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## KEY PROVISIONS IN THE ELECTORAL ACT 2022



On Friday, 25th February 2022, President Muhammadu Buhari assented to the Electoral Bill 2022, repealing the 2010 Act and enacting a new Electoral Act.

The new Act provides a legal framework that empowers the Independent National Electoral Commission (INEC) to determine the mode of voting and transmission of results as well as to review declaration of election results made under duress. It legalised the use of technology in elections; redefines over-voting and mandates INEC to take “reasonable steps” to provide support to Persons with Disabilities (PWDs) during voting. The new Act also alters the timelines for the conduct of elections and creates new time frames for political parties to fulfil various requirements and activities concerning nomination of candidates for elections.

Below are some of the key provisions in the Electoral Act, 2022.

### INEC AND ELECTION ADMINISTRATION

- Funds due to INEC for Elections to be released not later than one year to the next General Election. **Section 3(3)**
- Resident Electoral Commissioners (RECs) tenure of 5 years, renewable for another term of 5 years and no more. **Section 6(2)(b)** (Former Act just said 5 years)
- Appointment of REC must be in line with Federal Character requirements in the Constitution and the Federal Character Commission Act. **Section 6(4)**  
(Not in old Act even though this has always been implied and observed).

## INEC and Election Administration

- INEC to issue Notice of election not later than 360 days to election date. **Section 28(1)**
- INEC may postpone elections where after the elections have commenced, there is cogent and verifiable threat to peace and security of electoral officials and materials. **Section 24(3)**
- INEC required to suspend elections for not more than 21 days in cases where a nominated candidate dies after commencement of an election but before the announcement of result & declaration of winner. **Section 34(3)(a)**
  - If it is a legislative election, the election is to start afresh and if the party with the deceased candidate so wish, they are to conduct fresh primaries within 14 days and nominate a new candidate for replacement.
  - If it is a Presidential/Governorship/FCT Area Council Election, the running mate shall nominate a new running mate and continue with election. **Section 34(3)(b)**
- INEC empowered to review declaration of election result where it determines it was not made voluntarily or contrary to the law or guidelines. The review to be done within 7 days of the declaration. This is to address the problem of declaration of results made under duress. **Section 65(1)**. However, INEC's review is subject to judicial review. **Section 65(2)**





## Election Process and Use of Technology

- INEC mandated to maintain a National Electronic Register of Election Results - an electronic database of polling unit results and collated election results of every election it conducts, which should be made available to any member of the public upon request and payment of prescribed fees. **Section 62(1) and (2)**
- Introduction of the Smart Card Reader (SCR) or other technological device by INEC for accreditation, verification and authentication of voters. **Section 47(2)**
- Electronic Voting Device: INEC allowed to provide ballot boxes or “electronic voting machine or other voting device” for elections. This makes room for e-voting. **Section 41(1)**
- INEC empowered to determine mode of voting and transmission of results. **Section 50(2)**
- INEC also given discretion to prescribe method of transferring results including total number of accredited voters and results. **Section 60(5)**
- Collation and Announcement of Results: Collating Officers and Returning Officers to use the number of accredited voters and votes recorded and transmitted directly from Polling Units (PUs) to collate and announce results. **Section 64(4-5)**
- Over-voting: INEC empowered to use number of accredited voters to determine over-voting. **Section 51(2)**
- An election conducted without prior recording of the quantity, serial numbers and other particulars of results sheets, ballot papers and other sensitive election materials in the Forms prescribed by INEC shall be invalid. A Presiding Officer who violates this will face prosecution and will be liable on conviction to a fine of N10 million or imprisonment for a term of at least one year or both. **Section 73(2) and (3)**



## Political Parties and Congresses/Conventions

- Every registered political party shall maintain a register of its members in both hard copy and soft copy (electronic). **Section 77 (2)**. Such register must be made available by parties to the Commission not later than 30 days before primaries, congress or convention. **Section 77(3)**.
- Provision for early party primaries: Submission of list of candidates by political parties must be done no later than "180 days" before the election date. Candidates must have emerged from valid primaries. **Section 29(1)**
- Parties must give INEC 21 days' notice of their party congress or convention or a meeting for a "merger" otherwise it would be rendered invalid. INEC can observe party congresses and conventions without notice to parties. **Section 82(1) and (5)**
- Party Primaries: Candidates to emerge through direct primaries, indirect primaries or consensus. **Section 84(2)**
- For consensus candidature, political parties to be guided by the following rules:
  - Political parties must obtain the written consent of all aspirants indicating their voluntary withdrawal and acceptance of the consensus candidate. **Section 84(9)**
  - A special convention or nomination congress must be held at designated centres to ratify the consensus candidate. **Section 84(11)**
- 10 million Naira fine for parties found guilty of presenting candidate that is unqualified. **Section 29(8)**

A political party is not allowed to change or substitute candidates save for death or withdrawal of the candidate.

