Polling unit shall be allowed to vote.

(2) After the declaration of the close of polls, no voter already inside the polling unit shall be permitted to remain in the polling unit unless otherwise authorized under this Act.

Counting of votes and forms

63. (1) The Presiding Officer shall, after counting the votes at the polling unit, enter the votes scored by each candidate in a form to be prescribed by the Commission as the case may be.

(2) The Form shall be signed and stamped by the Presiding Officer and counter signed by the candidates or their polling agents where available at the Polling unit.

(3) The Presiding Officer shall give to the Polling Agents and the police officer where available a copy each of the completed Forms after it has been duly signed as provided in subsection (2) of this section.

(4) The Presiding Officer shall count and announce the result at the Polling unit.

Recount

64. A candidate or a Polling Agent may, where present at a Polling unit when counting of votes is completed by the Presiding Officer, demand to have the votes recounted, provided that the presiding Officer shall cause the votes to be so recounted only once.

Post-election procedure and collation of election results

65. After the recording of the result of the election, the Presiding Officer shall announce the result and deliver same and election materials under security to such persons as may be prescribed by the Commission.

Rejection of Ballot Paper without official mark

66. (1) Subject to subsection (2) of this section, a ballot paper, which does not bear the official mark, shall not be counted.

(2) If the Returning Officer is satisfied that a ballot paper which does not bear the official mark was from a book of ballot papers which was furnished to the Presiding Officer of the polling unit in which the vote was cast for use at the election in question, he shall, notwithstanding the absence of the official mark, count that ballot paper.

Endorsement on Rejected Ballot Paper without official mark

67. (1) The Presiding Officer shall endorse the word “rejected” on the ballot paper rejected under **section 54 (1)** of this Act and for any other reason, and the ballot papers shall not be counted except otherwise allowed by the Returning Officer who may overrule the Presiding Officer.

(2) If an objection to the decision of a Presiding Officer to reject a ballot paper is raised by a candidate or a polling agent at the time the decision is made, the Presiding Officer shall add to the word “rejected”, the phrase “but objected to”.

(3) The Presiding Officer shall prepare a statement on rejected ballot papers, stating the number rejected, the reason for rejection and their serial number, he shall on request allow a candidate or a polling agent to copy the statement.

Decision of Returning Officer on Ballot Paper

68. The decision of the Returning Officer on any question arising from or relating to-

- (a) unmarked ballot paper;
- (b) rejected ballot paper; and
- (c) declaration of scores of candidates and the return of a candidate, shall be final subject to review by a tribunal or Court in an election petition proceedings under this Act.

Declaration of Result

69. In an election to the office of the President or Governor whether or not contested and in any contested election to any other elective office, the result shall be ascertained by counting the votes cast for each candidate and subject to the provisions of sections 133, 134 and 179 of the Constitution, the candidate that receives the highest number of votes shall be declared elected by the appropriate Returning Officer.

Equality of votes

70. Where two or more candidates poll equal number of votes being the highest in an election, the Returning Officer shall not return any of the candidates and a fresh election shall be held for the candidates on a date to be appointed by the Commission.

Posting of Results

71. The Commission shall cause to be posted on its notice board and website, a notice showing the candidates at the election and their scores; and the person declared as elected or returned at the election.

Custody of documents

72. The Chief Electoral Commissioner or any officer authorized by him shall keep official custody of all the documents, including statement of results and ballot papers relating to the election, which are returned to the Commission by the Returning Officers.

Step by step recording of poll

73. Subject to the provisions of this Act, the Commission shall issue and publish in the Gazette, guidelines for the elections which shall make provisions, among other things, for the step by step recording of the poll in the electoral forms as may be prescribed beginning from the polling unit to the last collation centre for the ward or constituency where the result of the election shall be declared.

Result forms to be signed and countersigned

74. Every result from completed at the Ward, Local Government, State and National levels in accordance with the provision of the Act or any guidelines issued by the commission shall be stamped, signed and countersigned by the relevant officers and polling agents at those levels and copies given to the police officers and the polling agents, where available.

Certificate of return

75. (1) A sealed Certificate of Return at an election in a prescribed form shall be issued within 7 days to every candidate who has won an election under this Act:

Provided that where the Court of Appeal or the Supreme Court being the final Appellate Court in any election petition as the case may be nullifies the Certificate of Return of any candidate, the Commission shall within 48 hours after the receipt of the order of such Court issue the successful candidate with a valid Certificate of Return.

(2) Where the Commission refuses and, or neglects to issue a certificate of return, a certified true copy of the Order of a Court of Competent Jurisdiction shall, ipso facto, be sufficient for the purpose of swearing- in a candidate declared as the winner by that Court.

Forms for use at elections

76. The forms to be used for the conduct of elections under this Act shall be determined by the Commission.

Access to Election Documents

77. (1) The Resident Electoral Commissioner in a State where an election is conducted, shall within 7 days, after an application is made to him, by any of the parties to an election petition, cause such documents or the certified true copy thereof, to be issued to the said party.

(2) Any Resident Electoral Commissioner who wilfully fails to comply with the provisions in sub section (1) above, is guilty of an offence and shall be liable on conviction to a maximum fine of N2,000,000 or imprisonment for 12 months, or both.

PART V

POLITICAL PARTIES**Powers of the Commission to register Political Parties**

78. (1) Any political association that complies with the provisions of the Constitution and this Act for the purposes of registration shall be registered as a political party. Provided however, that such application for registration as a political party shall be duly submitted to the Commission not later than 6 months before a general election.
- (2) The Commission shall on receipt of the documents in fulfilment of the conditions stipulated by the Constitution immediately issue the applicant with a letter of acknowledgement stating that all the necessary documents had been submitted to the Commission.
- (3) If the Association has not fulfilled all the conditions under this section, the Commission shall within 30 days from the receipt of its application notify the Association in writing stating the reasons for non-registration.
- (4) Any political association that meets the conditions stipulated in the Constitution and this Act shall be registered by the Commission as a political party within 30 days from the date of receipt of the application and if after the 30 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) Any Association which through the submission of false or misleading information pursuant to the provisions of this section procures a certificate of registration shall have such certificate cancelled.
- (6) No application for registration as a political party shall be processed unless there is evidence of payment of administrative fee as may be fixed from time to time by the Commission.
- (7) The Commission shall have power to de-register political parties on the following grounds—
- (i) breach of any of the requirements for registration;
 - (ii) for failure to win a seat in the National or State Assembly election.

Decision of the Commission subject to judicial review

79. The decision of the Commission not to register any association as a political party may be challenged in a court of law, provided that any legal action challenging the decision of the Commission shall be commenced within 30 days from the date of receipt of the letter of notification of non registration from the Commission.

Political Parties to be bodies corporate

80. Every Political Party registered under this Act shall be a body corporate with perpetual succession and a common seal and may sue and be sued in its corporate name.

Contravention of Section 227 of the 1999 Constitution

81. (1) Any political party or association, which contravenes the provisions of section 227 of the Constitution is guilty of an offence and liable on conviction to a fine of-

- (a) N 500,000.00 for the first offence;
- (b) N 700,000.00 for any subsequent offence; and
- (c) N 50,000 for every day that the offence continues.

(2) Any person or group of persons who aids or abets a political party in contravening the provisions of section 227 of the Constitution shall be guilty of an offence and be liable on conviction to a fine of N500,000 or 3 years imprisonment or both.

Symbols of Political Parties

82. (1) The Commission shall keep a register of symbols for use at elections.
- (2) The Commission shall register the symbol of a political party if it is satisfied that—
- (a) no other symbol of the same design is registered;
 - (b) the symbol is distinctive from any other symbol already registered; and
 - (c) its use will not be offensive or otherwise objectionable.
- (3) The Commission shall remove a symbol from the register of symbols 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 or independent candidate in whose name the symbol is registered has ceased to exist or to use the symbol.
- (4) Nothing in this section shall authorize the allotment or registration for use at any election of a symbol or material as symbol of a party, if it portrays—
- (a) the Coat of Arms of the Federation;
 - (b) the Coat of Arms of any other country;
 - (c) any device or emblem which in the opinion of the Commission is normally associated with—
 - (i) the official acts of Government;
 - (ii) any of the Armed Forces of the Federation or the Nigeria Police Force or other uniformed service;
 - (iii) the regalia of a Chief;
 - (iv) any tribe or ethnic group;
 - (v) any religion or cult;
 - (vi) any portrait of a person living or dead;
 - (d) any symbol or part of a symbol which under the provision of this section continues to be registered by another political party.
- (5) Subject to the provisions of this section, the symbol allotted to a political party and in use immediately before the coming into force of this Act shall continue to be available to, and be used by, that political party without payment of the fee.

Allocation of Symbols

83. Where a symbol is registered by a political party in accordance with this Act, the Commission shall allot the symbol to any candidate sponsored by the political party at any election.

Merger of Political Parties

84. (1) Any two or more registered political parties may merge on approval by the Commission following a formal request presented to the Commission by the political parties for that purpose.
- (2) Political Parties intending to merge shall each give to the Commission 90 days notice of their intention

to do so before a general election.

(3) The written request for merger shall be sent to the Chairman of the Commission and shall be signed jointly by the National Chairman, Secretary and Treasurer for the time being of the different Political Parties proposing the merger and shall be accompanied by:-

- (a) a special resolution passed by the National Convention of each of the political parties proposing to merge, approving the merger;
- (b) the proposed full name and acronym, Constitution, manifesto, symbol or logo of the party together with the addresses of the National office of the party resulting from the merger; and
- (c) evidence of payment of administrative costs of N100,000 or as may be fixed from time to time by an Act of the National Assembly.

(4) On receipt of the request for merger of political parties the Commission shall consider the request; and if the parties have fulfilled the requirements of the Constitution and this Act, approve the proposed merger and communicate its decision to the Parties concerned before the expiration of thirty (30) days from the date of the receipt of the formal request.

PROVIDED that if the Commission fails to communicate its decision with 30 days the merger shall be deemed to be effective.

(5) Where the request for the proposed merger is approved, the Commission shall forthwith withdraw and cancel the certificates of registration of all the Political Parties opting for the merger and substitute therefore, a single certificate of registration in the name of the party resulting from the merger.

(6) Notwithstanding the provisions of subsection (2) of this section no merger of Political Parties received by the Commission less than 90 days before any general election in the country shall be considered by the Commission.

Notice of Convention, Congress, etc.

85. (1) Every registered political party shall give the Commission at least 21 days notice of any convention, congress, conference or meeting convened for the purpose of electing members of its executive committees, other governing bodies or nominating candidates for any of the elective offices specified under this Act.

(2) The Commission may with or without prior notice to the political party monitor and attend any convention, congress, conference or meeting which is convened by a political party for the purpose of:-

- (a) electing members of its executive committees or other governing bodies;
- (b) nominating candidates for an election at any level;
- (c) approving a merger with any other registered political party.

