

DIFFERENCES BETWEEN THE ELECTORAL BILL, 2021 PASSED BY THE SENATE AND THE HOUSE OF REPRESENTATIVES

A BILL FOR AN ACT TO REPEAL THE ELECTORAL ACT NO. 6, 2010 AND ENACT THE ELECTORAL ACT 2021, TO REGULATE THE CONDUCT OF FEDERAL STATE AND AREA COUNCILS IN THE FEDERAL CAPITAL TERRITORY ELECTIONS; AND FOR RELATED MATTERS.

PART I – ESTABLISHMENT AND FUNCTIONS ETC, OF INDEPENDENT NATIONAL ELECTORAL COMMISSION				
CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
1	Establishment of Independent National Electoral Commission.	(1) the Independent National Electoral Commission as established by section 153 of the constitution (in this Bill referred to as “the commission”)	(1) the Independent National Electoral Commission as established by the constitution (in this Bill referred to as “the commission”)	Senate version of the Bill cited section 153 of the Constitution.
5	Annual estimates and accounts.	(1) The Commission shall submit to the Ministry of Finance not later than 31 st of August in each financial year, and estimate of its expenditure, income and payments during the next financial year. (2) The Commission shall keep proper accounts and records in respect of each financial year 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.	The Commission shall keep proper accounts and records in respect of each financial year and shall cause its accounts to be audited as soon as possible after the end of each financial year as required by law.	Senate Bill has two subsections, while the House Bill has one provision without subsections. Also, the Senate version requires the Auditor-General of the Federation to audit the commission's accounts, while the House Bill requires the auditing to be done as “required by law”.

6	Establishment of office in each State, Federal Capital Territory Local Government Area.	N/A	(4)The appointment of a Resident Electoral Commissioner shall be in compliance with section 14 (3) of the Constitution of the Federal Republic of Nigeria (as amended) and section 4 of the Federal Character Commission (Establishment, etc.) Act, 1995.	The Senate Bill has a total of three subsections, while the House Bill has added subsection (4).
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PART III – NATIONAL REGISTER OF VOTERS AND VOTERS’ REGISTRATION

CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
15	Power to print or issue Register of Voters.	The Commission shall cause a voters’ register for each State to be printed, reproduced, copied, duplicated or saved in electronic format 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 Council or registration area polling units within it.	The Commission shall cause a voters’ register for each State to be printed, reproduced, copied, duplicated or saved in electronic format 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 Council or registration area within it.	The Senate Bill inserts “polling units”, while this is not contained in the House Bill.
16	Power to print or issue voters card.	(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction, to a fine not more than ₦500,000.00 or imprisonment for a term not more than one year or both.	(3) Any person who contravenes subsection (2) commits an offence and is liable on conviction, to a fine not more than ₦100,000.00 or imprisonment for a term not more than one year or both.	There is a ₦500,000.00 fine in the Senate Bill, while ₦100,000.00 fine is stipulated in the House Bill.

22	Offences of buying and selling voters' cards.	N/A	(a) is in unlawful possession of any voter's card whether issued in the name of any voter or not;	Paragraph (a) in the House Bill is absent in the Senate Bill. Other paragraphs are the same in both Bills. The Senate Bill has two paragraphs while the House Bill has three paragraphs.
23	Offences relating to registration of voters.	N/A	1(a) makes a false statement in any application for registration as a voter knowing it to be false;	Paragraph (a) in subsection (1) of the House Bill is absent in the Senate Bill. Other paragraphs are the same in both Bills. The House Bill has six paragraphs in subsection (1), while the Senate Bill has five paragraphs in that subsection.

PART IV – PROCEDURE AT ELECTION / PROCEDURE AT ELECTION DAYS OF ELECTION

CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
24	Days of Election	(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. (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 occurring more than 90 days before such date, not later than 30 days.	N/A	Insertion of a new section in the Senate Bill, thereby altering the numbering of the clauses in both bills.

24 (ctd)	Days of Election	<p>(3) Elections to the House of Assembly 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.</p> <p>(4) The date mention 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.</p> <p>(5) An election to the office of the president shall be held on a date to be appointed by the Independent National Electoral Commission in accordance with the Constitution and this Act.</p> <p>(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.</p> <p>(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.</p>	N/A	
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24 (ctd)		(8) An election to the office of the Governor of the 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.		
35	Death of a candidate.	Provided that in the case of Presidential or gubernatorial election, the running mate will continue with the election and nominate a new running mate.	Provided that in the case of Presidential or gubernatorial or Federal Capital Territory Area Council election, the running mate shall continue with the election and nominate a new running mate.	Senate Bill Clause 35, now House Bill Clause 34. Same provisions retained in both Bills, except for the addition of "or Federal Capital Territory Area Council" in the proviso to (3) (b) in the House Bill.
42	Ballot boxes and voting devices.	(3) The Polling Agents shall be entitled to be present at the distribution of the election materials and voting devices from the office to the polling booth.	(3) The Polling Agents shall be entitled to be present at the distribution of the election materials from the office to the polling booth.	Senate Bill Clause 42, now House Bill Clause 41. "and voting devices" is omitted in the House Bill.
48	Accreditation of voters and voting.	(2) To vote, the Presiding Officer shall use a smart card reader or any other technological device that may be prescribed by the Commission, for the accreditation of voters, to verify, confirm or authenticate the particulars of the intending voter in the manner prescribed by the Commission. (3) Where a smart card reader or any other technological device deployed for accreditation of voters fails to function in any unit and a fresh card reader or technological device is not deployed,	(2) To vote, the Presiding Officer shall use a smart card reader that may be prescribed by the Commission, for the accreditation of voters, to verify, confirm or authenticate the particulars of the intending voter in the manner prescribed by the Commission. (3) Where a smart card reader deployed for accreditation of voters fails to function in any unit and a fresh card reader is not deployed, the election in that unit shall be cancelled and another	Senate Bill Clause 48, now House Bill Clause 47. The House Bill omits "or any other technological device" in both subsections (2) and (3).

