



**S I M P L I F I E D**

**ELECTORAL ACT**

**&**

**INEC GUIDELINES**

**PLAC**

POLICY AND LEGAL ADVOCACY CENTRE



# Electoral Act and INEC Guidelines Simplified

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## Published by



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# Introduction

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This publication provides a simplification of the Electoral Act 2010 (as amended) and the Independent National Electoral Commission (INEC) Regulations and Guidelines for the Conduct of Elections. It aims to make the provisions of the Electoral Act easy to comprehend and serves to amplify the knowledge and understanding of election stakeholders and citizens on the provisions of the law regarding elections.

This volume is a useful handbook and reference point to be used in the field by election stakeholders. For ease of use, it divides electoral issues into thematic areas and simplifies the provision of the law with reference to their respective sections.

As the current secretariat for the Nigeria Civil Society Situation Room, Policy and Legal Advocacy Centre (PLAC) has worked closely with the Nigerian National Assembly and INEC to follow closely the achievement of the current legal framework on elections in Nigeria and is a major repository of knowledge, history and tracking of legal regime for elections in Nigeria.





# Electoral Act Simplified

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## General Provisions of the Act

### About the Act

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The Principal Electoral Act 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 three amendments to the 2010 Electoral Act:

The first amendment, the Electoral (Amendment) Act 2010, was aimed at providing 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 altering the time within which INEC shall stop the registration of voters before any general election under the Act from 60 days to 30 days to the election date.

The third amendment, Electoral (Amendment) Act, 2015 contains a wide range of amendments which include provision for the tenure for the office of the secretary of the Commission, increased time frame for transfer of registered voters and issuance of duplicate voters' card, appointment of polling agents and removal of the prohibition on electronic voting among others.

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.

# Independent National Electoral Commission (INEC)

The 1999 Constitution of the Federal Republic of Nigeria vests the power and authority to organise and conduct elections in the Independent National Electoral Commission (INEC). INEC is established under **Section 153 of the Constitution**, while its functions and powers are outlined in the **third schedule, part 1 Item F, paragraphs 14 and 15**.

The Electoral Act specifies the powers of INEC and describes how it will be organised 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	
<b>Constitution</b> <ul style="list-style-type: none"><li>• Organising Elections ~ <b>Third Schedule, Part 1, Item F, Paragraph 15(a)</b></li><li>• Organising Referendum ~ <b>Section 2(c); section 69 and 110 (for Recall)</b></li><li>• Constituency Delimitation ~ <b>Section 71 and 112</b></li><li>• Regulation of Political Parties ~ <b>Section 225</b></li></ul>	<b>Electoral Act</b> <ul style="list-style-type: none"><li>• Civic and Voter Education ~ <b>Sections 2 and 154</b></li><li>• Cancelling Election Results ~ <b>Section 53(2)</b></li><li>• Maintenance of the Voters Register- <b>Section 9</b></li><li>• Print and issue of voter's register ~ <b>Section 15</b></li><li>• Print and issue of voters card ~ <b>Section 16</b></li><li>• Issue of duplicate voters card ~ <b>Section 18</b></li></ul>

<ul style="list-style-type: none"> <li>• Recruiting Staff ~<b>Section 8(3) and (4)</b></li> <li>• Scheduling Elections ~ <b>Section 30</b></li> <li>• Issuing Election Forms ~<b>Section 76</b></li> <li>• Sorting and Counting Ballots ~ <b>Section 63</b></li> </ul>	<ul style="list-style-type: none"> <li>• Registration and deregistration of Political Parties ~<b>Section 78</b></li> <li>• Giving notice of elections ~<b>Section 30</b></li> <li>• Establishment of Polling Units ~ <b>Section 42</b></li> <li>• Prosecution of Electoral Offences ~ <b>Section 150</b></li> </ul>
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## STRUCTURE OF INEC

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### *Electoral Commissioners*

- The INEC Chairman is the Chief Electoral Commissioner. ~ **Third Schedule, Part 1 Item F, Paragraph 14(a), of the Constitution**
- INEC has 12 National Commissioners. ~ **Third Schedule, Part 1, Item F, Paragraph 14(b), of the Constitution**
- INEC has 37 Resident Electoral Commissioners; one for each State of the Federation and one for the FCT. ~ **Section 6, Electoral Act**
- There is an INEC office in each State of the Federation and Federal Capital Territory headed by the Resident Electoral Commissioner (REC). ~ **Section 6 (1), Electoral Act**
- They perform such functions as may be assigned or delegated to them by the Commission. ~ **Section 6 (1), Electoral Act**
- RECs hold office for a period of 5 years. ~ **Section 6(2)(b), Electoral Act**

### *Criteria for Commissioners' Eligibility ~ Third Schedule, Part 1, Item F, Paragraph 14(b), of the Constitution.*

- For the Chief Electoral officer i.e. the INEC Chairman – must not be less than 40 years.
- For other Electoral Commissioners – must not be less than 35 years old.