(3) The election of members of the executive committee or other governing body of a political party, including the election to fill a vacant position in any of the aforesaid bodies, shall be conducted in a democratic manner and allowing for all members of the party or duly elected delegates to vote in support of a candidate of their choice.

(4) Notice of any congress, conference or meeting for the purpose of nominating candidates for Area Council elections shall be given to the Commission at least 21 days before such congress, conference or meeting.

Monitoring of Political Parties

86. (1) The Commission shall monitor and keep records of the activities of all the registered political parties.

(2) The Commission may seek information or clarification from any registered political party in connection

with any activities of the political party which may be contrary to the provisions of the Constitution or any other law, guidelines, rules or regulations made pursuant to an Act of the National Assembly.

(3) The Commission may direct its enquiry under subsection (2) of this section to the Chairman or Secretary of the Political Party at the National, State, Local Government or Area Council or Ward level, as the case may be.

(4) A Political Party which fails to provide the required information or clarification under subsection (2) of this section or carry out any lawful directive given by the Commission in conformity with the provisions of this section is guilty of an offence and liable on conviction to a fine of not less than N500,000:00.

Nomination of Candidates by Parties

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

(2) The procedure for the nomination of candidates by political parties for the various elective positions shall be by direct or indirect primaries.

(3) A political party that adopts the direct primaries procedure shall ensure that all aspirants are given equal opportunity of being voted for by members of the party.

(4) A political party that adopts the system of indirect primaries for the choice of its candidate shall adopt the procedure outlined below:

- (a) In the case of nominations to the position of Presidential candidate, a political party shall,
 - (i) hold special conventions in each of the 36 States of the Federation and FCT, where delegates shall vote for each of the aspirants at designated centres in each State Capital on specified dates.
 - (ii) a National Convention shall be held for the ratification of the candidate with the highest number of votes.
 - (iii) the aspirant with the highest number of votes at the end of voting in the 36 States of the Federation and FCT, shall be declared the winner of the Presidential primaries of the political party and the aspirant's name shall be forwarded to the Independent National Electoral Commission as the candidate of the party after ratification by the national convention.

(b) In the case of nominations to the position of Governorship candidate, a political party shall, where they intend to sponsor candidates:

- (i) hold special congress in each of the local government areas of the States with delegates voting for each of the aspirants at the congress to be held in designated centres on specified dates.
- (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 aspirant's name shall be forwarded to the Independent National Electoral Commission as the candidate of the party, for the particular State.

(c) In the case of nominations to the position of a Senatorial candidate, House of Representatives and State House of Assembly a political party shall, where they intend to sponsor candidates:

- (i) hold special congresses in the Senatorial District, Federal Constituency and the State assembly constituency respectively, with delegates voting for each of the aspirants in designated centres on specified dates.
- (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 Independent National Electoral Commission as the candidate of the party.

(d) In the case of the position of a Chairmanship candidate of an Area council a political party shall,

where they intend 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.
 - (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 Independent National Electoral Commission as the candidate of the party.
- (5) 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 Independent National electoral commission as the candidate of the party.
- (6) Where there is only one aspirant in a political party for any of the elective positions mentioned in sub section (4)(a), (b), (c) and (d), the party shall convene a special convention or congress at a designated centre on a specified date for the confirmation of such aspirant and the name of the aspirant shall be forwarded to the Independent National Electoral commission as the candidate of the party.
- (7) A political party that adopts the system of indirect primaries for the choice of its candidate shall clearly outline in its constitution and rules the procedure for the democratic election of delegates to vote at the convention, congress or meeting.
- (8) No political appointee at any level shall be voting delegate at the Convention or Congress of any political party for the purpose of nomination of candidates for any election.
- (9) Where a political party fails to comply with the provisions of this Act in the conduct of its primaries, its candidate for election shall not be included in the election for the particular position in issue.
- (10) Notwithstanding the provisions of the Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines of a political party has not been complied with in the selection or nomination of a candidate of a political party for election, may apply to the Federal High Court or the High Court of a State, for redress.
- (11) Nothing in this section shall empower the Courts to stop the holding of primaries or general election under this Act pending the determination of the suit.

Offences in relation to finances of a Political Party

88. Any Political Party that-

- (a) holds or possesses any fund outside Nigeria in contravention of section 91(3)(a) of this Act commits an offence and shall forfeit the funds or assets purchased with such funds to the Commission and on conviction shall be liable to a fine of not less than N500,000.00;
- (b) retains any fund or other asset remitted to it from outside Nigeria in contravention of section 91(3)(b) of this Act is guilty of an offence and shall forfeit the funds or assets to the Commission and on conviction shall be liable to a fine of not less than N 500,000.00.

Period to be covered by Annual Statement

89. (1) Every political party shall submit to the Commission a detailed annual statement of Assets and Liabilities and analysis of its sources of funds and other assets, together with statement of its expenditure in such a form as the Commission may from time to time require.
- (2) The Statement of Assets and Liabilities referred to in subsection (1) of this section shall be in respect

of the period 1st January to 31st December in each year, and that in the year which this Act comes into operation, it shall be for the period beginning with the registration of such party and ending on the following 31st December.

(3) Every political party shall grant to any officer authorized in writing by the Commission, access to examine the records and audited accounts kept by the political party in accordance with the provisions of this Act and the political party shall give to the officer all such information as may be requested in relation to all contributions received by or on behalf of the party.

(4) The Commission shall publish the report on such examinations and audit in three National Newspapers.

Power to limit contribution to a Political Party

90. (1). The Commission shall have power to place limitation on the amount of money or other assets, which an individual or group of persons can contribute to a political party.

Limitation on election expenses

91. (1) Election expenses shall not exceed the sum stipulated in subsection (2) – (7) of this section.

(2) The maximum election expenses to be incurred by a candidate at a Presidential election shall be one billion naira (N1,000,000,000).

(3) The maximum election expenses to be incurred by a candidate at a Governorship election shall be two hundred million naira (N200,000,000).

(4) The maximum amount of election expenses to be incurred in respect of Senatorial seat by a candidate at an election to the National Assembly shall be forty million naira (N40,000,000) while the seat for House of Representatives shall be twenty million naira (N20,000,000)

(5) In the case of State Assembly election, the maximum amount of election expenses to be incurred shall be ten million naira (N10,000,000).

(6) In the case of a chairmanship election to an Area Council, the maximum amount of election expenses to be incurred shall be ten million naira (N10,000,000).

(7) In the case of councillorship election to an Area Council, the maximum amount of election expenses to be incurred shall be one million naira (N1,000,000).

(8) In determining the total expenditure incurred in relation to the candidature of any person at any election no account shall be taken of:-

- (a) any deposit made by the candidate on his/her nomination in compliance with the law ;
- (b) any expenditure incurred before the notification of the date fixed for the election with respect to services rendered or material supplied before such notification.
- (c) Political party expenses in respect of the candidate standing for a particular election.

(9) No individual or other entity shall donate more than one million naira (N1,000,000) to any candidate.

(10) A candidate who knowingly acts in contravention of this section commits an offence and on conviction

shall be liable –

- (a) in case of presidential election to a maximum fine of N1,000,000.00 or imprisonment of 12 months or both;
- (b) in the case of a governorship election to a fine of N800,000.00 or imprisonment for 9 months or both;
- (c) in case of senatorial seat election in the National Assembly election to a fine of N600,000.00 or imprisonment for 6 months or both;
- (d) in the case of House of Representatives seat election in the National Assembly election to a fine of N500,000.00 or imprisonment for 5 months or both;
- (e) in the case of a State House of Assembly election to a fine of N300,000.00 or 3 months imprisonment or both;
- (f) in the case of Chairmanship election to a fine of N300,000.00 or 3 months imprisonment or both; and
- (g) in the case of Councillorship election to a fine of N100,000.00 or 1 month imprisonment or both.

(11) Any individual who knowingly acts in contravention of subsection (9) shall on conviction be liable to a maximum fine of N500,000.00 or 9 months imprisonment or both.

(12) Any Accountant who falsifies or conspires or aids a candidate to forge or falsify a document relating to his expenditure at an election or receipt or donation for the election or in any way aids and abets the breach of the provision of this section of this Act commits an offence and on conviction is liable to 10 years imprisonment.

Election expenses of political parties

92. (1) For the purposes of an election, “election expenses” means expenses incurred by a political party within the period from the date notice is given by the Commission to conduct an election up to and including, the polling day in respect of the particular election.

(2) Election expenses incurred by a political party for the management or the conduct of an election shall be determined by the Commission in consultation with the political parties.

(3) (a) Election expenses of a political party shall be submitted to the Commission in a separate audited return within six months after an election and such return shall be signed by the political party’s auditors and counter-signed by the Chairman of the party and be supported by a sworn affidavit by the signatories as to the correctness of its contents.

(b) Any political party which commits a breach of this section is guilty of an offence and shall be liable on conviction to a maximum fine of N1,000,000 and in the case of failure to submit an accurate audited return within the stipulated period, the court may impose a maximum penalty of N200,000 per day on any party for the period after the return was due until it is submitted to the Commission.

(4) The return referred to in subsection (3) of this section shall show the amount of money expended by or on behalf of the party on election expenses, the items of expenditure and commercial value of goods and services received for election purposes.

(5) The political party shall cause the return submitted to the Commission pursuant to subsection (4) of this section to be published in at least two National Newspapers.

(6) Any political party that incurs election expenses beyond the limit stipulated in this Act is guilty of an offence and shall be liable on conviction to a maximum fine of N1,000,000.00. and forfeiture to the Commission, of the amount by which the expenses exceed the limit set by the Commission.

(7) The Commission shall make available for public inspection during regular business hours at its Headquarters and state offices the audit returns of the political parties required by subsection (3) of this section which shall include the names, addresses, occupation, and amount contributed by each contributor to a party.

Disclosure by political parties

93. (1) No political party shall accept or keep in its possession any anonymous monetary or other contributions, gifts, properties, etc from any source whatsoever.

(2) Every political party shall keep an account and asset book into which shall be recorded:-

- (a) all monetary and other forms of contribution received by the party; and
- (b) the name and address of any person or entity that contributes any money or assets which exceeds N1,000,000.00

(3) No political party shall accept any monetary or other contribution exceeding N1000,000 unless it can identify the source of the money or other contribution to the Commission.

(4) Every political party sponsoring the election of a candidate shall, within three months after the announcement of the results of the election, file a report of the contributions made by individuals and entities to the Commission.

Conduct at political rallies, and processions, etc

94. (1) For the purpose of the proper and peaceful conduct of political rallies and processions, the Commissioner of Police in each state of the Federation and the Federal Capital Territory, Abuja, shall provide adequate security for processions at political rallies in the states and the Federal Capital Territory, Abuja.

