



## ELECTORAL ACT, 2006

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AN ACT TO ESTABLISH THE INDEPENDENT NATIONAL ELECTORAL COMMISSION  
REGULATE THE CONDUCT OF FEDERAL, STATE AND AREA COUNCIL ELECTION AND  
TO REPEAL THE ELECTORAL ACT 2002; AND FOR RELATED MATTERS

[ 6th June, 2006 ]

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

## PART I- ESTABLISHMENT AND FUNCTIONS E.T.C OF INDEPENDENT NATIONAL ELECTORAL COMMISSION

1. The Independent National Electoral Commission as established by Section 153 of the 1999 Constitution of the Federal Republic of Nigeria shall be a body corporate with perpetual succession and may sue and be sued in its corporate name.
2. In addition to the functions conferred on it by the 1999 Constitution, the commission shall have power to:
  - (a) conduct voter and civic education;
  - (b) promote knowledge of sound democratic election processes; and
  - (e) conduct any referendum required to be conducted pursuant to the provision of the 1999 Constitution or any other law or Act of the National Assembly.
3. (1) There is established for the Commission' a fund to be known as Independent National Electoral Commission Fund.
  - (2) There shall be paid into the Fund established under subsection (1) of this Section:
    - (a) such sums and payments available to the Commission for carrying out its functions and purposes under the Constitution and this Act and all other assets from time to time accruing to the Commission;
    - (b) such sums as may from time to time, be credited to the Fund by way of interest from investments made from the Fund; and
    - (c) aids, grants that may from time to time accrue to the Commission in order to carry out its functions,

(3) Disbursements from the Fund shall be made in accordance with rules established by the Commission.

4. (1) The Commission shall establish and maintain a separate fund from which there shall be defrayed all expenditure incurred by the Commission except such expenditure as may be included by it under Section 5 of this Act.

(2) There shall be paid and credited to the Fund established under subsection (1) of this Section, such payments may be made to it by the Federal Government for the running expenses of the Commission and all other assets from time to time accruing to the Commission otherwise than in pursuance of Section 5 of this Act.

5. The Commission may, from time to time, apply the proceeds of the Fund established under Section 3 (1) of

this Act: -

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

6. (1) The Commission shall submit to the Ministry of Finance not later than 31st August in each financial year an estimate of its expenditure and income (including payments to the Independent National Electoral Commission) during the next succeeding financial year.
- (2) The Commission shall keep proper accounts in respect of each financial year (and proper records in relation thereto) and shall cause its accounts to be audited as soon as possible after the end of each financial year by the Auditor-General of the Federation.
7. (1) There shall be established in each State of the Federation and Federal Capital Territory, an office of the Commission which shall perform such functions as may be assigned to it, from time to time, by the Commission.
- (2) A person appointed to the office of a Resident Electoral Commissioner shall:
  - (a) be answerable to the Commission; and
  - (b) hold office for a period of five years.
- (3) The Resident Electoral Commissioner appointed under the 1999 Constitution may only be removed by the President, Commander-in-Chief of the Armed Forces of the Federation acting on an address supported by 2/3 majority of the Senate praying that he be so removed for inability to discharge the functions of the office (whether arising from infirmity of mind or body or any other cause) or for misconduct.
8. (1) The Commission may appoint one or more committees to carry out any of its functions under this Act.
- (2) A Committee, appointed under subsection (1) shall consist of such number of persons as may be determined by the Commission.

## PART II-STAFF OF THE COMMISSION

9. (1) There shall be a Secretary to the Commission who shall-

- (a) be appointed by the Commission;
- (b) have such qualifications and experience to be determined by the Commission as are appropriate for a person required to perform the functions of his office under this Act.

(2) Subject to the general direction of the Commission, the Secretary shall be:

- (a) responsible for keeping of proper records of the proceedings of the Commission;
- (b) the head of the Commission's secretariat and be responsible for the administration thereof; and
- (c) responsible for the direction and control of all other employees of the Commission with the approval of the Commission.

(3) The Commission shall have power to appoint, dismiss and exercise disciplinary control over its staff as may be prescribed by this Act or any other enactment or law.

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

### PART III- NATIONAL REGISTER.OF VOTERS ANOYOTERS' REGISTRATION

10. (1) The Commission shall compile, maintain, and update on a continuous basis, a National Register of Voters, in this Act referred to as the "Register of Voters" which shall include the names of all persons entitled to vote in any Federal, State, Local Government or Area Council Elections.