- The Chairman and Commissioners must be persons of unquestionable integrity.

#### *Secretary & other Staff of the Commission ~ **Section 8***

- The Secretary is the 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.
- The Secretary has a renewable 4 year tenure. ~ **Section 8(1) (c)**

#### *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/her or an act committed by him/her 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 is to ensure 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:
  - o A Nigerian citizen;
  - o Has attained the age of 18 years;
  - o Lives, works or originates from the Local Government Area Council or Ward covered by the Registration Centre;
  - o Present him/herself to be registered; and
  - o 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 centre or register more than once in the same registration centre ~ **Section 12 (2)**. However, a voter may ask for his/her name to be transferred to a voters list outside the constituency/ area where he/she originally registered. ~ **Section 13**

- A registration officer and an update officer can demand from any applicant any information he/she deems necessary to ascertain whether an applicant meets the qualification criteria of a voter. ~ **Section 14(a)**
- Voters can only own one valid voter's 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 in, upon payment of specified fees/charges to the Commission. ~ **Section 16(1)**
- An Electoral Officer is responsible for the voters register for his/her Local Government Area under the Resident Electoral Commissioner's supervision. ~ **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 60 days before polling day to the Electoral Officer for the issuance of a duplicate voter's card. His/her 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 more 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

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- 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

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- INEC is mandated to provide for continuous registration of all persons who are qualified to be registered as voters. ~ **Section 10(1)**
- 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

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- The registration of voters, updating and revision of the voters register shall stop not later than 30 days before any election covered by the Act. ~ **Section 9(5).**

## Transfer of Registered Voters

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- 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/her new location. Such person may apply to the REC of the State where he/she currently resides for his/her name to be entered on the transferred voters' list for the constituency. However, his /her application must be accompanied by a copy of his/ her voter's card and made not less than 60 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/ Voter's Card

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 authorised for that purpose by the Resident Electoral Commissioner (REC	Fine up to N200,000 or imprisonment up to two years or both
23	<ul style="list-style-type: none"> <li>- Unlawful Possession of a voter's card</li> <li>- Buying or selling or unlawful possession of a voter's card by a person on his own behalf or on behalf of another person</li> </ul>	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	Individual	Fine up to N100, 000 or imprisonment for up to one year or both

## Offences in Relation to Voter Registration/ Voter's Card

Section	Offence	Actor	Penalty
	<ul style="list-style-type: none"> <li>-Not providing required information during registration without just cause</li> <li>- Signing registration form with another's name</li> <li>-Applying to register for another</li> <li>-Making false declaration relating to registration</li> <li>-Registering or procuring registration for oneself or another on another voter's register while being registered already or when the applicant is not entitled to do so.</li> <li>-Procuring registration of a fictitious person</li> </ul>		
24 (2)	Causing, threatening, 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" is defined in the Act to include 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 as well as 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 outline 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 (1).**

- INEC has powers to de-register political parties on the following grounds:
  - o Breach of any of the requirements for registration; and ~ **Section 78(7a)**
  - o Failure to win at least twenty-five percent of votes cast in-
    - one State of the Federation in a Presidential election; or
    - one Local Government of the State in a Governorship election.
  - o Failure to win at least-
    - One ward in the Chairmanship election
    - One seat in the National or State House of Assembly election; or

- One seat in the Councillorship election. ~ **Section 225A of the Constitution**
- 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:
  - o Coat of arms of the Federation,
  - o Coat of arms of any other country,
  - o Any symbol which has been registered by another Political Party,
  - o 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 21 days 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 or approving a merger with any other registered political party.
- **Section 86:** Empowers INEC to keep records of activities of registered political parties meaning that parties are required to provide information sought by INEC to the Commission; particularly information relating to activities of the party.

## Procedure for Nomination of Candidates

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**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:*
  - o The party must hold a special presidential convention where delegates shall vote for each aspirant; and
  - o 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:*
  - o The party must hold a special congress in the State Capital where delegates shall vote for each aspirant; and
  - o 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:*
  - o 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
  - o 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.
- *Procedure for Chairmanship Positions in Area Councils;*
  - o The party must hold a special congress in the Area Councils where delegates shall vote for each aspirant; and
  - o 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.
- 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.