(2) A person who, while present at a political rally or procession or voting centre, has with him any offensive weapon or missile otherwise than in pursuance of a lawful duty is guilty of an offence and liable on conviction to a maximum fine of N2,000,000 or imprisonment for a term of 2 years or both.

(3) For the purpose of subsection (2) of this Section, a person shall be deemed to be acting in pursuance of a lawful duty if he is acting in his capacity as a police officer or as a member of a security agency authorized to carry arms and is specifically posted to be present at that political rally or procession.

Prohibition of certain conduct, etc. at Political Campaigns

95. (1) No political campaign or slogan shall be tainted with abusive language directly or indirectly likely to injure religious, ethnic, tribal or sectional feelings.

(2) Abusive, intemperate, slanderous or base language or insinuations or innuendoes designed or likely to provoke violent reaction or emotions shall not be employed or used in political campaigns.

(3) Places designated for religious worship, police station, and public offices shall not be used-

- (a) for political campaigns, rallies and processions; or

- (b) to promote, propagate or attack political parties, candidates or their programmes or ideologies.
- (4) Masquerades shall not be employed or used by any political party, candidate or person during political campaigns or for any other political purpose.
- (5) No political party or member of a political party shall retain, organize, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interests, or in such manner as to arouse reasonable apprehension that they are organized, trained or equipped for that purpose.
- (6) No political party, person or candidate shall keep or use private security organization, vanguard or any other group or individual by whatever name called for the purpose of providing security, assisting or aiding the political party or candidate in whatever manner during campaigns, rallies, processions or elections.
- (7) A political party or persons who contravenes any of the provision of this section is guilty of an offence and shall be liable on conviction-
- (a) in the case of an individual, to a maximum fine of N1,000,000 or imprisonment for the term of 12 months; and
 - (b) in the case of a political party, to a fine of N2,000,000 in the first instance, and N1,000,000 for any subsequent offence.
- (8) Any person or group of persons who aids or abets a political party in contravening the provisions of subsection (5) of this section guilty of an offence and is liable on conviction to a fine of N500,000 or 3 years imprisonment or both.

Prohibition of use of force or violence during political campaign

96. (1) No candidate, person or group of persons shall directly or indirectly threaten any person with the use of force or violence during any political campaign in order to compel that person or any other person to support or refrain from supporting a political party or candidate.
- (2) Any person or political party that contravenes the provisions of this section is guilty of an offence and liable on conviction-
- (a) in the case of an individual, to a maximum fine of N1,000,000 or imprisonment for a term of 12 months; and
 - (b) in the case of a political party, to a fine of N2,000,000 in the first instance, and N500,000 for any subsequent offence.

Effect on elected officer where political party ceases to exist

97. Where a political party ceases to exist in accordance with the Constitution and this Act, a person elected on the platform of the Political Party in an election under this Act shall remain validly elected, complete his tenure, and, for purposes of identification, be regarded as a member of the political party under which he was elected.

Existing political parties

98. Any political party registered by the Commission in accordance with the provisions of any law in force immediately before the coming into force of the Constitution of the Federal Republic of Nigeria and this Act shall be deemed to have been duly registered under this Act

Imitation on political broadcast and campaign by political parties

99. (1) For the purpose of this Act, the period of campaigning in public by every political party shall commence 90 days before polling day and end 24 hours prior to that day.
- (2) A registered Political Party which through any person acting on its behalf during the 24 hours before polling day-
- (a) advertises on the facilities of any broadcasting undertaking; or
 - (b) procures for publication or acquiesces in the publication of an advertisement in a Newspaper, for the purpose of promoting or opposing a particular candidate, is guilty of an offence under this Act and upon conviction shall be liable to a maximum fine of N500,000.

Campaign for election

- 100.(1) A candidate and his party shall campaign for the elections in accordance with such rules and regulations as may be determined by the Commission.
- (2) State apparatus including the media shall not be employed to the advantage or disadvantage of any political party or candidate at any election.
- (3) Media time shall be allocated equally among the political parties or candidates at similar hours of the day.
- (4) At any public electronic media, equal airtime shall be allotted to all political parties or candidates during prime times at similar hours each day, subject to the payment of appropriate fees.
- (5) At any public print media, equal coverage and conspicuity shall be allotted to all political parties.
- (6) Any public media that contravenes subsections 3 and 4 of this section shall be guilty of an offence and on conviction be liable to a maximum fine of N500,000 in the first instance and to a maximum fine of N1,000,000 for subsequent conviction.

Prohibition of Broadcast, etc 24 hours preceding or on polling day

- 101.(1) A person, print or electronic medium that broadcasts, publishes, advertises or circulates any material for the purpose of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills, or any print or electronic media whatsoever called during twenty four hours immediately preceding or on polling day is guilty of an offence under this Act.
- (2) Where an offence under subsection (1) of this section is committed by a body corporate, every principal officer of that body is equally guilty of an offence under this Act.
- (3) Where any person is convicted of an offence under this section he shall be liable:
- (a) in the case of a body corporate to a maximum fine of N1,000,000 and
 - (b) in the case of an individual to a maximum fine of N500,000 or to imprisonment for 12 months.

Campaign based on religion, tribe, etc.

102. Any candidate, person or association who engages in campaigning or broadcasting based on religious, tribal, or sectional reason for the purpose of promoting or opposing a particular political party or the election of a particular candidate, is guilty of an offence under this Act and on conviction shall be liable to a maximum

fine of N1,000,000 or imprisonment for twelve months or to both.

PART VI

PROCEDURE FOR ELECTION TO AREA COUNCIL.

Power of the Commission

103.(1) The conduct of elections into the offices of Chairman, Vice Chairman and a member of an Area Council and the recall of a member of an Area Council shall be under the direction and supervision of the Commission in accordance with the provisions of this Act.

(2) The Register of Voters compiled and the polling units established by the Commission and any other regulations, guidelines, rules or manuals issued or made by the Commission shall be used for elections into the Area Council or recall of a member.

Election to offices of Chairman, Vice-Chairman and Councilors

104.(1) There shall be elected for each Area Council in the Federal Capital Territory a Chairman and Vice-Chairman.

(2) There shall be a councilor for each electoral ward in an area council of the Federal Capital Territory.

Division of Area Council into Registration Area

105.(1) Subject to the provision of this section, the Commission shall divide each Area Council into Electoral wards not being less than 10 and not more than 20 as the circumstance of each Area Council may require.

(2) The boundaries of each ward shall be such that the number of inhabitants of the Electoral ward is as nearly equal to the population quota of the Electoral ward as is reasonably practicable.

(3) The Commission shall review the division of every Area Council into wards at intervals of not less than 10 years and may alter such Electoral ward in accordance with the provisions of subsection (1) of this Section to such extent as it may consider desirable in the light of the review.

(4) Notwithstanding the provisions of subsection (3) of this section, the Commission may, at any time, carry out such a review and alter the Electoral ward in accordance with the provisions of this section to such extent as it considers necessary in consequence of any amendment to section 3 of the Constitution or any provision replacing that provision or by reason of the holding of a National Population Census or pursuant to an Act of the National Assembly.

Qualification

106. A person shall be qualified for election under this part of this Act if he-

- (a) is a citizen of Nigeria;
- (b) is registered as a voter;
- (c) has attained the age of 25years for Councillor and 30 years for Chairman and Vice Chairman;
- (d) is educated up to at least the School Certificate level or its equivalent;
- (e) is a member of a political party and is sponsored by that.

Disqualification

107. (1) A person shall not be qualified to contest an Area Council election under this Act if-
- (a) subject to the provisions of section 28 of the Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or, except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;
 - (b) he is adjudged to be a lunatic or otherwise declared to be of unsound mind under any law in force in any part of Nigeria ;
 - (c) he is under a sentence of death imposed on him by any competent court of law or tribunal in Nigeria.
 - (d) within a period of less than ten years before the date of an election to the Area Council, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of contravention of the Code of Conduct;
 - (e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;
 - (f) he is a person employed in the public service of the Federation or of any State or Area Council (other than a person holding elective office) and he has not resigned, withdrawn or retired from such employment 30 days before the date of election;
 - (g) he is a member of any secret society;
 - (h) he has within the preceding period of 10 years presented a forged certificate to the Commission;
 - (i) he has been dismissed from the public service of the Federation, State, Local Government or Area council; or
 - (j) he has been elected to such office at any two previous elections in the case of Chairman
- (2) Where in respect of any person who has been-
- (a) adjudged to be a lunatic;
 - (b) declared to be of unsound mind;
 - (c) sentenced to death or imprisonment; or
 - (d) adjudged or declared bankrupt, any appeal against the decision is pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or as the case may be, the appeal lapses or is abandoned, whichever is earlier.
- (3) For the purpose of subsection (2) of this section, an “appeal” includes any application for an injunction or an order of certiorari, mandamus, prohibition, or habeas corpus, or any appeal from any such application.

Date of Area Council Elections and method of voting

- 108.(1) Election into all the Area Councils shall be held on the same date and day throughout the Federal Capital Territory.
- (2) Bye-elections to fill vacancies that occur in Area Councils shall be held within 30 days from the date the vacancy occurred.
- (3) The date mentioned in subsection (1) of this section shall not be earlier than one hundred and fifty days before and not later than ninety days before the expiration of the term of office of the last holder of that office.
- (4) Where a vacancy occurs more than three months before the day the Area Council stands dissolved there shall be a bye-election to fill the vacancy not later than 30 days from the date the vacancy occurred.
- (5) Voting shall be by open-secret ballot.

Procedure for Area Council Elections

109. The procedure for filing nominations and the casting and counting of votes for Area Council elections shall be the same as is applicable to other elections under this Act.

Procedure for Nomination, etc

110.(1) If after the expiration of time for the delivery of nomination papers and the withdrawal of candidates for election of Councillors under this Act only one candidate remains duly nominated, that candidate shall be declared returned unopposed.

(2) If after the expiration of time for the delivery of Nomination Papers and the withdrawal of candidates for election of Councillors under this section more than one candidate remains duly nominated, a poll shall be taken in accordance with the provisions of this Act.

(3) Where at the close of nomination for election to the office of Chairman, only one candidate-

- (a) has been nominated; or
- (b) remains nominated by reason of the disqualification, withdrawal, incapacitation, disappearance, or death of the other candidate, the Commission shall extend the time for nomination by seven days. PROVIDED: that where after the extension, only one candidate remains validly nominated there shall be no further extension.

Election of Area Council Chairman

111.(1) A candidate for an election to the Office of Chairman shall be deemed to have been duly elected to the office where being the only candidate nominated for the election he has:

- (a) a majority of YES votes over NO votes cast at the election; and
- (b) not less than one-third of the votes cast at the election in each of at least two-thirds of all the wards in the Area Council. PROVIDED: that where the only candidate fails to be elected in accordance with this subsection then there shall be fresh nomination.