48 (ctd)		<p>the election in that unit shall be cancelled and another election shall be scheduled within 24 hours.</p> <p>If the commission is satisfied that the result of the election in that polling unit will substantially affect the final result of the whole election and declaration of a winner in the Constituency concerned.</p>	<p>election shall be scheduled within 24 hours:</p> <p>Provided that the result of the election in that polling unit will substantially affect the final result of the whole election and declaration of a winner in the Constituency concerned.</p>	<p>The wordings of the last paragraph of subsection (3) of the Senate Bill varies from the House Bill.</p>
49	Right to challenge issue of ballot paper.	A candidate or a Polling Agent may challenge the right of a person to vote on the ground that the person is not a registered voter in the polling unit.	A candidate or a Polling Agent may challenge the right of a person to vote on such grounds and in accordance with such procedures as are provided for in this Bill.	<p>Senate Bill Clause 49, now House Bill Clause 48.</p> <p>The provisions in both Bills vary in part.</p>
51	Conduct of poll by open secret ballot.	<p>(2) Voting at an election under this Bill shall be in accordance with the procedure determined by the Commission, which may include electronic voting.</p> <p>(3) The Commission may consider electronic transmission of results, provided that the national coverage is adjudged to be adequate and secured by the Nigerian Communications Commission (NCC) and approved by the National Assembly.</p>	(2) Voting at an election and transmission of result under this Bill shall be in accordance with the procedure determined by the Commission.	<p>Senate Bill Clause 51, now House Bill Clause 50.</p> <p>Subsection (2) of the House Bill differs from subsection (2) of the Senate Bill.</p> <p>The Senate Bill has five (5) subsections due to the insertion of subsection (3), which is absent in the House Bill.</p> <p>Other provisions are retained in both Bills.</p>
61	Counting of votes in forms.	(6) A Presiding Officer who wilfully contravenes any provision of this section commits an offence and is liable on conviction to a fine not	(6) A Presiding Officer who wilfully contravenes any provision of this section commits an offence and is liable on conviction to a	Senate Bill Clause 61, now House Bill Clause 60.

61 (ctd)		more than ₦500,000.00 or imprisonment for a term of at least six months.	(fine not more than ₦100,000.00 or imprisonment for a term of at least six months.	There is a fine of ₦500,000.00 in the Senate Bill, while the House Bill contains a fine of ₦100,000.00.
74	Forms for use at elections.	(3) A Presiding Officer who intentionally announces or signs any election result in violation of subsection (2) commits an offence and is liable on conviction to a fine of ₦1,000,000.00 or imprisonment for a term of at least one year or both.	(3) A Presiding Officer who intentionally announces or signs any election result in violation of subsection (2) commits an offence and is liable on conviction to a fine of ₦200,000.00 or imprisonment for a term of at least one year or both.	Senate Bill Clause 74, now House Bill Clause 73. There is a fine of ₦1,000,000.00 in the Senate Bill, while the House Bill stipulates a fine of ₦200,000.00.

PART V – POLITICAL PARTIES

CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
85	Nominations of candidates by parties	<p>(1) A political party seeking to nominate candidates for elections under this Act shall hold direct or indirect primaries for aspirants to all elective positions, which may be monitored by the Commission.</p> <p>(2) The procedure for the nomination of candidates by political parties for the various elective positions shall be by direct or indirect primaries.</p> <p>(9) Notwithstanding the provisions of this Bill or rules of a political party, an aspirant who complains that any of the provisions of this Bill and the guidelines of his political party has not been complied with in the selection or nomination of a candidate of the political</p>	<p>(1) A political party seeking to nominate candidates for elections under this Bill shall hold direct primaries for aspirants to all elective positions, which may be monitored by the Commission.</p> <p>(2) The procedure for the nomination of candidates by political parties for the various elective positions shall be by direct primaries.</p> <p>(9) Notwithstanding the provisions of this Bill or rules of a political party, an aspirant who complains that any of the provisions of this Bill and the guidelines of his political party has not been complied with in the selection or nomination of a</p>	<p>Senate Bill Clause 85, now House Bill clause 84.</p> <p>The Senate Bill provides for direct and indirect primaries, while the House Bill omits “indirect primaries” in subsections (1) and (2) but retains it in subsection (4), same as the Senate Bill.</p> <p>The House Bill extended its provision in subsection (9) to include “of State or FCT within whose territorial jurisdiction the election was conducted”.</p>

85 (ctd)		party for election, may apply for redress to the Federal High Court.	candidate of the political party for election, may apply for redress to the Federal High Court of State or FCT within whose territorial jurisdiction the election was conducted.	However, the remaining provisions are retained in both Bills.
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PART VIII – DETERMINATION OF ELECTION PETITIONS ARISING FROM ELECTIONS

CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
131	Establishment of Area Council Election Appeal Tribunal.	N/A	(4) The quorum of an Area Council Election Tribunal shall be the Chairman and one other member.	The House Bill has 11 subsections, due to the insertion of a new subsection (4), which is absent in the Senate Bill. The other provisions are the same in both Bills.

PART IX – MISCELLANEOUS

CLAUSE	CLAUSE TITLE	SENATE BILL	HOUSE BILL	COMMENT
151	Interpretation.	“number of accredited voters”	N/A	The interpretation Clause in the House Bill does not include “number of accredited voters”. The other provisions are retained in both Bills.



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.