## Election Expenses & Campaign Finances of Parties

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- **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)**
- **Section 91** provides limits on election expenses. (See 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)**
- The following are not regarded as election expenses: ~**Section 91(8)**
  - o Deposit by candidate regarding nomination i.e. nomination fees
  - o Expenses on services rendered or materials supplied before INEC issue of notice of election
  - o Expenses by political party in respect of a candidate.
- Political parties are mandated to publish their audited returns in at least two (2) National Newspapers. ~ **Section 92 (5)**
- INEC is to make available audited returns of political parties for public inspection during regular business hours. ~ **Section 92(7)**



## Maximum Election Expenses Allowed Under The Act

Position Contested	Amount	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 donee	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	An Accountant	10 years imprisonment
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

## Offences Related to Campaign Financing

\*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.

## Financial Reporting Requirements for Parties

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

## Political Campaigns & Rallies

- Political Parties are expected to imbibe certain conduct during its political rallies and campaigns. Some of the Electoral requirements that pertain to campaign conduct extends to the media and the Police.
- **Sections 94 – 102** makes provisions relating to campaigns by Political Parties and expected conduct during campaigns. These include the following:
  - o 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)**

- o The role of the Nigeria Police Force in political rallies, processions and meetings shall be limited to the provision of adequate security. ~ **Section 94 (4)**
- o The Police are required to resolve any conflict of time and venue between and amongst parties in a consultative manner and are not prevent any registered political party in Nigeria, its aspirants or candidates from holding rallies, processions or meetings. ~ **Section 94(5)**
- o 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)**
- o 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)**
- o 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 organisations, groups or individuals for the purpose of providing security at processions is prohibited in **Section 95(4)(5) and (6)**.

## Time for Campaigns

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- Political campaigns in public can commence 90 days before polling day but must 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**

- State Media shall not be used for or against any political party or candidate. ~**Section 100(2)**
- Media houses shall allot equal airtime coverage and conspicuity to all parties and candidates. ~ **Section 100(3) and (4)**

Offences Related to Political Campaigns			
Section	Offence	Actor	Penalty
81	Contravention of section 227 of the Constitution, which prohibits organising 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	For 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	Unauthorised Individuals. Security officials authorised to be present at said locations are excluded.	Maximum fine of N2,000,000 or imprisonment for a term of 2 years or both.

## Offences Related to Political Campaigns

Section	Offence	Actor	Penalty
95	<p>1.) Using abusive, slanderous, provocative language during campaigns</p> <p>2.) Using places of worship, public office or police stations for campaigns/rallies/processions or promotion</p> <p>3.) Use of masquerades at campaigns</p> <p>4.) Use of private security organisations, groups or individuals to secure candidate(s) or political party at campaigns/ rallies/ elections</p>	Political Party/ Candidate/ Individual	<p>For individuals: Maximum fine of N1,000,000 or 12 months imprisonment.</p> <p>For Political Parties: Fine of N2,000,000 in the first instance, and N1,000,000 for any subsequent offence.</p>
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	<p>For individuals: Maximum fine of N1,000,000 or imprisonment for the term of 12 months.</p> <p>For Political Parties: Fine of N2,000,000 in the first instance, and N1,000,000 for any subsequent offence.</p> <p>For any person(s) aiding or abetting a political party: fine of N500,000 or 3 years imprisonment or both.</p>

## 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	<p>For individuals: Maximum fine of N1,000,000 or imprisonment for a term of 12 months.</p> <p>For Political Parties: Fine of N2,000,000 in the first instance, and N500,000 for any subsequent offence.</p>
99	Campaigning outside prescribed time period 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	<p>Maximum fine of N500,000 in the first instance.</p> <p>Maximum fine of N1,000,000 for</p>

## Offences Related to Political Campaigns

Section	Offence	Actor	Penalty
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

**Section 25 (1)** provides that elections shall hold on a date to be appointed by INEC in accordance with the Constitution and the Act.

Timelines		
Section	Office	Timeline for election
25(2)	National Assembly (Senate and House of Representatives)	Not earlier than 150 days and not later than 30 days, before the House stands dissolved or;  To fill a vacancy occurring more than 90 days before such date, not later than 30 days.
25(4)	State House of Assembly	Not earlier than 150 days and not later than 30 days before the House stands dissolved or;  To fill a vacancy occurring more than 90 days before such date, not later than 30 days.
25(6)	President	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.
25(8)	Governor	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.

