

A BILL

FOR

AN ACT TO AMEND THE PROVISIONS OF THE ELECTORAL ACT NO.6, 2010 AND ELECTORAL (AMENDMENT) ACT, 2015 TO PROVIDE A TIME LINE FOR THE SUBMISSION OF LIST OF CANDIDATES, CRITERIA FOR SUBSTITUTION OF CANDIDATES, LIMIT OF CAMPAIGN EXPENSES AND ADDRESS THE OMISSION OF NAMES OF CANDIDATES OR LOGOS OF POLITICAL PARTIES AND FOR RELATED MATTERS, 2018 (HBs. 165, 174, 220, 429, 468, 484,809, & 966)

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Commencement

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

1. (i) Amend marginal note by replacing the word “duplicate” with the word “replacement” Amendment of section 18.

“Power to issue replacement”

(ii) 18 (2) If the Electoral Officer or any other officer is satisfied as to the circumstances of the loss, destruction, defacement or damage of the Voters’ card, he shall issue to the voter a Replacement Permanent Voter Card.

(iii) 18 (3) No person shall issue a replacement to any Voter on polling day or less than thirty (30) days before polling day.

2. “25 (1) Elections into the offices of the President and Vice President, the Governor and Deputy Governor of a State, and to the membership of the Senate, the House of Representatives and Houses of Assembly of each State of the Federation shall be held in the following order-

(a) National Assembly Elections;

(b) State Houses of Assembly and Governorship Elections;

(b) Presidential Election.

(2) The dates for these elections shall be as appointed by the Independent National Electoral Commission.

(3) Election into the offices of the Chairman and Vice Chairman and membership of the Area Councils of the FCT shall be held on the dates to be appointed by the Independent National Electoral Commission”.

3. (i) 27(1) (b) the Registration Area/Ward Collation Officer at the Registration Area/Ward Collation Centre; Amendment of section 27.

(ii) 27 (2) (a) Registration Area/Ward Collation Centre in the case of Councillorship election in the Federal Capital Territory.

4. Section 30 (1) is amended by replacing the figure "90" with the figure "150"

Amendment of
section 30.

5. Section 31 of the Principal Act is amended by substituting for a new subsection (6)" and "(7)":

Amendment of
section 31.

(6) If the Court determines that any of the information contained in the Affidavit is false, the Court shall issue an order disqualifying the candidate from contesting the election, if already elected, shall not be eligible to re-contest another election which shall be conducted within ninety (90) days by the Independent National Electoral Commission".

(7) Any political party that presents to the Commission the name of a Candidate that does not meet the qualification stipulated in the Constitution commits an offence and shall, on conviction, not be allowed to participate in the contest to that particular office"; and

(b) In subsection (8), by substituting for the expression, "N500,000", in line 3, the expression, "N1,000,000".

6. Section 34 of the Principal Act is amended by adding a new subsection (2), (3) and (4) to read:

Amendment of
section 34.

"(2) Any candidate who observes his name or that of his party missing on the list published in accordance with subsection (1) above, shall notify the Commission in writing, signed by himself and supported with an affidavit not later than 21 days to the election

(3) Where the candidate fails to notify the Commission in accordance with subsection (2) above, the candidate shall be deemed to have waived his right".

(4) The Commission shall produce ballot papers for the relevant elections in accordance with the list published after corrections in conformity with subsection (2) above.

7. Amended by substituting 45 with 30 in section 35

Amendment of
section 35.

A candidate may withdraw his candidature by notice in writing signed by him and delivered by himself to the Political party that nominated him for the election and the political party shall convey such withdrawal to the Commission and which shall only be allowed not later than 30 days to the election."

8. Insert a new section "36A":

Insertion of new
section 36A.

"Second run-off to replace candidate.

36 A. Where a candidate withdraws his candidature or dies before the commencement of polls in accordance with the provisions of sections 35 and 36 of this Act, the political party that nominated the candidate shall conduct a new primary to nominate another candidate in accordance with section 87 of the Electoral Act within seven (7) days of such withdrawal or death".

9. Section 36 of the Principal Act is amended by inserting a new subsection (3) -

Amendment of
section 36.

“(3) Where a nominated candidate dies in the circumstances stated under subsection (1) of this section, the next person, from the same political party where the deceased emerged, with the highest votes in the primary election shall be submitted to the Commission to replace the deceased, and the Commission shall accept such replacement as if the deceased is alive”.