(2) A candidate for an election to the office of the Chairman shall be deemed to have been elected where there being only two candidates for the election-

- (a) he has a majority of the votes cast at the election; and
- (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the wards in the Area Council, as the case may be.

(3) If no candidate is duly elected under subsection (2) of this section, the Commission shall within 7 days conduct a second election between the two candidates, and the candidate who scored the majority of votes cast at the election shall be deemed duly elected at the election.

(4) A candidate for an election to the office of Chairman shall be deemed to have been duly elected where, there being more than two candidates for the election-

- (a) he has the highest number of votes cast at the election; and
- (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all wards in the Area Council, as the case may be.

(5) If no candidate is duly elected in accordance with subsection (4) of this section, there shall be a second election in accordance with subsection (6) of this section at which the only candidates shall be:

(a) the candidate who scored the highest number of votes at the election held under subsection (4) of this section; and

(b) one among the remaining candidates who has the majority of votes in the highest number of wards so however that where there are more than one candidate, the one among them with the highest total number of votes cast at the election shall be the second candidate for the election.

(6) In default of a candidate duly elected under the foregoing subsections, the Commission shall within 7 days of the result of the election held under the said subsections arrange for another election between the two candidates and a candidate at such an election shall be deemed to have been duly elected to the office of a Chairman of the Area Council if he has-

(a) a majority of the votes cast at the election; and

(b) not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the wards in the Area Council, as the case may be.

(7) If no candidate is duly elected under subsection (6) of this section, arrangements shall be made within 7 days of the result of the previous election, for another election between the two candidates specified in subsection (6) of this section, and a candidate at this last election shall be deemed duly elected to the office of Chairman of the Area Council if he scores a simple majority of votes cast at the election.

Death of Chairman before Oath of office

112.(1) If a person duly elected as Chairman dies before taking and subscribing to the Oath of Allegiance and Oath of Office, the person elected with him as Vice-chairman shall be sworn in as Chairman who shall then nominate and with the approval of a majority of the members of the Area Legislative Council appoint a new vice-chairman.

(2) Where the Vice-Chairman is appointed from among the Councilors as the new Vice-Chairman, the Commission shall conduct a bye-election to fill the vacant seat created in the Ward from which the new Vice-Chairman has been appointed.

(3) Where the persons duly elected as Chairman and Vice-Chairman of an Area Council die before taking and subscribing the Oath of Allegiance and Oath of Office during which period the Area Council has not been inaugurated the Commission shall within 21 days conduct an election to fill the vacancies.

Dissolution of Area Council

113.(1) An Area Council shall stand dissolved at the expiration of a period of three years commencing from the date-

(a) when the Chairman took the oath of office; or

(b) when the legislative arm of the council was inaugurated whichever is earlier.

(2) In the determination of the three year term, where a re-run election has taken place and the person earlier sworn in wins the re-run election, the time spent in office before the date the election was annulled, shall be taken into account.

Vacation of seat of members

114. (1) A member of an Area Council shall vacate his seat in the Council-

(a) on the date given in his letter of resignation; or

- (b) if he takes up full time paid employment at any level of the government or in the private sector.
- (c) if he becomes a member of a secret society or does any other thing disqualifying him from holding the office of Chairman or Councillors under this Act; or
- (d) if the Leader of the Area Legislative Council receives a certificate under the hand of the Commission stating that the provisions of section 116 of this Act have been complied with in respect of the recall of that member.

(2) The Leader of the Area Legislative Council shall give effect to subsection (1) of this section, so that the Leader shall first present evidence satisfactory to the Area Council that any of the provisions of that subsection has become applicable in respect of that member.

Removal of Chairman or Vice- Chairman

115.(1) The Chairman or Vice-Chairman may be removed from office in accordance with the provision of this section.

(2) Whenever a notice of any allegation of gross misconduct in writing signed by not less than one-third of the members of the Area Legislative Council stating that the holder of the office of Chairman or Vice-Chairman is guilty of misconduct in the performance of the functions of his office, detailed particulars of which shall be specified are presented to the Speaker of the Area Legislative Council.

(3) The leader of the Area Legislative Council shall within 7 days of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the Area Legislative Council and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the Area Legislative Council.

(4) Within 14 days of the presentation of the notice, (Whether or not any statement was made by the holder of the office in reply to the allegation contained in notice) the Area Legislative Council, shall resolve by motion without any debate whether or not the allegation shall be investigated.

(5) A motion of the Area Legislative Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all the members of the Area Legislative Council.

(6) Within 7 days of the passing of a motion under subsection (4) of this section, the leader of the Area Legislative Council shall inform the Chief Judge of the Federal Capital Territory, Abuja, who shall appoint a Panel of seven persons who in the opinion of the Chief Judge are of unquestionable integrity not being members of -

- (a) any public or civil service;
- (b) a legislative house; or
- (c) a political party to investigate the allegation as provided in this section.

(7) The holder of an office whose conduct is being investigated under this section shall have the right to defend himself in person or be represented before the Panel by a legal practitioner of his own choice.

(8) A Panel appointed under this section shall –

- (a) have such powers and exercise its functions in accordance with such procedure as may be prescribed by an Act of the National Assembly;
- (b) within three months of its appointment, report its findings to the Area Legislative Council.

(9) Where the Panel reports to the Area Legislative Council that the allegation has not been proven no further proceedings shall be taken in respect of the matter.

(10) Where the report of the Panel is that the allegation against the holder of the office has been proved, then within 14 days of the receipt of the report, the Area Legislative Council shall consider the report and if by a resolution of the Area Council supported by not less than two thirds majority of all its members, the report of the Panel is adopted then the holder of the office shall stand removed from office as from the date of the adoption of the report.

Recall

116. A member of an Area Council may be recalled as a member if-

(a) there is presented to the Chairman of the Commission a petition in that behalf signed by not less than one-half of the persons registered to vote in that member's constituency alleging their loss of confidence in that member and which signatures are duly verified by the Independent National Electoral Commission; and

(b) the petition is thereafter approved in a referendum conducted by the Commission within 90 days of the date of the receipt of the petition by a simple majority of the votes of the persons registered to vote in that member's constituency.

PART VIII

ELECTORAL OFFENCES

Offences in relation to registration, etc

117.(1) Any person who:

(a) without authority, destroys, mutilates, defaces or removes or makes any alteration in any notice or document required for the purpose of registration under this Act;

(b) knowingly gives false information or makes a false statement with reference to any application for registration of his name or with reference to any objection to the retention of the name of a person in the register of voters;

(c) presents himself to be or does any act whereby he is by whatever name or description howsoever, included in the register of voters for a constituency in which he is not entitled to be registered or causes himself to be registered in more than one registration or revision centre;

(d) publishes any statement or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified to register from registering as voters;

(e) makes in any record, register or document which he is required to prepare, publish or keep for the purpose of registration, any entry or statement which he knows to be false or does not believe to be true;

(f) impedes or obstructs a registration officer or a revision officer in the performance of his duties;

(g) without proper authority, wears the identification of a registration officer or assistant registration officer or wears any other identification purporting to be the identification of a registration officer or assistant registration officer;

(h) forges a registration card; or

(i) carries out registration or revision of voters at a centre or place not designated by the Commission; commits an offence and liable on conviction to a maximum fine of N1,000,000 or to 12 months imprisonment or to both.

Offences in respect of nomination, etc

118. (1) A person who—
- (a) forges any nomination paper or result form;
 - (b) willfully defaces or destroys any nomination paper or result form;
 - (c) delivers to an electoral officer any nomination paper or result form knowing it to be forged;
 - (d) signs a nomination paper or result form as a candidate in more than one constituency at the same election;
 - (e) forges any ballot paper or official mark on any ballot paper or any certificate of return or result form;
 - (f) willfully destroys any ballot paper or official mark on any ballot paper or any certificate of return or result form;
 - (g) without authority gives a ballot paper or result form to any person;
 - (h) willfully places in any ballot box any unauthorized paper or result form;
 - (i) willfully removes from a polling station any ballot paper or result form whether or not the ballot paper or result form was issued to him in that polling station;
 - (j) without authority destroys or in any other manner interferes with a ballot box or its contents or any ballot paper or result form then in use or likely to be used for the purpose of an election;
 - (k) signs a nomination paper consenting to be a candidate at an election knowing that he is ineligible to be a candidate at that election, commit an offence.
- (2) A person who commits an offence under subsection (1) of this section is liable on conviction to a maximum term of imprisonment for 2 years.
- (3) A person who—
- (a) without proper authority prints a ballot paper or what purports to be or is capable of being used as a ballot paper or result form at an election;
 - (b) being authorized by the Commission to print ballot papers or result form prints more than the number or quantity the Commission authorized;
 - (c) without authority, is found in possession of a ballot paper or result form when he is not in the process of voting and at a time when the election for which the ballot paper or result form is intended is not yet completed;
 - (d) manufactures, constructs, imports into Nigeria, has in his possession, supplies to any election official or uses for the purpose of an election, or causes to be manufactured, constructed or imported into Nigeria, supplies to any election official for use for the purpose of any election, any ballot box including any compartment, appliance, device or mechanism or by which a ballot paper or result form may or could be secretly placed or stored in, or having been deposited during polling may be secretly diverted, misplaced or manipulated, commits an offence.
- (4) A person who commits an offence under subsection (3) of this section is liable on conviction to a maximum fine of N50,000,000 or for a term of imprisonment of not less than 10 years or to both.
- (5) An attempt to commit any offence under this section shall be punishable in the same manner as the offence itself.

Disorderly behavior at political meetings

119. Any person who, at a political meeting held after the date for an election has been announced:
- (a) acts or incites another to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was convened; or
 - (b) has in his possession an offensive weapon or missiles; commits an offence and liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both.

Improper use of voters cards

120. Any person who:
- (a) being entitled to a voters card, gives it to some other person for use at an election other than an officer appointed and acting in the course of his duty under this Act;
 - (b) Not being an officer acting in the course of his duty under this Act, receives any voters card in the name of some other person or persons for use at an election uses it fraudulently;
 - (c) without lawful excuse has in his possession more than one Voters Card; or
 - (d) buys, sells, procures or deals, with a voters card otherwise than as provided in this Act; commits an offence and shall be liable on conviction to a maximum fine of N1,000,000 or imprisonment for 12 months or both.

Improper use of vehicles

121. (1) No person shall provide for the purpose of any other person to a registration office or to a polling unit any government vehicle or boat, or any vehicle or boat belonging to a public corporation except in respect of a person who is ordinarily entitled to use such vehicle or boat and in emergency in respect of an electoral officer.
- (2) Any person who contravenes the provisions of this section shall be guilty of an offence and liable on conviction to a maximum fine of N 500,000 or to imprisonment for six months or to both.