- In the case of death of a candidate, the political party affected shall within 14 days of the occurrence of the event hold a fresh primary election to produce and submit a fresh candidate to INEC for the election concerned. **Section 33**
- A candidate can only withdraw from the contest not later than 90 days to the election. **Section 31**
- Substitution of deceased candidates in a by-election: political parties given 7 days to substitute or present a new candidate. **Section 28 (4)**

If a party fails to comply with the provisions of the Electoral Act in conducting primaries, its candidate from the primaries shall not be included in that election. **Section 84(13)**

Political campaigns to begin 150 days to polling day and end 24 hours before polls. **Section 94(1)**

Political appointees at any level not eligible as a voting delegate or aspirant. **Section 84 (12)**

Polling agents: parties to submit particulars of polling agents to INEC at least 14 days before election. No person holding elective or appointive political office under any tier of government shall serve as a polling agent, unless he/she has resigned from such position 3 months to the election. **Section 43**

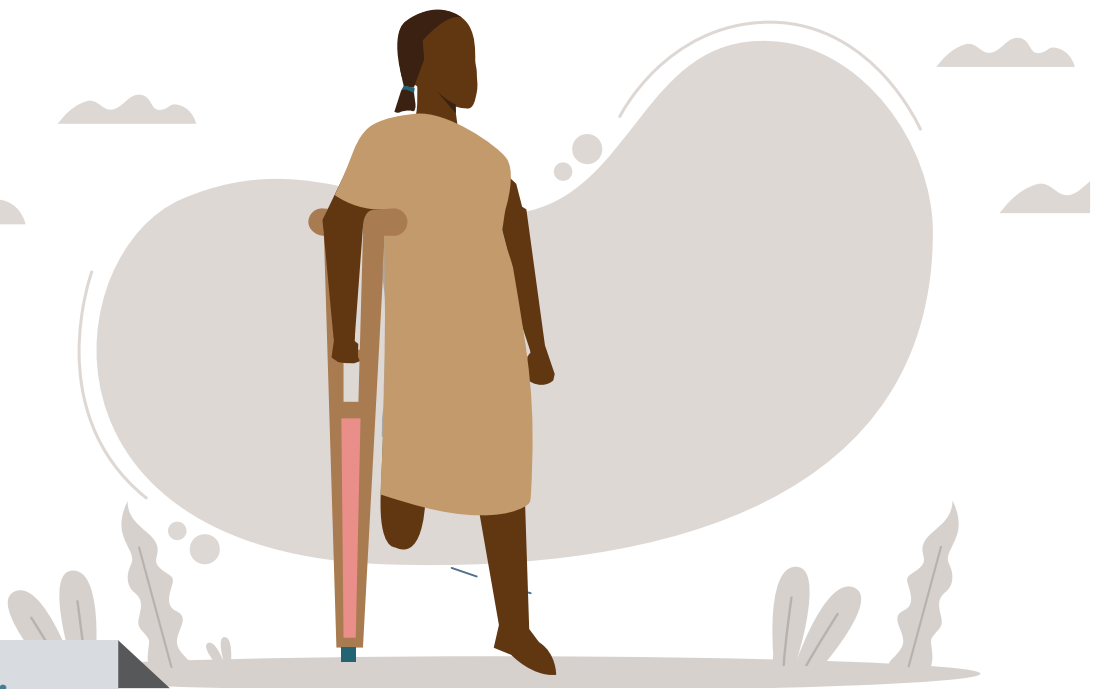
Missing name of a candidate: a political party should notify INEC in writing of the omission of their candidate's name at least 90 days to the election. The notice should be signed by both the National Chairman and the Secretary of the affected party and supported with an affidavit. Failure to do so shall not be grounds to invalidate the election. **Section 32(2)**

A political party shall approve its identity on sample ballot papers not more than 2 days after inspection. **Section 42**