10. Section 38 of the Principal Act is amended by inserting a new subsection (2):

Amendment of
section 38.

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

(b) renumbering the section appropriately.

11. “48 (1) At the hour fixed for opening of the poll before the commencement of accreditation and voting, the Presiding Officer shall open the empty ballot box and show same to such persons as may lawfully be present at the Polling unit and shall then close and seal the box in such manner as to prevent its being opened by unauthorized person.”

Amendment of
section 48.

12. 49(2) The Presiding Officer shall verify the voter card and authenticate the particulars of the voter in the manner prescribed by the Commission.

Amendment of
section 49.

13. Insert, after subsection (2), a new subsection “(3)”-

Amendment of
section 52.

“(3) Uniform technological device shall be used for election across the country as the Commission may determine.”

14. “53. (2) Where the votes cast at an election in any polling unit exceed the number of accredited voters in that polling unit, the result of the election for that polling unit shall be declared null and void by the Commission and another election may be conducted at a date to be fixed by the Commission where the result at that polling unit may affect the overall result in the Constituency.”

Amendment of
section 53.

15. (i) Section 63 (1) is amended by substituting it with a new subsection (1) as follows:

Amendment of
section 63.

“63 (1) The Presiding Officer shall, after counting the votes at the polling unit, enter the votes scored by each candidate in a form prescribed by the Commission and electronically transmit same”.

(ii) Subsection 4 is amended by deleting the phrase “count and”-

“63 (4) The Presiding Officer shall announce the result at the Polling Unit”.

16. Amend by replacing "30 with 60 in subsection (4)"-

Amendment of
section 78.

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

17. (1) Section 82 (1) of the Electoral Act is amended by inserting the words "and name" between the word "symbol and names" and "for use....."

Amendment of
section 82.

(2) Section 82 (2) of the Electoral Act is amended by inserting the word "name" between the words "symbol names" and "of a political party".

(a) inserting the words "or name" between the words "symbol or name" and "of the same design..."

(b) inserting the words "or name" between the words "symbol or name" and "is distinct from ..."

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

(4) Amend the Marginal Note of section 82 as follows: "Symbols and names of political parties"

18. (1) Section 85 (1) of the Electoral Act is amended by inserting the words "merger, fusion" between the words "for the purpose of merger and fusion" and "electing members of its ..."

Amendment of
section 85.

(2) Section 85 (2) (c) of the Electoral Act is amended by inserting the words "or fusion" between the words "approving a merger or fusion" and "with any other registered political party".

(3) Insert, after subsection (3), a new subsection "(3A)" -

"(3A) In electing officials to the position of Women Leader, Youth Leader or other such position, where it exists, a political party shall ensure that the position of women leader is occupied by a woman and that of youth leader by a youth who shall be between the age of 18 and 35 years."

19. (1) Section 87 of the Principal Act is amended by inserting a new subsection (9A) after section (9):

Amendment of
section 87.

"(9A) Where a primary election is conducted, and duly attended and certified by the Commission in compliance with this Act, and the result is subsequently altered by a political party, the Commission shall have the power to overrule the alteration made by the political party and uphold such primaries".

(2) Insert a new subsection (11) as follows "Marginal Notes" – "Time for Primaries of Political Parties":

(a) the Primaries of Political Parties shall follow the following sequence (i) State House of Assembly, (ii) National Assembly, (iii) Governorship, (iv) President.

(b) the dates for the above stated primaries shall not be earlier than ninety (90) days and not later than sixty (60) days before the date of elections to the offices.

20. (i) Section 91 of the Principal Act is amended by substituting the figures "₦1,000,000,000.00 in subsection (2) with the figures "₦5,000,000,000" Amendment of section 91.

(ii) Section 91 of the Principal Act is amended by substituting the figures "₦200,000,000" in subsection (3) with the figures "₦1,000,000,000"

(iii) Delete subsection (4) of the Principal Act and substitute with a new subsection (4) as follows:

"The maximum amount of election expenses to be incurred in respect of Senatorial and House of Representatives Seats shall be ₦100,000,000 and ₦70,000,000 respectively"

(iv) Section 91 of the Principal Act is amended by substituting the figures "₦10,000,000" in subsection (5) with the figures "₦30,000,000"

(v) Section 91 of the Principal Act is amended by substituting the words "Ten Million Naira (₦10,000,000)" in subsection (6) with the words "thirty Million Naira (₦30,000,000)"

(vi) Section 91 of the Principal Act is amended by substituting the words "shall be One Million Naira (₦1,000,000)" in subsection (7) with the words "shall be Five Million Naira (₦5,000,000)"

(vii) Section 91 of the Principal Act is amended by substituting the figures "₦1,000,000" in subsection (9) with the figures "₦10,000,000"

(viii) Section 91 of the Principal Act is amended by substituting for subsection (10), a new subsection "(10)"-

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

21. "99. (1) For the purpose of this Act, the period of campaigning in public by every political party shall commence 150 days before polling day and end 24 hours prior to that day." Amendment of section 99.