- (2) The Commission shall maintain as part of the National Register of Voters, a register of voters for each State of the Federation and for the Federal Capital Territory.
  - (3) The Commission shall maintain as part of the Register of Voters for each State and the Federal Capital Territory, a Register of Voters for each Local Government and Area Council within the State and the Federal Capital Territory.
  - (4) The Register shall contain in respect of every person the particulars required in the Form prescribed by the Commission.
  - (5) The registration of voters; updating and revision of the Register of voters under this Section shall stop not later than 120 days before any election covered by this Act.
  - (6) The registration of voters shall be at the registration centers designated for that purpose by the Commission and notified to the public.
- 11.-(1) Without prejudice to Section 10(5), there shall be continuous registration of all persons qualified to be registered voters.
- (2) Each applicant for registration under the continuous registration system shall appear in person at the registration venue with any of the following documents, namely: birth or baptismal certificate, National passport or identity card or driver's license or any other document that will prove the identity, age and nationality of the applicant.
  - (3) The Commission shall within sixty days after each year make available to every political party, the names and address of each person registered during that year.
  - (4) When a general election is notified by the Commission pursuant to Section 31 of this Act, the current official register of voters certified by the Commission in accordance with the provision of this Act shall be the official

voters' register for those elections' and in the case of every by-election conducted under this Act, the official voters' register for use at such elections shall be the existing current register relating to the Senatorial district or the constituency concerned.

- (5) As soon as claims and objections have been dealt with or the period for making claims and objections has expired, the supplementary list shall be included in the revised register, which shall be certified by the Commission as the official register of voters for the purposes of any election conducted under this Act and supersedes all previous registers.
12. (1) For the purpose of maintaining and updating the Voters' Register, the Commission shall appoint such registration, revision or update officers as it may require, provided that such officers shall not be members of any political party.
- (2) Any person may raise an objection against any officer during the registration or updating exercise and failure to raise such objection, shall not vitiate the Register.
  - (3) The Officers appointed under subsection (1) of this Section shall exercise such functions and duties as may be specified by the Commission, in accordance with the provisions of this Act, and they shall not be subject to the direction or control of any person or authority other than the Commission in the performance of their functions and duties.
13. (1) A person shall be qualified for registration as a voter if such a person:
- (a) is a citizen of Nigeria ;
  - (b) has attained the age of eighteen years
  - (c) is ordinarily resident, works in, 'originates from the Local Government or Area Council or Ward covered by the registration centre;



- (d) presents himself to the registration officers of the Commission for registration as a voter; and
  - (e) is not subject to any legal incapacity to vote under any law, rule or regulations in force in Nigeria.
- (2) No person shall register in more than one-registration centre or register more than once in the same registration centre.
  - (3) Any person who contravenes the provisions of subsection (2) of this Section commits an offence and is liable on conviction to a fine not exceeding N100,000 or imprisonment for a term not exceeding one year or both.
- 14.-(1) A person who before the election is resident in & constituency other than the one in which he was registered may apply to the Resident Electoral Commissioner of the State where he is currently resident for his name to be entered on the Transferred Voters List for the constituency.
- (2) An application under subsection (1) of this Section shall be accompanied by the applicant's voters' card and be made not less than 30 days before the date of an election in the constituency where the applicant is resident.
  - (3) The Resident Electoral Commissioner to whom an application is made under the provision of this Section shall cause to be entered the applicant's name in the Transferred Voters' List if he is satisfied that the applicant is resident in a polling area in the constituency and is registered in another constituency.
  - (4) Whenever an Electoral Officer on the direction of the Resident Electoral Commissioner enters the name of any person on the Transferred Voters' List for his constituency he shall:
    - (a) assign that person to a polling station or a polling area in his Constituency and indicate in the list the Polling area or polling station to which that person is assigned;

- (b) issue the person with a new voters' card; and
- (c) send a copy of the entry to the Electoral Officer of the constituency where the person whose name has been so entered was originally registered and upon receipt of this entry, that Electoral Officer shall delete the name from his voters' list.

15. In the performance of his or her duties under this Act, a registration officer and an update officer shall:

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

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

17. (1) The Commission shall design, print and control the issuance of voters' cards to voters whose names appear in the Register.

(2) No voter shall hold more than one valid voter's card.

(3) Any person who contravenes subsection (2) of this Section commits an offence and is liable on conviction, to a fine not exceeding N100,000 or imprisonment, not exceeding one year or both.