Impersonation and voting when not qualified

- 122.(1) Any person who-
- (a) applies to be included in any list of voters in the name of some other person, whether such name is that of a person living or dead or of a fictitious person;
 - (b) having once to his knowledge been properly included in a list of voters under this Act as a voter entitled to vote at any election, applies, except as authorized by this Act, to be included in any other list of voters prepared for any Constituency as a voter at an election;
 - (c) applies for a Ballot Paper in the name of some other person, whether such name is that of a person living or dead or of a fictitious person;
 - (d) having voted once at an election applies at the same election for another ballot paper;
 - (e) votes or attempts to vote at an election knowing that he is not qualified to vote at the election; or

(f) induces or procures any other person to vote at an election knowing that such other person is not qualified to vote at the election, commits an offence and shall be liable on conviction to a maximum fine of N500,000 or 12 months imprisonment or both.

(2) Any person who commits the offence of impersonation or who aids, abets, counsels or procures the commission of that offence, shall be guilty of an offence and shall be liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both.

(3) No person charged with the offence of impersonation shall be convicted except on the evidence of at least two witnesses.

Dereliction of duty

123.(1) Any officer appointed for the purposes of this Act, who without lawful excuse commits any act or omits to act in breach of his official duty commits an offence and on conviction is to a maximum fine of N500,000 or to imprisonment for 12 months or both.

(2) Any Polling Officer who fails to report promptly at his polling unit on an election day without lawful excuse commits an offence of dereliction of duty and on conviction shall be liable to maximum fine of N500,000 or 12 months imprisonment or both.

(3) Any Polling Officer who fails to discharge his lawful duties at his polling unit without lawful excuse commits an offence of dereliction of duties and on conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both.

(4) Any person who announces or publishes an election result knowing same to be false or which is at variance with the signed certificate of return commits an offence and on conviction shall be liable to 36 months imprisonment.

(5) Any Returning Officer or Collation Officer who delivers or causes to be delivered a false certificate of return knowing same to be false, commits an offence and on conviction shall be liable to a maximum imprisonment for 3 years without an option of fine.

(6) Any person who delivers or causes to be delivered a false Certificate of return knowing same to be false to any news media commits an offence and on conviction shall be liable to imprisonment for 3 years.

Bribery and conspiracy

124.(1) Any person who does any of the following:

(a) directly or indirectly by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers any money or valuable consideration;

(b) directly or indirectly, by himself or by any other person on his behalf, corruptly makes any gift, loan, offer, promise, procurement or agreement to or for any person, in order to induce such person to procure or to endeavour to procure the return of any person as a member of a legislative house or to an elective office or the vote of any voter at any election;

(c) upon or in consequence of any gift, loan, offer, promise, procurement or agreement corruptly procures, or engages or promises or endeavours to procure, the return of any person as a member of a legislative house or to an elective office or the vote of any voter at any election;

(d) advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;

(e) after any election directly, or indirectly, by himself, or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting or having induced any candidate to refrain from canvassing for votes for himself at any such election, commits an offence and on conviction shall be liable to a maximum fine of N500,000 or 12 months imprisonment or both.

(2) A voter commits an offence of bribery where before or during an election directly or indirectly himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself, or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.

(3) Nothing in this section shall extend or apply to money paid or agreed to be paid for or on account of any lawful expenses bona fide incurred at or concerning any election..

(4) Any person who commits the offence of bribery is liable on conviction to a maximum fine of N500,000 or imprisonment for 12 months or both.

(5) Any person who conspires, aids or abets any other person to commit any of the offences under this part of this Act shall be guilty of the same offence and punishment thereto.

(6) For the purposes of this Act, a candidate shall be deemed to have committed an offence if it was committed with his knowledge and consent or the knowledge and consent of a person who is acting under the general or special authority of the candidate with reference to the election.

Requirement of secrecy in voting

125. (1) Every person in attendance at a polling unit including every officer charged with the conduct of an election and his or her assistants and every polling agent and candidate in attendance at a polling station or at the collation centre, as the case may be, shall maintain and aid in maintaining the secrecy of the voting.

(2) No person in attendance at a polling booth under this section shall, except for some purpose authorized by law, communicate to any person information as to the name or number on the register of any voter who has or has not voted at the place of voting.

(3) No person shall:

(a) interfere with a voter casting his vote, or by any other means obtain or attempt to obtain in a polling unit information as to the candidate for whom a voter in that place is about to vote for or has voted for; or

(b) communicate at any time to any other person information obtained in a polling unit as to the candidate to whom a voter is about to vote or has voted for.

(4) Any person acting contrary to the provisions of this section commits an offence and shall be liable upon conviction to a maximum fine of N100,000 or to imprisonment for 6 months or both.

Wrongful voting and false statements

126. Any person who:

- (a) votes at an election or induces or procures any person to vote at an election, knowing that he or such person is prohibited from voting thereat; or
- (b) before or during an election, publishes any statement of the withdrawal of a candidate at such election knowing it to be false or reckless as to its truth or falsity; or
- (c) before or during an election publishes any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate or to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person publishing it that the statement is true, commits an offence and shall be liable on conviction to a maximum fine of N100,000 or imprisonment for a term of 6 months or both.

Voting by unregistered person

- 127.(1) Any person who knowingly votes or attempts to vote in a Constituency in respect of which his name is not on the register of voters commits an offence and is liable on conviction to a maximum fine of N100,000 or to imprisonment for a term of 6 months or both.
- (2) Any person who knowingly brings into a polling unit during an election a voters card issued to another person commits an offence and shall be liable on conviction to a fine of N100,000 or to imprisonment for 6 months or both.

Disorderly conduct at elections

- 128. Any person who at an election acts or incites others to act in a disorderly manner commits an offence and shall be liable on conviction to a maximum fine of N500,000 or imprisonment for a term of 12 months or both.

Offences on election day

- 129. (1) No person shall on the date on which an election is held do any of the following acts or things in a polling unit or within a distance of 300 metres of a polling unit-
 - (a) canvass for votes;
 - (b) solicit for the vote of any voter;
 - (c) persuade any voter not to vote for any particular candidate;
 - (d) persuade any voter not to vote at the election;
 - (e) shout slogans concerning the election;
 - (f) be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voters;
 - (g) exhibit, wear or tender any notice, symbol, photograph or party card referring to the election;
 - (h) use any vehicle bearing the colour or symbol of a political party by any means whatsoever;
 - (i) loiter without lawful excuse after voting or after being refused to vote;
 - (j) snatch or destroy any election materials; and
 - (k) blare siren.

(2) No person shall within the vicinity of a polling unit or collation centre on the day of which an election is held:

- (a) convene, hold or attend any public meeting during the hours of poll as may be prescribed by the Commission;
- (b) unless appointed under this Act to make official announcements, operate any megaphone, amplifier or public address apparatus;
- (c) wear or carry any badge, poster, banner, flag or symbol relating to a political party or to the election.

(3) A person who contravenes any of the provisions of this section commits an offence and is liable on conviction to a fine of N100,000 or imprisonment for a term of 6 months for every such offence.

(4) Any person who snatches or destroys any election material shall be liable on conviction to 24 months imprisonment.

Undue Influence

130. A person who—

(a) corruptly by himself or by any other person at any time after the date of an election has been announced, directly or indirectly gives or provides or pays money to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election, or on account of such person or any other person having voted or refrained from voting at such election; or

(b) being a voter, corruptly accepts or takes money or any other inducement during any of the period stated in paragraph (a) of this section, commits an offence and is liable on conviction to a fine of N100,000 or 12 months imprisonment or both.

Threatening

131. A person who:

- (a) directly or indirectly, by himself or by another person on his behalf, makes use of or threatens to make use of any force, violence or restraint;
- (b) inflicts or threatens to inflict by himself or by any other person, any minor or serious injury, damage, harm or loss on or against a person in order to induce or compel that person to vote or refrain from voting, or on account of such person having voted or refrained from voting; or
- (c) by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free use of the vote by a voter or thereby compels, induces, or prevails on a voter to give or refrain from giving his vote,
- (d) prevents any political aspirants from free use of the media, designated vehicles, mobilization of political support and campaign at an election, commits an offence and is liable on conviction to a fine of N1,000,000 or imprisonment for 3 years.

Offences relating to Recall

132. The offences referred to in this Act shall apply to recall of a member of a Legislative House and a member of an Area Council.

PART VIII

DETERMINATION OF ELECTION PETITIONS ARISING FROM ELECTIONS

Proceedings to question an Election

- 133.(1) No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an “election petition”) presented to the competent tribunal or court in accordance with the provisions of the Constitution or of this Act, and in which the person elected or returned is joined as a party.
- (2) In this part “tribunal or court” means—
- (a) in the case of Presidential or Governorship election, the court of Appeal; and
 - (b) in the case of any other elections under this Bill, the election tribunal established under the Constitution or by this Act.
- (3) The election tribunals shall—
- (a) be constituted not later than 14 days before the election; and
 - (b) when constituted, open their registries for business 7 days before the election.

Time for presenting Election Petition

- 134.(1) An election petition shall be filed within 21 days after the date of the declaration of results of the elections;
- (2) An election tribunal shall deliver its judgment in writing within 180 days from the date of the filing of the petition;
- (3) An appeal from a decision of an election tribunal or court shall be heard and disposed of within 90 days from the date of the delivery of judgment of the tribunal;
- (4) The court in all appeals from election tribunals may adopt the practice of first giving its decision and reserving the reasons thereto for the decision to a later date;

Establishment of Area Council Election Tribunal

- 135.(1) There shall be established for the Federal Capital Territory one or more Election Tribunals (in this Act referred to as the Area Council Election Tribunal) which shall, to the exclusion of any other court or tribunal, have original jurisdiction to hear and determine any question as to whether:
- (a) any person has been validly elected to the office of Chairman, Vice-Chairman or Councillor;
 - (b) the term of office of any person elected to the office of Chairman, Vice-Chairman or Councillor has ceased;
 - (c) the seat of a member of an Area Council has become vacant; and
 - (d) a question or petition brought before the Area Council Election Tribunal has been properly or improperly brought.

(2) An Area Council Election Tribunal shall consist of a Chairman and two other members.

(3) The Chairman shall be a Chief Magistrate and two other members shall be appointed from among Magistrates of the Judiciary of the Federal Capital Territory, Abuja and legal practitioners of at least 10 years post-call experience, non-legal practitioners of unquestionable integrity or other members of the Judiciary of the Federal Capital Territory not below the rank of a Magistrate.

Establishment of Area Council Election Appeal Tribunal

136.(1) There shall be established for the Federal Capital Territory (FCT) the Area Council Election Appeal Tribunal which shall to the exclusion of any other court or tribunal hear and determine appeals arising from the decision of the Area Council Election Petition Tribunal.

(2) The decision of the Area Council Election Appeal Tribunal in respect of Area Council elections shall be final.