22. Amend by "replacing the existing subsection (6) with a new subsection (6)" -

Amendment of
section 100.

"100 (6) Any person who contravenes subsections (3) and (4) of this section commits an offence and upon conviction is liable.

"A public media that contravenes subsections (3) and (4) of this section commits an offence and is liable on conviction to:

(a) in the case of a public media to a maximum fine of N2,000,000.00 in the first instance and to a maximum fine of N5,000,000.00 for subsequent conviction; and

(b) in the case of principal officer(s) and other officer(s) of the media house to a maximum fine of N2,000,000.00 or to imprisonment for a term of 12 months."

23. Inserting a new subsection "(3)" -

Amendment of
section 139.

"139. (3) Notwithstanding the provision of this Act or any other Law, an election shall be liable to be invalidated for lack of compliance with the method, device and electoral guidelines approved by the Commission.

24. Section 140 of the Principal Act is amended by substituting for subsection (4), a new subsection "(4)" -

Amendment of
section 140.

Insert a new subsection "(4)" -

"(4) If, at the point of display or distribution of ballot papers by the Commission, a candidate or his agent discovers that his name or the name or logo of his party is omitted, a candidate or his agent shall notify the Commission and the Commission shall-

(a) postpone the election to rectify the omission; and

(b) appoint another date to conduct the election not later than ninety (90) days."

25. 143 (3) Where the election is nullified by the Court and notice of appeal against the decision is given within the stipulated period for appeal, the elected candidate shall, notwithstanding the contrary decision of the Court remain in office and enjoy all the benefits that accrued to the office pending the determination of the appeal and shall not be sanctioned for the benefits derived while in office".

Amendment of
section 143.

26. Section 151 of the Principal Act is amended by:

Amendment of
section 151.

(a) Inserting after subsection (1), a new subsection "(1A)":

"(1A) A Chief National Electoral Commissioner or any other officer of the Commission who willfully fails to comply with the provision of subsection (1) of this section commits an offence and is liable on conviction to a maximum fine of ₦2,000,000 or imprisonment for a term not exceeding 12 months or both"; and

(b) renumbering the section appropriately.

27. (1) Section 156 of the Principal Act is amended by inserting, in alphabetical order, the following definition -

Amendment of section 156.

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

(2) Section 156 (2) is amended by adding the word "fusion" under the Interpretation clause to read, "fusion" means a process by which a political party fuses with another political party by dropping its name and symbol and become subsumed in another political party, thereby cease to exist.

28. Paragraph 51(1) and (2) of the First Schedule to the Principal Act is hereby deleted.

Amendment of Paragraph 51(1) and (2) of the First Schedule.

29. Insert new provision as follows:

Insertion of new provision.

(1) Where the nomination of an elected candidate is nullified by the Court and notice of appeal against the decision is given within the stipulated period for appeal, the elected candidate shall notwithstanding the contrary decision of the court remain in office pending the determination of the appeal. If the court determines that a candidate was not validly nominated, the elected candidate shall notwithstanding the contrary decision of the Court remain in office within the period for which an appeal may be filed and shall not be sanctioned for the benefits he derived while in office pursuant to this section"

(2) The Presiding/Collation Officer shall, after counting/collation the votes at the polling unit/collation centre, enter the votes scored by each candidate in the form prescribed by the Commission and transmit same in a manner prescribed by the Commission"

30. This Bill may be cited as the Electoral Act (Amendment) Bill, 2018.

Short title.

EXPLANATORY MEMORANDUM

This Bill seeks to amend the provisions of the Electoral Act No.6, 2010 and Electoral (Amendment) Act, 2015 to provide a time line for the submission of list of candidates, criteria for substitution of candidates, limit of campaign expenses and address the omission of names of candidates or logo of political parties.

PASSED BY THE HOUSE OF REPRESENTATIVES ON THURSDAY, 1ST FEBRUARY, 2018

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Speaker
House of Representatives

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Clerk
House of Representatives