(4) The Commission may, whenever it considers it necessary, replace all or any voters' cards for the time being held by voters.

18. Each electoral officer shall take custody of voters register for his Local Government Area under the general supervision of the Resident Electoral Commission.
19. (1) Whenever a Voter's card is lost, destroyed, defaced, torn or otherwise damaged, the voter shall, at least thirty (30) days before polling day, apply in person to the Electoral Officer or any other officer duly authorized for that purpose by the Resident Electoral Commissioner, stating the circumstances of the loss, destruction, defacement or damage.
  - (2) If the Electoral Officer or any other officer is satisfied as to the circumstances of the loss, destruction, defacement or damage of the Voter's card, he shall issue to the voter another copy of the voter's original voter's card with the word "DUPLICATE" clearly marked or printed on it, showing the date of issue.
  - (3) No person shall issue a duplicate voter's card to any voter on polling day or within thirty (30) days before polling day.
  - (4) Any person who contravenes Subsection (3) of this Section commits an offence and is liable on conviction, to a fine not exceeding N200,000 or imprisonment not exceeding two years or both.
20. (1) Subject to the provisions of Section 1 (1) of this Act, the Commission shall, by notice appoint a period of not less than 5 days and not exceeding 14 days, during which a copy of the voters' register for each Local Government and Area Councilor Ward shall be displayed for public scrutiny and during which period any objection or complaint in relation to the names omitted or included in the voters' register or in relation to any necessary correction, shall be raised or filed.
  - (2) During the period of the display of the Supplementary Voter's list under this Act, any person may:

- (a) Raise an objection on the form prescribed by the Commission against the inclusion in the Supplementary Voters' register of the name of a person on grounds that the person is not qualified to be registered as a voter in the State, Local Government and Area Council, Ward or Registration Area or that the name of a deceased person is included in the register; or
- (b) Make a claim on the form prescribed by the Commission that the name of a person registered to vote has been omitted.

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

21. Not later than 60 days before a general election, the Supplementary voters' list shall be integrated with the voters' register and published.

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

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

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

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

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

- (b) to promote, propagate or attack political parties, candidates or their programmes or ideologies.
  - (4) Masquerades shall not be employed or used by any political party, candidate or person during political campaigns or for any other political purpose,
  - (5) No political party or member of a political party shall retain, organize, train or equip any person or group of persons for the purpose of enabling them to be employed for the use or display of physical force or coercion in promoting any political objective or interests, or in such manner as to arouse reasonable apprehension that they are organized, trained or equipped for that purpose,
  - (6) No political party, person or candidate shall keep or use private security organization, vanguard or any other group or individual by whatever name called for the purpose of providing security, assisting or aiding the political party or candidate in whatever manner during campaigns, rallies, processions or elections.
  - (7) A political party or person who contravenes any provision of this Section commits an offence and is liable on conviction:
    - (a) in the case of an individual, to a maximum fine of N50,000 or imprisonment for the term of 6 months; and
    - (b) in the case of a political party, to a fine of N500,000 in the first instance, and N1,000,000 for any subsequent offence.
98. (1) No candidate, person or group of persons shall directly or indirectly threaten any person with the use of force or violence during any political campaign in order to compel that person or any other person to support or refrain from supporting a political party or candidate.
- (2) Any person or political party that contravenes the provisions of this Section commits an offence and is liable on conviction:

- (a) in the case of an individual, to a maximum fine of N50,000 or imprisonment for a term of six months; and
  - (b) in the case of a political party, to a fine of N250,000 in the first instance, and N500,000 for any subsequent offence.
99. Where a political party ceases to exist in accordance with the Constitution and this Act, a person elected on the platform of the political party in an election under this Act shall remain validly elected; complete his tenure, and for purposes of identification, be regarded as a member of the political party under which he was elected.
100. Any political party registered by the Commission in accordance with the provisions of any law in force immediately before the coming into force of the Constitution of the Federal Republic of Nigeria 1999 and this Act shall be deemed to have been duly registered under this Act.
101. (1) For the purpose of this Act, the period of campaigning in public by every political party shall commence 90 days before polling day and end 24 hours prior to that day.
- (2) A registered political party which through any person acting on its behalf during the 24 hours before polling day:
- (a) advertises on the facilities of any broadcasting undertaking; or
  - (b) procures for publication or acquiesces in the publication of an advertisement in a Newspaper, for the purpose of promoting or opposing a particular candidate, commits an offence under this Act and is liable on conviction to a maximum fine of N500,000.
102. (1) A government owned print or electronic medium shall give equal access on daily basis to all registered political parties or candidates of such political parties.