## Notice of Elections

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

## Conduct and Postponement of Elections

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INEC shall make sure that persons displaced as a result of emergency are not disenfranchised ~ **Section 26**. INEC may postpone in the following circumstances:

- Where INEC has reason to believe that a serious breach of peace is likely to occur if elections proceeded on the date fixed; or ~ **Section 26(2)**
- Natural disasters or emergencies make the conduct of elections impossible ~ **Section 26(2)**
- Where 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 discretion to either announce or not announce election results in this area - **Section 26 (3), (4) & (5)**
- INEC's decision to postpone elections can be challenged in court ~ **Section 26 (5)**

## Appointment of Election Officers

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- The Commission has powers to appoint and designate officers for elections or registration of voters. ~ **Section 29**
- 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**

## Role and Use of Security Agencies in Elections

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- INEC can request the deployment and assignment of security personnel necessary for elections or registration of voters. INEC can only request deployment of Armed Forces for the purpose of securing the distribution and delivery of election materials and protection of election officials. ~ **Section 29 (3)**

### Election Officers authorised to announce results

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- 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
- The Returning Officer will announce results at the respective Collation Centres for the FCT Area Council/ Councillorship/ Chairmanship and Vice Chairmanship elections, State House of Assembly elections; House of Representatives Elections and Senate elections
- The Returning Officer for the Presidential Election is the Chief Electoral Commissioner ~ **Section 27**

## Submission of Party Nominations to INEC & Disqualification of Candidates

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- **Section 31** 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.

### Disqualification of Nominated Candidates

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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 or Constitution ~ **Section 31**

## Publication of Nominations by INEC

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- INEC to publish particulars of a nominated candidate in the constituency where he/she intends to contest the elections within 7 days of receipt. ~ **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

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- 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/her 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

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- **Section 37** prohibits multiple nomination of a candidate and voids nomination of a candidate who knowingly allows him/herself to be nominated by more than one political party or constituency.
- **Section 38** allows INEC to extend time for nomination and fix new election date where there is no validly nominated candidate at the close of nomination.

## Contested Elections

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### Polls are required:

- When more than one person has been validly nominated after the close of nominations and withdrawal of candidates. ~ **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 (a)**.

## Uncontested Elections

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- 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 Agents

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**Section 45** allows parties to appoint polling agents by notice in writing to the Electoral Officer of the Local Government Area or Area Council. The application for each polling agent should be accompanied by two(2) passport photographs and a sample signature and should be submitted 14 days before date fixed for the election. 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 under any tier of government can be a polling agent if the person resigns their appointment at least 3 months before the election.

## Polling Agents

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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)**
- To challenge the right of a person to receive ballot paper on in accordance with provisions of the Act (by informing the Presiding Officer. ~ **Section 50**, See also **section 59**

## Polling

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- 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**

## Date and Time of Elections

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- Voting is 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

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- 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.**

### Open Secret Ballot Voting

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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** prohibits persons that have voted from stating who they have voted for in the Court or Tribunal in an Election Petitions case.

INEC is given the discretion to determine the procedure for voting. ~ **Section 52(2)**

## Disabled Voters

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Blind and incapacitated voters may be accompanied by a person of their choice to a Polling Unit. Furthermore, INEC is required to make provisions for them to through the use of Braille, large embossed print, electronic devices or even sign language interpretation ~ **Section 56**

## Voting Procedure

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- A voter must present himself/herself and his/her voter's card to the Presiding Officer at the Polling Unit in the constituency where he/she is registered. ~**Section 49(1)**
- The Presiding Officer shall then confirm that the voter's name is on the voters register, issues a ballot paper to the voter and mark him/her as having voted. ~**Section 49 (2)**
- 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**
- INEC to prescribe procedure for voting. ~**Section 52 (2)**
- Voting is by open secret ballot and all ballots must be deposited in the ballot box in the open view of the public. ~ **Section 52 (3)**
- 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/her 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/she must vote in the polling unit where he/she has been assigned. - **Section 58**
- Voters cannot vote on destroyed or 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/she 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**

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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/her 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

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### ***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/She 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)**
- 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. ~ **Section 61(4)**
- In the absence of a Presiding Officer, the Poll Clerk assumes all his/her 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

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- 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**
- 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**

## **Post Election Procedure and Collation of Election Results**

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- After the recording and announcement of the result, the Presiding Officer has a duty to deliver the result along with election materials under security accompanied by the candidates or their polling agents to a person that has been prescribed by INEC. ~ **Section 65**
- Similarly, **Section 72** gives the Chief Electoral Commissioner i.e. the INEC Chairman or any officer he delegates as responsible for the official custody of all the documents given by the Returning Officers.