## Registration of Political Parties

- Application by associations to INEC for registration as a political party shall be done not later than 12 months before an election. **Section 75(1)**. Formerly 6 months.
- Where the association meets the requirement for registration, they shall be registered within 60 days of their application and if after this time period, the association is not registered by the Commission, it shall be deemed to have been registered by default unless the Commission informs the association of the contrary. **Section 75(4)**. Formerly 30 days.
- Where an association fails to meet requirements, the Commission is given a time frame of 90 days from the date of application to inform associations who do not meet the registration requirements, of their non-registration and reason for such decision. **Section 75(3)**. Formerly 30 days.
- Associations can challenge INEC's decision on non-registration at a Federal High Court within 14 days of receipt of rejection letter from INEC. **Section 76**





## PWDs and Inclusion

- INEC register of voters to be disaggregated by disability status and type of disability. **Section 9(1) (b)**
- INEC mandated to take reasonable steps to ensure PWDs- persons with disabilities, special needs and vulnerable persons are assisted during voting and provided with suitable means of communication during polls. **Section 54(2)**
- A visually impaired and incapacitated voter may be accompanied into the polling unit by a person chosen by him or her. **Section 54(1)**
- The terms PWD, special needs and vulnerable person are defined in the new Act. PWDs include persons who have received a temporary or permanent certificate of disability.



## Campaign Finances

Limitation on Election Expenses: Introduction of new maximum limits on election expenses as follows [**Section 88(2-7)**]:

### For candidates

- Presidential election – N5,000,000,000 (Five Billion Naira)
- Governorship election – N1,000,000,000 (One Billion Naira)
- Senatorial election – N100,000,000 (One Hundred Million Naira)
- Federal House of Representatives election – N70,000,000 (Seventy Million Naira)
- State Assembly election – N30,000,000 (Thirty Million Naira)
- Area Council Chairmanship election – N30,000,000 (Thirty Million Naira)
- Area Council Councillorship election – N5,000,000 (Five Million Naira)

**Penalty for candidates:** Fine of 1% of the amount permitted as the limit of campaign expenditure or imprisonment for a term not exceeding 12 months or both. **Section 88(9)**

**An Accountant:** an accountant who helps a candidate to falsify election expenses documents is liable to a fine of N3,000,000 or 3 years imprisonment or both. **Section 88(11)**





## Donation Limit



Maximum limit for donations from an individual or entity to a candidate – N50,000,000 (Fifty Million Naira). **Section 88(8)**

**Penalty:** Fine of N500, 000 or 9 months imprisonment or both. **Section 88(10)**

### Election Expenses by Political parties

Election expenses incurred by a political party shall be determined by the Commission in consultation with the political parties. **Section 89(2)**

**Penalty** for a political party that incurs expenses above the limit set by INEC: a maximum fine of N1,000,000 and forfeiture to INEC of the amount in excess of the limit. **Section 89 (7)**



## Election Petitions

- Provision of timelines for the FCT Area Council Election Appeal Tribunal for petitions and appeals arising from the Federal Capital Territory (FCT) the Area Council Elections.

**Section 132**

- Provision dispensing with calling of oral evidence and reliance on documentary evidence where it manifestly discloses the non-compliance alleged. **Section 137**

- A person's election shall not be questioned on grounds of qualification if he meets the Constitutional requirements for the particular election in question. **Section 34 (3)**

## Notable Changes To Timelines for INEC

- Notice of election – not later than 360 days to the election (formerly at least 90 days to the election)
- Power to issue replacement voters card - 90 days to election day. **Section 18(2)**  
Old Act used the words “duplicate voters card” and said 60 days.
- Display of copies of the voters register for public scrutiny - 90 days to the election for a 7 day period. **Section 19(1)**. Old Act said between 5 and 14 days.
- Also, the Commission is mandated to consider all complaints to the voters register within 14 days of its publication. **Section 19(2)**
- Publication of particulars of candidates: at least 150 days to an election (**Section 32**) Formerly 30 days before an election.
- Postponement of elections in the case of death of a candidate **before** an election: maximum of 14 days. **Section 34(1)**
- Postponement of elections in the case of death of a candidate **during** an election: maximum of 21 days. **Section 34(3)(a)**
- Invitation by INEC to political parties to inspect sample ballot papers not later than 20 days to the election. **Section 42(3)**
- INEC can only review declaration of results made under duress within 7 days of such declaration. **Section 65 (1)**
- Certificate of return to be issued by INEC to a candidate who has been declared winner of an election within 14 days after such declaration (**Section 72**). Formerly 7 days.







## 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.

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