- (2) A denial of such access and equal time constitute an offence punishable in the first instance with a maximum fine of N500,000 and the withdrawal of the license of the offending electronic media house by the National Broadcasting Commission for a period of 12 months on any subsequent violation.
  - (3) A person other than a political party of a candidate who procures any material for publication for the purposes of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills or any print or electronic medium whatsoever called during 24 hours immediately preceding or on polling day commits an offence and is liable on conviction to a maximum fine of N50,000 or imprisonment for six (6) months or to both.
10. (1) A candidate and his party shall campaign for the elections in accordance with such rules and regulations as may be determined by the Commission.
- (2) State apparatus including the media shall not be employed to the advantage or disadvantage of any political party or candidate at any election.
  - (3) Media time shall be allocated equally among the political parties at similar hours of the day.
  - (4) At any public electronic media, equal airtime shall be allotted to all political parties during prime times at similar hours each day, subject to the payment of appropriate fees.
  - (5) At any public print media, equal coverage and conspicuity shall be allotted to all political parties.
  - (6) Any public media that contravenes subsections (3) and (4) of this Section commits an offence and is liable on conviction to a maximum fine of N500,000 in the first instance and to a maximum fine of N1,000,000 for subsequent conviction,

104. (1) A person, print or electronic medium who broadcasts, publishes, advertises or circulates any material for the purpose of promoting or opposing a particular political party or the election of a particular candidate over the radio, television, newspaper, magazine, handbills, or any print or electronic media whatsoever called during twenty four hours immediately preceding or on polling day commits an offence under this Act.
- (2) Where an offence under subsection (1) of this Section is committed by a body corporate, every principal officer of that body equally commits an offence under this Act.
- (3) Where any person is convicted of an offence under this Section is liable:
- (a) in the case of a body corporate to a maximum fine of N500,000; and
- (b) in the case of an individual to a maximum fine of N 100,000 or imprisonment for 12 months.
105. Any candidate, person or association who engages in campaigning or broadcasting based on religious, tribal, or sectional bias for the purpose of promoting or opposing a particular political party or the election of a particular candidate, commits an offence under this Act and is liable on conviction to a maximum fine of N100,000 or imprisonment for twelve months or to both.

#### PART VI- PROCEDURE FOR ELECTION TO AREA COUNCIL

106. (1) The conduct of elections into the offices of Chairman, Vice Chairman and a member of an Area Council and the recall of a member of an Area Council shall be under the direction and supervision of the Commission in accordance with the provisions of this Act.
- (2) The Register of Voters compiled and the polling units established by the Commission and any other regulations, guidelines, rules or manuals issued



or made by the Commission shall be used for elections into the Area Councilor recall of a member.

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

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

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

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

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

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

109. A person shall be qualified for election under this part of this Act if he:

(a) is a citizen of Nigeria ;

(b) is registered as a voter ;

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

110. (1) A person shall not be qualified to contest an Area Council election under this Act if:

- (a) subject to the provisions of Section 28 of the Constitution, he has voluntarily acquired the citizenship of a country other than Nigeria or except in such cases as may be prescribed by the National Assembly, has made a declaration of allegiance to such a country;
- (b) he is adjudged to be a lunatic or otherwise declared to be of unsound mind under any law in force in any part of Nigeria;
- (c) he is under a sentence of death imposed on him by any competent court of law or tribunal in Nigeria or a sentence of imprisonment or fine for an offence involving dishonesty or fraud (by whatever name called) or any other offence imposed on him by such a court or tribunal constituted by a competent authority for any other sentence imposed on him by such a court or tribunal;
- (d) within a period of less than ten years before the date of an election to the Area Council, he has been convicted and sentenced for an offence involving dishonesty or he has been found guilty of contravention of the Code of Conduct;
- (e) he is an undischarged bankrupt, having been adjudged or otherwise declared bankrupt under any law in force in any part of Nigeria;
- (f) he is a person employed in the public service of the Federation or of any State or Area Council (other than a person holding elective office) and he has

not resigned, withdrawn or retired from such employment 30 days before the date of election;