## **Unmarked & Rejected Ballots**

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- 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/she 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**

## **Emergence of Winner of Elections & Declaration of Results**

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- **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. **(See box - When does a Candidate win an election?)**
- 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**
- 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**
- The Resident Electoral Commissioner (REC) of a State is expected to issue a certified true copy of documents requested within 14 days of application by any of the parties to an election petition. 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**

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

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- **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 cast 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 (dealing with run-off election)
- **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 (dealing with run-off election)

Some Key Election Timelines			
S/No.	Activity	Timeline	Section
1.	Notice of Election	Not later than 90 days before the election	30 (1)
2.	Commencement of Campaign by Political parties	90 days before polling day	99(1)
3.	Submission of candidates list	Not later than 60 days before the election	31(1)
4.	Publication of personal particulars of Candidates	Within 7 days of receipt of candidates list	31(3)
5.	Reissue of damaged voters card	Not less than 60 days before polling day	18(1)
6.	Transfer of voters	Not less than 60 days before the election	13(2)
7.	Withdrawal by candidates/ replacement of withdrawn candidates by political parties	Not later than 45 days before the election	35
8.	Publication of official register of voters for the election	Not later than 30 days before the election	20
9.	Publication of list of nominated candidates	Not later than 30 days before the day of election	34
10.	Closing of Voters Registration/ Voters' Register	Not later than 30 days before the election	9(5)

Some Key Election Timelines			
S/No.	Activity	Timeline	Section
11.	Publication of Notice of Poll	Not later than 14 days before the election	46
12.	Submission of names of Party Agents for the Election to the Electoral Office of the Local Government Areas or Area Councils	Not later than 14 days before the election	45
13.	End of campaigns	24 hours prior to the day of the election	99(1)
<p><b>NB:</b> INEC is empowered to set a date not earlier than 150 days but not later 30 days before the expiration of the term of office of the last holder for National and State Houses of Assembly, Presidential and Governorship elections~ <b>Section 25</b></p>			





# 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.

## Grounds for Petition

1. That the candidate declared to be the winner of an election is not qualified to contest
2. That the winning 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
5. That the person whose election is questioned had submitted to INEC an affidavit containing false information of a fundamental nature in aid of his qualification for the election

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

- Election petitions are used to present a legal grievance of an undue election 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 Election Petitions. ~ **Section 133 (2)(a).**
  - For other elections: an Election Tribunal. ~ **Section 133 (2)(b)**
  - Election tribunals must be created not later than 30 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)**
  - The Area Council Election Tribunal shall be created not later than 21 days before the election and must open their registries not later than 8 days before the election. ~ **Section 135(5)**
  - **Section 135(1):** the Area Council Election 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)**

- 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 shall 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 (i.e. INEC Chairman) 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

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- There are 5 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; and

- 5) That the person whose election is questioned had submitted to INEC an affidavit containing false information of a fundamental nature in aid of his qualification for the election. ~ **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 of INEC to conduct an election or to act as such, an election will not be invalidated due to his/her defect or lack of title. ~ **Section 139(2)**

## **Nullification Of Election**

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- **Section 140(1)** provides that where the Tribunal or the Court holds that a candidate who was declared winner was not validly elected, it shall nullify the election.
- 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, the court shall order a fresh election. ~ **Section 140 (2)**
- Where the candidate who was declared winner did not score the majority of the valid votes cast, it shall 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. ~ **Section 140 (3)**

## 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 electoral 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 offences under this Act. ~ **Section 150**

Table of Electoral Offences			
Section	Offence	Actor	Penalty
117	<p>Crimes or offences against voter registration such as:</p> <ul style="list-style-type: none"> <li>• Destroying or altering voter registration documents;</li> <li>• Providing false information or documents for inputting false data into the voters register;</li> <li>• Intentional multiple registration;</li> <li>• Obstructing a registration officer or a revision officer in the performance of his duties;</li> <li>• Impersonating or purporting to be a registration officer or assistant registration officer;</li> <li>• Forging a registration card;</li> <li>• Carrying out registration or revision of voters at a centre or place not designated by INEC.</li> </ul>	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.

Table of Electoral Offences			
Section	Offence	Actor	Penalty
118 (1)	Offences in respect of nomination such as : <ul style="list-style-type: none"> <li>• Forging or destroying a nomination paper or result form;</li> <li>• Delivering a forged nomination form to an electoral officer;</li> <li>• Forging, destroying ballot paper;</li> <li>• Willfully destroying a ballot box and its contents</li> </ul>	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 behavior 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
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 to imprisonment for six months or to both.