(3) An Area Council Election Appeal Tribunal shall consist of a Chairman and two other members and the Chairman shall be a Judge of the High Court and the two other members shall be appointed from among Judges of the High Court of the Federal Capital Territory, Abuja, Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, Judges of the Customary Court of Appeal or other members of the Judiciary of the Federal Capital Territory, Abuja not below the rank of a Chief Magistrate.

(4) The quorum of an Area Council Election Tribunal shall be the Chairman and one other member.

Persons entitled to present Election Petitions

137.(1) An election petition may be presented by one or more of the following persons—

- (a) a candidate in an election;
- (b) a political party which participated in the election.

(2) A person whose election is complained of is, in this Act, referred to as the respondent.

(3) If the petitioner complains of the conduct of an Electoral Officer, a Presiding or Returning Officer, it shall not be necessary to join such officers or persons notwithstanding the nature of the complaint and the Commission shall, in this instance, be:

- (a) made a respondent; and
- (b) deemed to be defending the petition for itself and on behalf its officers or such other persons.

Grounds of petition

138.(1) An election may be questioned on any of the following grounds, that is to say -

- (a) that a person whose election is questioned was, at the time of the election, not qualified to contest the election;
- (b) that the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act;
- (c) that the respondent was not duly elected by majority of lawful votes cast at the election; or
- (d) that the petitioner or its candidate was validly nominated but was 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 officer appointed for the purpose of the election but which is not contrary to the provisions of this Act shall not of itself be a ground for questioning the election.

Certain defects not to invalidate election

139.(1) An Election shall not be liable to be invalidated by reason of non compliance with the provisions of this Act 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.

(2) An election shall not be liable to be questioned by reason of a defect in the title, or want of title of the person conducting the election or acting in the office provided such a person has the right or authority of the Commission to conduct the election.

Nullification of election by Tribunal or Court

140.(1) Subject to subsection (2) of this section, if the Tribunal or the Court as the case may be, determines that a candidate who was returned as elected was not validly elected on any ground, the Tribunal or the Court shall nullify the election.

(2) Where an election tribunal or court nullifies an election on the ground that the person who obtained the highest votes at the election was not qualified to contest the election, the election tribunal or court shall not declare the person with the second highest votes as elected, but shall order a fresh election.

(3) If the Tribunal or the Court determines that a candidate who was returned as elected was not validly elected on the ground that he did not score the majority of valid votes cast at the election, the Election Tribunal or the Court, as the case may be, shall declare as elected the candidate who scored the highest number of valid votes cast at the election and satisfied the requirements of the Constitution and this Act.

(4) Subject to the provision of subparagraph (2) of paragraph 53 of the First Schedule to this Act, on the motion of a respondent in an election petition, the Election Tribunal or the Court, as the case may be, may strike out an election petition on the ground that it is not in accordance with the provisions of this part of this Act, or the provisions of First Schedule of this Act.

Effect of non-participation in an election

141. An election tribunal or court shall not under any circumstance declare any person a winner at an election in which such a person has not fully participated in all the stages of the said election.

Accelerated hearing of election petitions

142. Without prejudice to the provisions of section 294 subsection (1) of the Constitution of the Federal Republic of Nigeria, an election petition and an appeal arising therefrom under this Act shall be given accelerated hearing and shall have precedence over all other cases or matters before the Tribunal or Court.

Person elected to remain in office pending determination of appeal

143.(1) If 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 21 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.

(2) If the Election Tribunal or the Court, as the case maybe, 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 21 days within which an appeal may be brought.

Legal representation of Commission, etc.

144.(1) Where the Commission, an Electoral Officer, Returning Officer or any other official of the Commission has been joined as a respondent in an election petition, a Legal Officer of the Commission or a Legal Practitioner engaged by the Commission shall represent the Commission, Electoral Officer, Presiding Officer, Returning Officer or other official of the Commission at the Tribunal or Court.

(2) The Attorney-General of the State concerned (acting in person or through any of his Legal Officers) or the Attorney General of the Federation (acting in person or through any of his Legal Officers) may represent the Commission and the Officers referred to in subsection (1) of this section with the written consent or authority of the Commission.

(3) A private Legal Practitioner or Legal Officer engaged by the Commission pursuant to subsection (1) and (2) of this Section shall be entitled to be paid such professional fees or honorarium, as the case may be, to be determined by the Commission.

Rule of procedure for election petition

145. (1) The rules of procedure to be adopted for election petitions and appeals arising there from shall be as set out in the First Schedule to this Act.

(2) The President of the Court of Appeal may issue practice directions to election tribunals.

PART X

MISCELLANEOUS

Persons disqualified from acting as election officers

146. No person holding an elective office to which this Act relates or a registered member of a Political Party shall be eligible for or be appointed to carry out the duties of a returning officer, an electoral officer, presiding officer or a poll clerk; and any officer appointed to carry out any of those duties shall be ineligible for nomination as a candidate for election while he continues to hold any such appointment.

Election Expenses by the Commission

147. (1) The Commission may prescribe:

- (a) a scale of remuneration for officers appointed under this Act for the conduct of elections; and
- (b) a scale of maximum charges in respect of other expenses incurred by an Electoral Officer, a Presiding Officer or a Returning Officer in connection with an election, and may revise the scale as it thinks fit or expedient.

(2) An Electoral Officer, Presiding Officer, or Returning Officer shall, in addition to any remuneration prescribed under paragraph (a) of subsection (1) of this section be entitled to such sums in respect of expenses not exceeding the prescribed scale, in connection with the conduct of an election as are reasonable.

(3) The Commission may pay such honoraria as it may determine to all other persons and officers who may be involved in one way or the other in conducting an election under this Act, or in carrying out any task in connection with an election or election petition arising therefrom.

(4) All fees and other remunerations approved under subsection (1) of this section shall be paid from the Fund established under section 3 (1) of this Act and shall be paid in such manner as the Commission deems fit.

Secrecy of Ballot

148. No person who has voted in any election under this Act shall, in any legal proceedings arising out of the election, be required to say for whom he voted.

Prosecution of Offence disclosed in Election Petition

149. The Commission shall consider any recommendation made to it by a tribunal with respect to the prosecution by it of any person for an offence disclosed in any election petition.

Trial of offences

150.(1) An offence committed under this Act shall be triable in a Magistrate Court or a High Court of a State in which the offence is committed, or the Federal Capital Territory, Abuja.

(2) A prosecution under this Act shall be undertaken by legal Officers of the Commission or any Legal Practitioner appointed by it.

Inspection of documents

151.(1) An order for an inspection of a polling document or an inspection of a document or any other packet in the custody of the Chief National Electoral Commissioner or any other officer of the Commission may be made by the election tribunal or the court if it is satisfied that the order required is for the purpose of instituting, maintaining or defending an election petition.

(2) A document other than a document referred to in subsection (1) of this section relating to an election and which is retained by the Chief National Electoral Commissioner or any other officer of the Commission in accordance with this section shall be open for inspection on an order made by the Election Tribunal or a Court in exercise of its powers to compel the production of documents in legal proceedings, but shall not otherwise be open for inspection.

Delegation of Powers of the Commission

152. Without prejudice to the other provisions of this Act, the Commission may delegate any of its powers and functions to any National Electoral commissioner, Resident Electoral Commissioner, Electoral Officer, any other officer of the Commission or any other officer appointed under the provision of this Act subject to any conditions or limitations which it may consider necessary or expedient to impose and no such delegation shall be construed to limit the right of the Commission to exercise such power, itself.

Regulations

153. The Commission may, subject to the provisions of this Act, issue regulations, guidelines, or manuals for the purpose of giving effect to the provisions of this Act and for its administration thereof.

Civic education by the Commission

154. The Commission shall have power to conduct civic education and enlightenment in the print and electronic media to enhance its functions.

Validation

155. Notwithstanding any other provisions of this Act, any defect or error arising from any actions taken by an official of the Commission in relation to any notice, form or document made or given or other thing whatsoever done by him in pursuance of the provisions of the Constitution or of this Act, or any rules made thereunder remain valid, unless otherwise challenged and declared invalid by a competent Court of Law or Tribunal.

Interpretation

156. In this Act, unless the context otherwise requires—

“appointment” includes appointment to an office, confirmation of appointment, promotion or transfer;

“Area Council” means Area Councils recognized and existing by virtue of section 3 (6) of the 1999 Constitution and as set out in Part II of the First Schedule thereof and any additional Area Council provided by an Act of the National Assembly in accordance with section 8 (5) of the Constitution.

“Association” means a body of persons (corporate or otherwise) who agree to act together for any common purpose and includes an association formed for any ethnic, social, cultural, occupational or religious purpose;

“Attorney-General of the Federation” means the Chief Law Officer of the Federation;

“Authority” includes government or government agency and corporate bodies;

“Chief Electoral Commissioner” means the Chairman of Independent National Electoral Commission;

“Civil Servant” a person employed in the civil service of the Federation or of a State or Local government;

“Clerk” means the Clerk of the National Assembly, Clerk of the State House of Assembly, and Clerk of the Legislative House of the Local Government/Area Council or any person acting in that capacity;

“Commission” means the Independent National Electoral Commission established by the Constitution;

“Constitution” means the Constitution of the Federal Republic of Nigeria 1999;

“Conviction” means a pronouncement by a Court or Tribunal that a person is guilty of an offence under this Act or under the provisions of the Constitution whether or not any punishment is imposed on the person as a result of the conviction. Conviction further includes admission by a person in writing, verbally, or by conduct that he is guilty, or have committed or aided and abetted the commission of the offence or crime concerned;

The “Conduct” referred to in this subsection is, for instance, where a person reimburses the sums of money or any parts thereof obtained through corrupt practice in order to avoid prosecution;

“Decision”, means in relation to court or tribunal, any determination of that court or tribunal and includes a judgment, decree, conviction, sentence, order or recommendation;

“Election” means any election held under this Act and includes a referendum;

“Electoral Officer” means a staff of the Commission who is the head of the Commission’s office at a Local Government Area or Area Council level;

“Federation” means the Federal Republic of Nigeria;

“Function” includes power and duty;

“General Election” means an election held in the Federation at large which may be at all levels, and at regular intervals to select officers to serve after the expiration of the full terms of their predecessors;

“Government” includes the Government of the Federation, of a State or of a Local Government Area or Area Council, or any person or organ exercising power or authority on its behalf;

“House” or “Legislative House” means the Senate, House of Representatives, House of Assembly of a State and includes the Legislative House of a Local Government Area or Area Council;

“Leader of an association” means every person holding an executive position in that association, including in particular, the Chairman, Secretary or Treasurer of the association and every member of its committee of management, however described;

“Leader of a political party” means every person holding an executive position in that political party, including in particular, the Chairman, Secretary or Treasurer of the political party and every member of its committee of management, however described;

“Legal incapacity” means a person disqualified under the Constitution or the present Act or any other Law, Rules and Regulations from registering as a voter or from contesting elections;

“Local Government” means Local Government recognized and existing by virtue of section 3(6) of the 1999 Constitution and set out in Parts I and II of the First Schedule thereof and any additional Local Government provided for by an Act of the National Assembly in accordance with section 8 (5) of the Constitution;

“National Assembly” means the Senate and the House of Representatives;

“offensive weapon or missile” includes any cannon, gun, rifle, carbine, revolver, pistol or any other firearm, bow and arrow, spear, cutlass, knife, dagger, axe, cudgel, or any other thing capable of being used as an offensive weapon or missile, including tear-gas, acid, and any inflammable substance capable of injuring a person;

“Office” or “Public Office” means any of the offices the occupation to which is by election or appointment under this Act;

“Petition” means an election petition under this Act;

“Polling Agent” means a person representing a political party or independent candidate at the polling unit, ward, Local Government, Federal constituency, Senatorial district, State or Federal collation centres.