- (g) he is a member of any secret society;
  - (h) he has been indicted for embezzlement or fraud by a Judicial Commission of Inquiry or an Administrative Panel of inquiry or a Tribunal set up under the Tribunals of Inquiry Act, a Tribunal of Inquiry Law or any other law by the Federal or State Government which indictment has been accepted by the Federal or State Government, as the case may be;
  - (i) he has within the preceding period of 10 years presented a forged certificate to the Commission;
  - (j) he has been dismissed from the public service of the Federation, State, Local Government or Area Council; or
  - (k) he has been elected to such office at any two previous elections in the case of Chairman.
- (2) Where in respect of any person who has been:
- (a) adjudged to be a lunatic,
  - (b) declared to be of unsound mind,
  - (c) sentenced to death or imprisonment, or
  - (d) adjudged or declared bankrupt,

any appeal against the decision pending in any court of law in accordance with any law in force in Nigeria, subsection (1) of this section shall not apply during a period beginning from the date when such appeal is lodged and ending on the date when the appeal is finally determined or as the case may be, the appeal lapses or is abandoned, whichever is earlier.

(3) For the purpose of subsection (2) of this section, an "appeal" includes' any application for an injunction or an order of certiorari, mandamus, prohibition, or habeas corpus, or any appeal from any such application.

111. (1) Election into all the Area Councils shall be held on the same date and day throughout the Federal Capital Territory.

(2) Bye-elections to fill vacancies that occur in Area Councils shall be held within 30 days from the date the vacancy occurred.

(3) The date mentioned in subsection (1) of this section shall not be earlier than sixty days before and not later than 30 days before the expiration of the term of office of the last holder of that office.

(4) Where a vacancy occurs less than 3 months before the day on which the Area Council stands dissolved; there shall be no bye-election to fill the vacancy.

(5) Where a vacancy occurs more than three months before the day the Area Council stands dissolved, there shall be a bye-election to fill the vacancy not later than 30 days from the date the vacancy occurred.

(6) Voting shall be by open-secret ballot.

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

113.-(1) If after the expiration of time for the delivery of Nomination Papers and the withdrawal of candidates for election of councillors under this Act only one candidate remains duly nominated, that candidate shall be declared returned unopposed.

(2) If after the expiration of time for the delivery of Nomination Papers and the withdrawal of candidates for election of councillors under this section more

than one candidate remains duly nominated, a poll shall be taken in accordance with the provisions of this Act.

- (3) Where at the close of nomination for election to the office of Chairman, only one candidate:
  - (a) has been nominated ; or
  - (b) remains nominated by reason of the disqualification, withdrawal, incapacitation, disappearance, or death of the other candidate, the Commission shall extend the time for nomination by seven days:

PROVIDED that where after the extension, only one candidate remains validly nominated, there shall be no further extension.

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

- (a) a majority of YES votes over NO votes cast at the election; and
- (b) not less than one-third of the votes cast at the election in each of at least two-thirds of all the wards in the Area Council:

PROVIDED that where the only candidate fails to be elected in accordance with this subsection then there shall be fresh nomination,

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

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

- (3) If no candidate is duly elected under subsection (2) of this section, the State Commission shall within 7 days conduct a second election between the two candidates, and the candidate who scored the majority of votes cast at the election shall be deemed duly elected at the election.
- (4) A candidate for an election to the office of Chairman shall be deemed to have been duly elected where, there being more than two candidates for the election:
  - (a) he has the highest number of votes cast at the election; and
  - (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all wards in the Area Council, as the case may be.
- (5) If no candidate is duly elected in accordance with subsection (4) of this section, there shall be a second election in accordance with subsection (6) of this section at which the only candidates shall be:
  - (a) the candidate who scored the highest number of votes at the election held under subsection (4) of this section; and
  - (b) one among the remaining candidates who has the majority of votes in the highest number of wards so however that where there are more than one candidate, the one among them with the highest total number of votes cast at the election shall be the second candidate for the election.
- (6) In default of a candidate duly elected under the foregoing subsections, the Commission shall within 7 days of the result of the election held under the said subsections arrange for another election between the two candidates and a candidate at such an election shall be deemed to have been duly elected to the office of a Chairman of the Area Council if he has:
  - (a) a majority of the votes cast at the election; and

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

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

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

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

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

116. An Area Council shall stand dissolved at the expiration of a period of three years commencing from the date:

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

(b) when the Legislative Arm of the (Council was inaugurated) whichever is earlier.