Table of Electoral Offences			
Section	Offence	Actor	Penalty
122	<ul style="list-style-type: none"> <li>• Impersonating a voter</li> <li>• Voting when not qualified</li> <li>• Applying for ballot paper in the name of another</li> <li>• Procuring another not qualified to vote to vote at an election</li> </ul>	Individual	Maximum fine of N500,000 or 12 months imprisonment or both
123	<ul style="list-style-type: none"> <li>• Dereliction of duty by electoral official</li> <li>• Act or omission to do any act in breach of official duty</li> </ul>	Electoral Official/ any officer appointed for the purposes of the Electoral Act.	Sanctions are as follows:  Maximum fine of N500,000 or to imprisonment for 12 months or both.
	<ul style="list-style-type: none"> <li>• Failure to report promptly at polling unit on an election day without lawful excuse.</li> <li>• Failure to discharge lawful duties at polling unit without lawful excuse</li> </ul>	Polling Officer	Maximum fine of N500,000 or to 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
	Conspiring to make false declaration of result	Any Polling Officer, Political party or Party Agent	Maximum fine of N500,000:00 or 12 months imprisonment or both

Table of Electoral Offences			
Section	Offence	Actor	Penalty
124	<ul style="list-style-type: none"> <li>• Bribery and inducement in elections.</li> <li>• Voter coercion.</li> <li>• Bribery through gifts or money to voters, or promises of such.</li> <li>• Receipt of bribes by voters.</li> </ul>	Any person/ voters/ candidates etc.	Maximum fine of N500,000 or imprisonment for 12 months or both.
125	<ul style="list-style-type: none"> <li>• Violating the secrecy of vote or the right to cast vote freely.</li> <li>• Interfering with a voter's right to vote.</li> </ul>	Any person/ Individual	Maximum fine of N100,000 or to imprisonment for 6 months or both.
126	<ul style="list-style-type: none"> <li>• Procuring a person prohibited from voting to do so.</li> <li>• Voting when prohibited from so doing.</li> <li>• Knowingly propagating false news or statements regarding a candidate before or during an election in order to prejudice the candidate in question.</li> </ul>	Any person/ individual	Maximum fine of N100,000 or imprisonment for a term of 6 months or both.
127	<ul style="list-style-type: none"> <li>• Voting by an unregistered person.</li> <li>• Knowingly bringing another's voter's card to a polling unit.</li> </ul>	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



Table of Electoral Offences			
Section	Offence	Actor	Penalty
129	<p>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-</p> <ul style="list-style-type: none"> <li>• Canvassing or soliciting for votes;</li> <li>• Persuading a voter not to vote;</li> <li>• Shouting slogans concerning the election;</li> <li>• Possession of an offensive weapon;</li> <li>• Voter intimidation;</li> <li>• Exhibiting any type of symbol concerning a political party or the elections;</li> <li>• Loitering after voting or after being refused to vote;</li> <li>• Blaring siren;</li> <li>• Making unauthorized official announcements over any public address system;</li> <li>• Exhibiting party or election-related symbols within the vicinity of a polling unit or collation centre on the day of election.</li> </ul>	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	Any person/ individual	Fine of N100,000 or imprisonment for 6 months for every such offence.
129(4)	Snatching or destroying election materials on election day	Any person/ individual	24 months imprisonment

Table of Electoral Offences			
Section	Offence	Actor	Penalty
130	<ul style="list-style-type: none"> <li>• Undue influence on voter to vote or refrain from voting through monetary inducement after the date of election has been announced</li> <li>• Corruptly accepting such monetary offer or inducement</li> </ul>	Individual/voter	Fine of N100,000 or 12 months imprisonment or both
131	<ul style="list-style-type: none"> <li>• Threatening use of force, violence or restraint on a voter</li> <li>• Inflicting or threatening to inflict injury on a voter to induce, compel him to vote or refrain from voting</li> <li>• Preventing the exercise of the right to vote through abduction, duress, or fraud</li> <li>• Other forms of threats to political aspirants</li> </ul>	Any person/ individual	Fine of N1,000,000 or imprisonment for 3 years

# INEC Regulations and Guidelines Simplified

## BACKGROUND

Nigeria's electoral management body, the Independent National Electoral Commission (INEC) in compliance with the 1999 Constitution of the Federal Republic of Nigeria (as amended) and the Electoral Act 2010 (as amended), has issued Regulations and Guidelines for the conduct of Elections in Nigeria. The Regulations and Guidelines which comprise 52 Sections were released to the public on 12<sup>th</sup> January 2019 and will apply to any type of election undertaken in Nigeria i.e. General Elections, Bye-elections, Re-run Elections and Supplementary Elections.