“Polling unit” means the place, enclosure, booth, shade or house at which voting takes place under this Act ;

“Political party” includes any association of persons whose activities includes canvassing for votes in support of a candidate for election under this Act and registered by the Commission;

“Power” includes function and duty;

“President” means the President of the Federal Republic of Nigeria;

“Registrar” includes Chief Registrar, Deputy Chief Registrar and Registrar of other grades of the Supreme Court, Court of Appeal, Federal High Court and the High Court of a State;

“Registration Officer” includes supervisory assistant registration officer and assistant registration officer;

“Resident Electoral Commissioner” means the Commissioner deployed for the time being to a State;

“Return” means the declaration by a Returning Officer of a candidate in an election under this Act as being the winner of that election;

“School Certificate” has the meaning as defined in the Constitution;

“Secret Society” has the meaning as defined in the Constitution.

“State” when used otherwise than in reference to one of the component parts of the Federal Republic of Nigeria shall include government of a State;

“State Commission” means State Independent Electoral Commission established by section 197 of the Constitution;

“Campaigning in public” referred to in section 99 means the campaign that commences after the publication of the notice of election by the commission pursuant to section 30 of this Act;

All references in this Act to a State in the Federation shall, where appropriate, be deemed to include references to the Federal Capital Territory.

Repeal of the Electoral Act(No.2), 2006 and INEC Act, Cap 15, LFN, 2004

157.The Electoral Act, 2006 and Independent National Electoral Commission Act, Cap 15, Laws of the Federation of Nigeria, 2004 are repealed.

Citation

158.This Act may be cited as the Electoral Act, 2010.

ELECTORAL (AMENDMENT) ACT, 2010
ARRANGEMENT OF SECTIONS:

1. Amendment of Electoral Act No.6, 2010
2. Amendment of section 3 of the Principal Act
3. Amendment of section 4 of the Principal Act
4. Amendment of section 10 of the Principal Act
5. Amendment of section 15 of the Principal Act
6. Amendment of section 19 of the Principal Act
7. Amendment of section 23 of the Principal Act
8. Substitution for section 25 of the Principal Act
9. Amendment of section 27 of the Principal Act
10. Amendment of section 31 of the Principal Act
11. Substitution for section 33 of the Principal Act
12. Amendment of section 43 of the Principal Act
13. Substitution for section 47 of the Principal Act
14. Amendment of section 77 of the Principal Act
15. Amendment of section 78 of the Principal Act
16. Amendment of section 82 of the Principal Act
17. Amendment of section 85 of the Principal Act
18. Amendment of section 86 of the Principal Act
19. Substitution for section 87 of the Principal Act
20. Substitution for section 88 of the Principal Act
21. Amendment of section 90 of the Principal Act
22. Amendment of section 91 of the Principal Act
23. Amendment of section 94 of the Principal Act
24. Amendment of section 99 of the Principal Act.
25. Amendment of section 102 of the Principal Act.
26. Amendment of section 108 of the Principal Act
27. Amendment of section 121 of the Principal Act
28. Amendment of section 122 of the Principal Act
29. Amendment of section 124 of the Principal Act
30. Amendment of section 131 of the Principal Act
31. Amendment of section 133 of the Principal Act
32. Deletion of section 134 of the Principal Act
33. Amendment of section 140 of the Principal Act
34. Amendment of section 144 of the Principal Act
35. Amendment of section 151 of the Principal Act
36. Amendment of section 156 of the Principal Act.
37. Amendment of section 157 of the Principal Act
38. Amendment of the First Schedule of the Principal Act
39. Citation

ELECTORAL (AMENDMENT) ACT 2010

An Act to amend the Electoral Act No.6, 2010 among other things to provide for adequate time for the Independent National Electoral Commission to issue notices, receive nomination of candidates from political parties and ensure the proper conduct of political parties.

[9th Day of December, 2010] 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 3 of the Principal Act

2. **Section 3(2)(c)** of the Principal Act is amended by Substituting for the word “aids” and “a coma” in line 1, the words “aid and “a coma” in line 1, the words “aid and”.

Amendment of Section 4 of the Principal Act

3. **Section 4(1)**of the Principal Act is amended –

- (a) in paragraph (c), in line 3, by deleting the words “so however that”;
- (b) in paragraph (e), by deleting the words “and in connection with” , at the beginning of the paragraph.

Amendment of Section 10 of the Principal Act

4. **Section 10** of the Principal Act is amended –

- (a) in subsection(1), line1 by substituting for the figures “10(5)” the figures “9(5)”
- (b) in subsection (4), line 2, by substituting for the figure “31”the figure “30”; and
- (c) in subsection(5), line 1,by substituting for the word “by-election” the word “bye election”,

Amendment of Section 15 of the Principal Act

5. **Section 15** of the Principal Act is substituted for a new section “15” -

“The Commission shall cause a voters’ register for each State to be printed, and any person or political party may obtain from the Commission, on payment of such fees as may be determined by the Commission, a certified copy of any voters’ register for the State or for a Local Government or Area Councilor registration area within it.”

Amendment of Section 19 of the Principal Act

6. **Section 19** of the Principal Act is amended by Substituting for the figures “16 (1)”, in line 1, the figure “9(5)”.

Amendment of Section 23 of the Principal Act

7. **Section 23 (c)** of the Principal Act is amended by Inserting a semi colon “;” immediately after the word person in line 2.

Substitution for Section 25 of the Principal Act

8. “Days of election”

25 (1) Election to each House of the National Assembly shall hold on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.

Electoral (Amendment) Act

(2) The date mentioned in subsection (1) of this section shall not be earlier than 150 days and not later than 30 days before the House stands dissolved, or where the election is to fill a vacancy occmTing more than 90 days before such date, not later than 30 days.

(3) Elections to the House ofAssembly of a State shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.

(4) The date mentioned in subsection (3) of this section shall not be earlier than 150 days and not later than 30 days before the House stands dissolved, or where the election is to fill a vacancy occurring more than 90 days' before such date, not later than 30 days.

(5) An election to the office of President shall be held on a date to be appointed by the Independent National

Electoral Commission in accordance with the Constitution and this Act.

(6) An election to the said office of the President shall be held on a date not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder of that office.

(7) An election to the office of the Governor of a State shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.

(8) An election to the office of the Governor of a State shall be held on a date not earlier than 150 days and not later than 30 days before the expiration of the term of office of the last holder of that office.”

Amendment of Section 27 of the Principal Act

9. **Section 27** of the Principal Act is amended –

(a) in subsection (2) (h), by deleting the word “who” in line 1.

(b) by inserting a new subsection “(3)”

(c) renumbering subsection (2) (h) as a new subsection “(3)” -

“(3)” The Chief Electoral Commissioner shall be the Returning Officer at the Presidential election”.

Amendment of Section 31 of the Principal Act

10. **Section 31** of the Principal Act is amended –

(a) by substituting for subsection (1), a new subsection (1) –

“(1) Every political party shall, not later than 60 days before the date appointed for a general election under the provisions of this Act, submit to the Commission, in the prescribed forms, the list of the candidates the party proposes to sponsor at the elections, provided that the Commission shall not reject or disqualify the candidate(s) for any reason whatsoever.”

(b) in subsection (2), line 2, by inserting immediately after the word “the” –

(i) the words “Federal High Court”; and

(ii) immediately after the word “State”, the words “Federal Capital Territory”; and

(c) by substituting for subsection (5) a new subsection “(5)” -

“(5) Any person who has reasonable grounds to believe that information given by a candidate is false may file a suit at the Federal High Court, High Court of a State or FCT against such a person seeking a declaration that the information contained in the affidavit is false”.

Amendment of Section 33 of the Principal Act

11. **Section 33** of the Principal Act is amended by substituted for a new **section “33” – “33”** A political party shall not be allowed to change or substitute its candidate whose name has been submitted pursuant to **section 31** of this candidate Act, except in the case of death or withdrawal by the candidate”

Amendment of Section 43 of the Principal Act

12. **Section 43** of the principal Act is amended by substituting for subsection (4) a new subsection “(4)” –

“(4) The Polling Agent shall be entitled to be present at the distribution of election materials, voting, counting, collation and the announcement of election results”.

Substitution for Section 47 of the Principal Act

13. **Section 47** of the Principal Act is substituted for a new **section “47” –**

“47. Voting in any particular election under this Act shall take place on the -date and time appointed by the Commission throughout the Federation”.

Amendment of Section 77 of the Principal Act

14. **Section 77** of the Principal Act is amended in subsection (2), line 4, by deleting the words "Access to election documents".

Amendment of Section 78 of the Principal Act

15. **Section 78** of the Principal Act is amended by inserting a new subsection "(7a)" immediately after the existing subsection 6 –

- "(7a) the Commission shall have power to deregister political parties on the following grounds. (i) breach of any of the requirements for registration, and
- (ii) for failure to win Presidential or Governorship election or a seat in the National or State Assembly election.

Amendment of Section 82 of the Principal Act

16. **Section 82** of the Principal Act is amended in subsection (3) (b), line 1 and 2, by deleting the words "or independent candidate."

Amendment of Section 85 of the Principal Act

17. **Section 85** of the principal Act is amended by substituting for subsection (2) a new subsection "(2)" –

- "(2) The Commission may, with or without prior notice to the political party attend and observe any convention, congress, conference or meeting which is convened by a political party for the purpose of –
 - (a) electing members of its executive committees or other governing bodies;
 - (b) nominating candidates for an election at any level; and
 - (c) approving a merger with any registered political party".

Amendment of Section 86 of the Principal Act

18. **Section 86 (1)** is amended by substituting for subsection (1) a new subsection (1) –

- "(1) The Commission shall keep records of the activities of all the registered political parties"

Substitution for Section 87 of the Principal Act

19. **Section 87** of the Principal Act is substituted for a new **section "87"**

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

(2) The procedure for the nomination of candidates by political party for the various elective positions shall be by direct or indirect Primaries.

(3) A political party that adopts the direct primaries procedure shall ensure that all aspirants are given equal opportunity of being voted for by members of the party.