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

- (a) on the date given in his letter of resignation; or
- (b) if he takes up full time paid employment at any level of the Government or in the private sector,
- (c) being a person whose election was sponsored by a political party, he resigns from that party or becomes a member of another political party before the expiration of the period for which the Area Council was elected:

Provided that his membership of the latter political party is not as a result of a division in the political party of which he was previously a member or of a merger of two or more political parties or factions by one of which he' was previously sponsored; or

- (d) if he becomes a member of a secret society or does any other thing disqualifying him from holding the office of Chairman or Councillors under this Act; or
- (e) if the Leader of the Area Legislative Council receives a certificate under the hand of the Commission stating that the provisions of Section 118 of this Act have been complied with in respect of the recall of that member.

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

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

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



particulars of which shall be specified are presented to the Speaker of the Area Legislative Council.

- (3) The Leader of the Area Legislative Council shall within 7 days of the notice, cause a copy of the notice to be served on the holder of the office and on each member of the Area Legislative Council and shall also cause any statement made in reply to the allegation by the holder of the office to be served on each member of the Area Legislative Council.
- (4) Within 14 days of the presentation of the notice, (whether or not any statement was made by the holder of the office in reply to the allegation contained in the notice) the Area Legislative Council, shall resolve by motion without any debate whether or not the allegation shall be investigated.
- (5) A motion of the Area Legislative Council that the allegation be investigated shall not be declared as having been passed unless it is supported by the votes of not less than two-thirds majority of all the members of the Area Legislative Council.
- (6) Within 7 days of the passing of a motion under subsection (4) of this Section, the Leader of the Area Legislative Council shall inform the Chief Judge of the Federal Capital Territory, Abuja, who shall appoint a Panel of seven persons who in the opinion of the Chief Judge are of unquestionable integrity not being members of:
  - (a) any public or civil service;
  - (b) a legislative house; or
  - (c) a political party to investigate the allegation as provided in this Section.
- (7) The holder of an office whose conduct is being investigated under this Section shall have the right to defend himself in person or be represented before the Panel by a legal practitioner of his own choice.

- (8) A Panel appointed under this Section shall:
  - (a) have such powers and exercise its functions in accordance with such procedure as may be prescribed by an Act of the National Assembly;
  - (b) within three months of its appointment, report its findings to the Area Legislative Council.
- (9) Where the Panel reports to the Area Legislative Council that the allegation has not been proven, no further proceedings shall be taken in respect of the matter.
- (10) Where the report of the Panel is that the allegation against the holder of the office has been proven, then within 14 days of the receipt of the report, the Area Legislative Council shall consider the report with the holder of the office being present at the meeting and if by a resolution of the Area-Council supported by not less than two thirds majority of all its members, the report of the Panel is adopted then the holder of the office shall stand removed from office as from the date of the adoption of the report.

119. A member of an Area Council may be recalled as a member if:

- (a) there is presented to the Chairman of the Commission a petition in that behalf signed by not less than onehalf of the persons registered to vote in that member's constituency alleging their loss of confidence in that member; and
- (b) the petition is thereafter approved in' a referendum conducted by the Commission within 90 days of the date of the receipt of the petition by a simple majority of the votes of the persons registered to vote in that member's constituency.

#### PART VII-PROCEDURE FOR LOCAL GOVERNMENT COUNCIL ELECTIONS

120. Voting in Local Government Council Elections shall be by open-secret ballot.

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

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

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

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

(a) has been nominated; or

(b) remains nominated by reason of disqualification, withdrawal, incapacitation, disappearance, or death of the other candidates, the State Independent Electoral Commission shall extend the time for nomination by 7 days:

PROVIDED that where after the extension only one candidate remains validly nominated, there shall be no further extension.

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

(a) a majority of YES votes over NO votes cast at the election; and

(b) not less than one-third of the votes cast at the election in each of at least two-thirds of all the wards in the Local Government.

- (2) But where the only candidate fails to be elected in accordance with this subsection then there shall be fresh nominations.
- (3) A candidate for an election to the office of the Chairman shall be deemed to have been elected where, there being only two candidates for the election:
  - (a) he has a majority of the votes cast at the election; and
  - (b) he has not less than one quarter of the votes cast at the election in each of at least two-thirds of all the wards in the Local Government Council, as the case maybe.
- (4) If no candidate is duly elected under subsection (3) of this Section, the State Independent Electoral Commission shall within 7 days conduct a second election between the two candidates, and the candidate who scored the majority of votes cast in the election shall be deemed duly elected at the election.
- (5) A candidate for an election to the office of the Chairman shall be deemed to have been duly elected where, there being more than two candidates for the election:
  - (a) he has the highest number of votes cast at the election; and
  - (b) he has not less than one-quarter of the votes cast at the election in each of at least two-thirds of all wards in the Local Government, as the case may be.
- (6) If no candidate is duly elected in accordance with subsection (5) of this Section, there shall be a second election in accordance with subsection (7) of this Section at which the only candidates shall be:
  - (a) the candidate who scored the highest number of votes at the election held under subsection (5) of this section; and