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
1	<b>Section 1</b>	Elections to which these Regulations & Guidelines apply	The elections covered by the Guidelines include the Presidential, Governorship, National Assembly (senate and House of Representatives), State Houses of Assembly and elections of the Chairmen and Councilors of the Federal Capital Territory (FCT) Area Councils.	They override previously employed Regulations and Guidelines on the conduct of elections issued by INEC.
2	<b>Section 1 (a)</b>	Date of General Elections	The Presidential and National Assembly elections will hold on the 3rd Saturday in February of every General Election year, while the Governorship and State Houses of Assembly elections will take place two weeks after.	This will be the formula used to decide the dates for future elections in Nigeria, in order to create a level of stability and consistency in the electoral process.

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
3	<b>Section 2</b>	Eligibility to vote	A person deemed eligible to vote must be a Nigerian of at least 18 years of age, who is a registered voter and whose name appears on the Register of Voters.	The right of qualified Nigerians to vote should not be infringed upon by any reason or circumstance, as listed in Section 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).
4	<b>Section 3</b>	Voting Locations	Voting will take place at Polling Units (PUs) and Voting Points (VPs); and in the case of the FCT, special designated areas called Voting Point Settlements (VPS).	Voting locations are spread across the country, to serve all registered voters for efficiency and enhancing the time-frame of the voting process.
5	<b>Section 4</b>	Polling Staff and Qualifications	Each PU has a Presiding Officer (PO) and three Assistant Presiding Officers (APO I, II, III); while each VP has an APO with three APOs to assist, as appointed by INEC, under the supervision of the Presiding Officer.	The magnitude of the elections has been taken into consideration, with the recruitment of large scale staffing to manage the voting process. POs and APOs must have a minimum qualification of an OND.
6	<b>Section 6</b>	Appointment of Polling Agents	Persons appointed must not be in public service in any tier of Government. Their names, addresses and passport photographs must have been submitted to INEC, prior to the elections.	This ensures that persons who do not meet the criteria will not be allowed access to the electoral process.

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
7	<b>Sections 8, 10, 11, 12</b>	Accreditation and Voting Procedure	The accreditation procedure involves the reading of a voter's PVC and the authentication of their fingerprint using the <b>Smart Card Reader</b> . A seven-step guide is provided on the method of voting, to enlighten the electorate on how to proceed with voting at the polling units. Accreditation and voting shall occur simultaneously. This is followed by checking the Register of Voters for each voter's details and inking their cuticle before he or she proceeds to be issued with a ballot paper.	The procedure eliminates opportunities for malfeasance.
8	<b>Sections 10, 11, 13</b>	Smart Card Reader	<p>i. The use of the Smart Card Reader (SCR) is mandated by law and a polling staff who fails to abide by this is liable to prosecution.</p> <p>ii. In the event that a card reader reads a PVC but fails to authenticate a voter's fingerprint, the voter will be requested to thumbprint next to his/her name in the Voter's Register and also provide his/her phone number.</p> <p>iii. In the event that a PVC is read, but the card reader displays the details of another voter, the election official will proceed with accreditation of the voter upon satisfaction that the holder of the card is on the Voters' Register.</p> <p>iv. It provides for replacement of a card reader in the event of a sustained malfunction.</p>	<p>The SCR underscores the importance of the authentication &amp; voting process.</p> <p>By this reform, Incident Forms have been abolished. The use of card readers aim to ensure that the electoral process is free, fair and credible, and the number of votes cast, does not exceed the number of accredited voters.</p>

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
9	<b>Section 19</b>	Tendered Ballot	<p>If a person who claims to be entitled to vote applies for a ballot paper when another person has voted in the same name provided by the claimant, the election official shall provide him/her with a tendered ballot paper upon receiving satisfactory answers to questions put to him/her. The claimant may proceed to vote on the ballot paper, after which it will be deposited in a Tendered Ballot envelope, in accordance with the provision of Section 60 of the Electoral Act 2010 (as amended).</p>	<p>The intention of this provision is to tie up any unforeseen loose ends in the Accreditation and Voting Procedure. The votes do not count and INEC has to look deeper into resolving this issue.</p> <p>If a person has no possibility of having his/her vote count, then creating an illusion of voting is not good enough.</p>
10	<b>Sections 10(v), 14, 15, 16</b>	Person(s) With Disabilities (PWDs)	<p>INEC has published a Framework on Access and Participation of Persons with Disabilities in the Electoral Process. It includes the use of Assistive tools for PWD voting. Priority Access will also be given to PWDs, pregnant women and senior citizens.</p> <p>At the point of accreditation, a PWD is provided with EC40H for data collection to facilitate for future planning for elections.</p>	<p>The display of inclusiveness and participation as upheld in INEC's Framework and Section 42 of the Constitution of the Federal Republic of Nigeria 1999 (as amended).</p>
11	<b>Sections 20 and 28</b>	Use of telephones and other Electronic/ Photographic Devices	<p>Voters are prohibited from using telephones and other electronic/photographic devices at the point of voting. Collation Officers (COs) are not allowed to make or receive phone calls during collation.</p>	<p>This eliminates opportunities for malfeasance at the point of voting and collation.</p>