(4) A political party that adopts the system of indirect primaries for the choice of its candidates shall adopt the procedure outlined below –

- (a) in case of nomination to the position of presidential candidate, a party shall,
 - (i) hold a special presidential convention in the Federal Capital Territory or any other place within the Federation that is agreed by the national Executive Committee of the party where delegates shall vote for each of the aspirants at the designated centre, and
 - (ii) the 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 Independent National Electoral Commission as the candidate of the party;
- (b) in the case of nomination to the positions of Governorship candidate, a political party shall, where it intends to sponsor candidates –

- (i) hold a special congress in the State Capital with delegates voting for each of the aspirants at the congress to be held on a specified date appointed by the National Executive Committee (NEC) of the party, and
 - (ii) the aspirants with the highest number of votes at the end of the 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, 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, with delegates voting for each of the aspirants in designated centre on specified dates; 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;
- (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.
- (5) 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.
- (6) Where there is only one aspirant in a political party for any of the elective positions mentioned in paragraph (4) (a), (b), (c) and (d), the party shall convene a special convention or congress at a designated centre on a specified date for the confirmation of such aspirant and the name of the aspirant shall be forwarded to the Commission as the candidate of the party.
- (7) A political party that adopts the system of indirect primaries for the choice of its candidate shall clearly outline in its constitution and rules the procedure for the democratic election of delegates to vote at the convention, congress or meeting, in addition to delegates already prescribed in the constitution of the party.
- (8) A political appointee at any level shall not be an automatic voting delegate at the convention or congress of any political party for the purpose of nomination of candidates for any election, except where such a political appointee is also an officer of a political party.
- (9) Notwithstanding the provisions of this Act or rules of a political party, an aspirant who complains that any of the provisions of this Act and the guidelines of a political party has not been complied with in the selection or 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 FCT, for redress.
- (10) Nothing in this section shall empower the courts to stop the holding of primaries or general election or the processes thereof under this Act pending the determination of a suit”.

Substitution for Section 88 of the Principal Act

20. **Section 88** of the Principal Act is substituted for a new **section”88”**

“88” Any political Party that-

- (a) holds or possesses any fund outside Nigeria in contravention of **section 225(3)** (a) of the Constitution, commits an offence and shall on conviction forfeit the funds or assets purchased with such funds to the Commission and in addition may be liable to a fine of not less than N500,000.00;or
- (b) retains any fund or other asset remitted to it from outside Nigeria in contravention of **section 225(3)** (a) of the constitution is guilty of an offence and shall on conviction forfeit the funds or assets to the commission and in addition may be liable to a fine of not less than N500,000.00”

Amendment of Section 90 of the Principal Act

21. **Section 90** of the Principal Act is amended by deleting the impression “(1)” in line 1.

Amendment of Section 91 of the Principal Act

22. **Section 91** of the Principal Act is amended by –

(a) substituting for subsection(4), a new subsection “(4)”-

“(4) The maximum amount of election expenses to be incurred by a candidate in respect of Senatorial and House of Representatives seats shall be N40,000,000 and N20,000,000 respectively”;

(b) in subsection (10)(c), line 1, by deleting the word in the National Assembly election”;

(c) in subsection (10) (d) line1, by deleting the words “in the National Assembly election”;

Amendment of Section 94 of the Principal Act

23. **Section 94** of the Principal Act is amended in subsection (3), line 5, by deleting the words “Conduct at political rallies, and processions, etc”.

Amendment of Section 99 of the Principal Act

24. **Section 99** of the principal Act is amended in subsection (2) paragraph (b) by substituting the comma-”, “ after the word candidate in line 3, for a small-colon -”; “

Amendment of Section 102 of the Principal Act

25. **Section 102** of the Principal Act is amended in subsection (3), line 6, by deleting the words “Campaign based on religion, tribe etc”.

Amendment of Section 108 of the Principal Act

26. **Section 108** of the principal act is amended –

(a) in subsection (2), line1, by substituting for the word “by-election” the word “bye-election”; and

(b) in subsection (3), line 2, by substituting for the figure “90” the figure “30”.

Amendment of Section 121 of the Principal Act

27. Section 121 of the Principal Act is amended in subsection (1) –

(a) by inserting immediately after the word “of” in line 1, the word “conveying”; and

(b) in subsection (2), by inserting a semi colon “;” immediately after the word “section” in line 2

Amendment of Section 122 of the Principal Act

28. **Section 122** of the Principal Act is amended by substituting for subsection (2), a new subsection “(2)” –

“(2) Any person who commits the offence of impersonation or who aids, abets, counsels or procures the commission of that offence, shall be liable on conviction to a maximum fine of N500, 000 or imprisonment for 12 months or both.”

Amendment of Section 124 of the Principal Act

29. **Section 124** (1) of the Principal Act is amended by deleting paragraph (a) and renumbering the paragraphs appropriately.

Amendment of Section 131 of the Principal Act

30. **Section 131**of the Principal Act is amended –

(a) by deleting the impression “(1)” in line 1; and

(b) in paragraph (d), by substituting for the words “by preventing” in line 1, the word” prevents”; and

(c) in paragraph (d), by inserting a semi colon “:” immediately after the word” election” in line 3.

Amendment of Section 133 of the Principal Act

31. **Section 133 (2)** (a) of the Principal Act is amended by deleting the words “or Governorship” in line 1

Amendment of Section 134 of the Principal Act

32. Section 134 of the Principal Act is deleted.

Amendment of Section 140 of the Principal Act

33. **Section 140** of the Principal Act is amended –

(a) in the marginal note, by substituting for the word “Notification” the word “Nullification”;

(b) by substituting for subsection (2) a new subsection “(2)” –

“(2) where an election tribunal or court nullifies an election on the ground that the person who obtained the highest votes at the election was not qualified to contest the election, or that the election was marred by substantial irregularities or non-compliance with the provisions of this Act, the election tribunal or court shall not declare the person with the second highest votes or any other person as elected, but shall order for a fresh election “; and

(c) by deleting subsection (4)

Amendment of Section 144 of the Principal Act

34. **Section 144** of the Principal Act is amended

(a) by substituting for subsection (1) a new subsection “(1)”

“(1) where the Commission has been joined as a respondent in an election petition, a Legal Officer of the Commission or a Legal Practitioner engaged by the commission shall represent Commission at the Tribunal or Court”;

(b) in subsection (3), line 4, by deleting the words “Legal representation of Commission, etc.”

Amendment of Section 151 of the Principal Act

35. **Section 151 (2)** of the Principal Act is amended deleting the words “but shall not otherwise be open for inspection” in line 6.

Amendment of Section 156 of the Principal Act

36. Insert, in alphabetical order, the following interpretation under section 156 of the Principal Act – “Primaries” mean an intra-party election by voters of a given political party to nominate candidates for elective office in accordance with a political party’s constitution and the law;

“ Direct Primaries” means an election at which candidates for elective office are chosen by direct vote of political party members instead of by delegates at a convention or congress;

“Indirect Primaries” means an intra-party election where a political party’s delegates to a party convection or congress elect the party’s candidates; and

“Aspirant” means a person who aspires or seeks or strives to contest an election to a political office

Amendment of Section 157 of the Principal Act

37. Section 157 of the Principal Act is amended by substituting the existing section with the following new provision -

“The Electoral Act 2006 is hereby repealed”

Amendment of the First Schedule of the Principal Act

38. The First Schedule to the Electoral Act 2010 is amended –

(a) by deleting paragraph 4(7) and (8);

(b) in paragraph 9, by deleting subparagraph (5)

(c) in paragraph 12, by inserting a new subparagraph (5) –

“(5) A respondent who has an objection to the hearing of the petition shall file his reply and state the objection therein, and the objection shall be heard along with the substantive petition”

(d) in paragraph 18 –

(i.) by substituting for the words “ whichever is the case” in subparagraph (1), line 3, the words “as the case may be”, and

(ii.) by inserting a new sub paragraph (8)(c) - “(c) allot time for the cross examination of witness having regard to the number of witnesses to be called.”;

(e) In paragraph 22, by substituting for the figure “16”, in line 3, the figure “20”;

(f) in paragraph 25 (2), by substituting for the word “recommended” in line 3 the word “recommenced”;

(g) in paragraph 27, by substituting for the word “on” in the heading, line 2, the word “of”

(h) in paragraph 28 (2), by substituting for the figure” 138”, in line 2, the figure “140”;

(i) in paragraph 34 (1), by deleting the words “other than the Electoral Officer, the Returning Officer or Presiding Officer, “in lines 1 and 2;

(j) in paragraph 37 (5), line 2, by deleting the words “or by a respondent who was”;

(k) in paragraph 41, by – (i) substituting for the word “of” the word “at”, in the heading to the paragraph (ii) deleting immediately after the word” court” in sub paragraph (8), lines 1 and 2 the words “ after an applicant has shown exceptional circumstances”; and (iii) inserting a new sub paragraph “(10)” – “(10)-The petitioner improving his case shall have not more than 14 days to do so and each of the respondents shall have not more 10 days to present its defence”;

(l) in paragraph 45, by substituting for sub paragraph (1) a new paragraph “(1)” - “(1) the tribunal or court shall have power, subject to paragraph 16 of this Schedule, to enlarge time for doing any act taking any proceeding on such terms (if any) as the justice of the case may require except as otherwise provided by other provision of this Schedule”;

(m) in paragraph 49, by substituting for the word “of”, the word “or” in the heading; and

(n) in paragraph 51, by substituting for sub paragraph (1), a new subparagraph “(1)” – “(1) - (a) where an election petition complain of the conduct of an Electoral Officer: a Presiding Officer, Returning Officer or any other official of the Commission the officer or person shall not be joined as a necessary party in the petition notwithstanding the nature of the conduct; and (b) the Commission shall be made a respondent and be deemed to be defending the petition in all cases in sub paragraph (1) itself and on behalf of its officer or such other persons who acted on behalf of the commission.

Citation

39. This Act may be cited as the Electoral (Amendment) Act, 2010

ELECTORAL (AMENDMENT) ACT (No.2), 2011
ACT No. 22

AN ACT TO AMEND ELECTORAL ACT, No.6, 2010, AS AMENDED

ARRANGEMENT OF SECTIONS

SECTION:

1. Amendment of Section 9(5) of the Principal Act.
2. Citation.

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

Amendment of Section 9 (5) of the Principal Act

1. Section 9(5), line 2 of the Electoral Act No.6, 2010 (the Principal Act) is amended by substituting for the figure “60”, the figure “30”.

Citation

2. This Act may be cited as the Electoral (Amendment) Act (No.2), 2011.

EXPLANATORY MEMORANDUM

This Act amends the Electoral Act, No.6, of 2010 as amended to abridge the time from 60 days to 30 days within which the Independent National Electoral Commission shall stop the registration of voters before any general election under the Act.

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.