- (b) one among the remaining candidates who has the majority of votes in the highest number of wards so however that where there are more than one candidate, the one among them with the highest total number of votes cast at the election shall be the second candidate for the election.
- (7) In default of a candidate duly elected under this section, the State Independent Electoral Commission shall within 7 days of the result of the election held under the said subsections arrange for another election between the candidates and a candidate and such an election shall be deemed to have been duly elected to the office of a Chairman of a Local Government if he has:
- (a) a majority of the votes cast at the election; and
  - (b) not less than one-quarter of the votes cast at the election in each of at least two-thirds of all the wards in the Local Government Area.
- (8) If no candidate is 'duly elected under subsection (7) of this section, arrangements shall be made within 7 days of the result of the last election, for another election between the two candidates specified in subsection (7) of this section, and a candidate at this last election shall be deemed duly elected to the office of Chairman of a Local Government if he scores a simple majority of votes cast at the election. PART VIII- ELECTORAL OFFENCES

124. Any person who:

- (a) without authority, destroys, mutilates, defaces or removes or takes any alteration in any notice or document required for the purpose of registration under this Act,
- (b) knowingly gives false information or makes a false statement with reference to any application for registration of his name or with reference to any objection to the retention of the name of a person in the register of voters,

- (c) presents himself to be or does any act whereby he is by whatever name or description howsoever, included in the register of voters for a constituency in which he is not entitled to be registered or causes himself to be registered in more than one registration or revision centre,
- (d) publishes any statement or report which he knows to be false or does not believe to be true so as to prevent persons who are qualified to register from registering as voters,
- (e) makes in any record, register or document which he is required to prepare, publish or keep for the purpose of registration, any entry or statement which he knows to be false or does not believe to be true,
- (f) impedes or obstructs a registration officer or a revision officer in the performance of his duties,
- (g) without proper authority, wears the identification of a registration officer or assistant registration officer or wears any other identification purporting to be the identification of a registration officer or assistant registration officer,
- (h) forges a registration card; or
- (i) carries out registration or revision of voters at a centre or place not designated by the Commission, commits an offence and is liable on conviction to a maximum fine of N 100,000 or to 12 months imprisonment or to both.

125. (1) A person who:

- (a) forges any nomination paper,
- (b) willfully defaces or destroys any nomination paper,
- (c) delivers to an electoral officer any nomination paper knowing it to be forged,

- (d) signs a nomination paper as a candidate in more than one constituency at the same election,
  - (e) forges any ballot paper or official mark on any ballot paper or any certificate of return,
  - (f) willfully destroys any ballot paper or official mark on any ballot paper or any certificate of return,
  - (g) without authority gives a ballot paper to any person,
  - (h) willfully places in any ballot box any unauthorized paper,
  - (i) willfully removes from a polling station any ballot paper whether or not the ballot paper was issued to him in that polling station,
  - (j) without authority destroys or in any other manner interferes with a ballot box or its contents or any ballot paper then in use or likely to be used for the purpose of an election,
  - (k) signs a nomination paper consenting to be a candidate at an election knowing that he is ineligible to be a candidate at that election, commits an offence.
- (2) A person who commits an offence under subsection (1) of this Section is liable on conviction to a maximum fine of N200,000 or to imprisonment for 2 years or to both.
- (3) A person who:
- (a) without proper authority prints a ballot paper or what purports to be or is capable of being used as a ballot paper at an election,
  - (b) being authorized by the Commission to print ballot papers prints more than the number or quantity the Commission authorized,

- (c) without authority, is found in possession of a ballot paper when he is not in the process of voting and at a time when the election for which the ballot paper is indeed not yet completed,
  - (d) manufactures, constructs, imports into Nigeria, has in his possession, supplies to any election official or uses for the purpose of an election, or causes to be manufactured, constructed or imported into Nigeria, supplies to any election official for use for the purpose of any election, any Ballot Box including any compartment, appliance, device or mechanism on or by which a ballot paper may or could be secretly placed or stored in, or having been deposited during polling may be secretly diverted, misplaced or manipulated, commits an offence.
- (4) A person who commits an offence under subsection (3) of this section is liable on conviction to a maximum fine of N5,000,000 or imprisonment for 5 years or to both.
- (5) An attempt to commit any offence under this section shall be punishable in the same manner as the offence itself.