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
12	<b>Sections 22 and 24</b>	Sorting, Counting and Re-Counting of Votes	At the close of voting, the Presiding Officer shall cancel all unused ballot papers, sort out ballot papers according to political parties and count aloud the votes obtained by each party. If a polling agent is not satisfied, re-counting of votes is allowed just once. Thereafter, the Officer will cross-check the scores and enter them in figures and words in the appropriate Forms from the EC 8 series, which polling agents are expected to counter-sign. In addition, the Officer will fill out Form EC60E with the results recorded and paste it conspicuously at the PU.	The compulsory pasting of Form EC60E at the PUs is to ensure that the critical component of vote counting is conducted in an open and transparent manner.
13	<b>Section 23</b>	Over-voting	Whenever the votes cast exceed the number of registered or accredited voters at a PU, the result is declared null and void.	This clarifies one of the grey areas of Nigeria's electoral process.
14	<b>Section 22</b>	Transmission of Results	The Presiding Officer is required to transmit the results of the election obtained at the PU and thereafter, take the card readers and the original copies of each of the forms filled, to the RA/Ward Collation Officer. The manual and electronic procedures are described in the provisions.	The e-transmission platform is not accessible to voters. This raises the concern that INEC may continue to use the electronic transmission method it has been test running for more than three years. This method is not transparent and may be controversial.

S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
15	<b>Sections 27, 28, 29, 30, 31 and 32</b>	Collation of Election Results	Collation takes place at the Registration Area (RA)/ Ward and at the Local Government Area/Area Council levels for all elections. The Ward Collation Officer will take delivery of the original copies of Forms in EC 8 series and card readers from Presiding Officers of all PUs and compare the votes recorded with the number of voters verified by the card readers, and afterwards gather the votes as contained in the EC 8 series Forms. The Forms are then signed and counter-signed, stamped and dated accurately by all concerned, after which copies are distributed to the polling agents and the Police.	The process is detailed and meticulous to ensure efficiency and credibility.
16	<b>Section 33</b>	Margin of Lead Principle	This refers to a comparison of the difference in the number of votes between the two leading candidates and the total number of voters registered in PUs where elections are not held or voided in line with Sections 26 and 52 of the Electoral Act 2010 (as amended).	The Principle is more well-defined and provides voters with better understanding of events that may lead up to the declaration of an election as inconclusive.
17	<b>Sections 34, 37, 39, 41 and 43,</b>	Declaration of Election Results	Depending on the type of election, after collation of votes scored by each political party at Ward, Local Government and other relevant level(s), the Returning Officer (RO) for the election will complete the appropriate forms and return as elected, the candidate who has scored the majority of valid votes cast at the election, in addition to having not less than one-quarter of the votes cast in each of at least two-thirds of all States or LGAs for the Presidential and Governorship elections, respectively.	The criteria for announcing election results are open and precise.



S/N	SECTION	CLAUSES	SUMMARY	ANALYSIS
18	<b>Sections 48, 49, 50 and 51</b>	Access to Voting Locations and Collation Centres	Polling units are accessible to registered voters, political party candidates or their polling agents, election officials, security personnel and accredited observers. Collation Centres are accessible to INEC officials on election day duty, security agents, political party candidates or their accredited polling agents, accredited journalists and accredited domestic and foreign observers.	The levels of access to Voting Locations and Collation Centres are clearly defined for polling agents, election observers and security agents. Each group of personnel has their role distinctly outlined to ensure that they stay within the confines of their duties and responsibilities. This ensures that there are no overlaps or duplication of roles.
19	<b>Section 52</b>	Audit of Leftover Materials	Election Officers are mandated to return all leftover election materials in their possession for an audit.	This is a display of accountability on the part of the Electoral body, to ensure that leftover election materials are fully accounted for.

## LIST OF ACRONYMS

APOs Assistant Presiding Officers

COs Collation Officers

LGAs Local Government Areas

POs Presiding Officers

PUs Polling Units

PWDs Persons With Disabilities

RAs Registration Areas

Ros Returning Officers

SCR Smart Card Reader

VPs Voting Points

VPS Voting Point Settlements

## REFERENCES

- Constitution of the Federal Republic of Nigeria 1999 (as amended)
- Electoral Act 2010 (as amended)
- Independent National Electoral Commission (INEC) Regulations and Guidelines for the Conduct of Elections, 12th January, 2019.



## 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.