126. Any person who, at a political meeting held after the date for an election has been announced:

- (a) acts or incites another to act in a disorderly manner for the purpose of preventing the transaction of the business for which the meeting was convened, or
- (b) has in his possession an offensive weapon or missiles, commits an offence and is liable on conviction to a maximum fine of N100,000 or imprisonment for 12 months or both.

127. Any person who:



- (a) being entitled to a voters card, gives it to some other person for use at an election other than an officer appointed and acting in the course of his duty under this Act,
- (b) not being an officer acting in the course of his duty under this Act, receives any voters card in the name of some other person or persons for use at an election uses it fraudulently,
- (c) without lawful excuse has in his possession more than one Voters Card, or
- (d) buys, sells, procures or deals, with a voters card otherwise than as provided in this Act, commits an offence and is liable on conviction to a maximum fine of N100,000 or imprisonment for 12 months or both.

128.-(1) No person shall provide for the purpose of any other person to a registration office or to a polling station any government vehicle or boat, or any vehicle or boat belonging to a public corporation except in respect of a person who is ordinarily entitled to use such vehicle or boat and in emergency in respect of an electoral officer.

(2) Any person who contravenes the provisions of this section commits an offence and liable on conviction to a maximum fine of N50,000 or to imprisonment for six months or to both.

129.-(1) Any person who:

- (a) applies under this Act to be included in any list of voters in the name of some other person, whether such name is that of a person living or dead or of a fictitious person,
- (b) having once to his knowledge been properly included in list of voters under this Act as a voter entitled to vote at any election, applies, except as authorized by this Act, to be included in any other list of voters prepared for any constituency as a voter at an election,

- (c) applies for a Ballot Paper in the name of some other person, whether such name is that of a person living or dead or of a fictitious person,
  - (d) having voted once at an election applies at the same election for another ballot paper,
  - (e) votes or attempts to vote at an election knowing that he is not qualified to vote at the election, or
  - (f) induces or procures any other person to vote at an election knowing that such other person is not qualified to vote at the election, commits an offence and is liable on conviction to a maximum fine of N100,000 or 12 months imprisonment or both.
- (2) Any person who commits the offence of impersonation or who aids, abets, counsels or procures the commission of that offence, commits an offence and is liable on conviction to a maximum fine of N100,000 or imprisonment for 12 months or both.
  - (3) No person charged with the offence of impersonation shall be convicted except on the evidence of at least two witnesses.
130. (1) Any officer appointed for the purposes of this Act, who without lawful excuse does any act or omits to act in breach of his official duty commits an offence and is liable on conviction to a maximum fine of N100,000 or to imprisonment for 12 months or both.
- (2) Any polling officer who fails to report promptly at his polling station on an election day without lawful excuse commits an offence of dereliction of duty and is liable on conviction to maximum fine of N100,000 or 12 months imprisonment or both.
  - (3) Any polling officer who fails to discharge his lawful duties at his polling station without lawful excuse commits an offence of dereliction of duties and

on conviction is liable to a maximum fine of N100,000 or 12 months imprisonment or both.

- (4) Any person who announces or publishes an election result knowing same to be false or which is at variance with the signed certificate of return commits an offence and is liable on conviction to 36 months imprisonment.
- (5) Any returning officer or collation officer who delivers or causes to be delivered a false certificate of return knowing same to be false to the Commission or a State Independent Electoral Commission, commits an offence and is liable on conviction to a maximum imprisonment for 3 years without an option of fine.
- (6) Any person who delivers or causes to be delivered a false certificate of return knowing same to be false to any news media commits an offence and is liable on conviction to imprisonment for 3 years.

131. (1) Any person who:

- (a) directly or indirectly by himself or by any other person on his behalf, gives, lends or agrees to give or lend, or offers, promises,
- (b) promises to procure or to endeavour to procure, any money or valuable consideration to or for any voter, to or for any person on behalf of any voter, or to any other person, in order to induce any voter to vote, to refrain from voting, or corruptly does any such act on account of such voter having voted or refrained from voting, at any election,
- (c) directly or indirectly, by himself or by any other person on his behalf, corruptly makes any gift, loan, offer, promise, procurement or agreement to or for any person, in order to induce such person to procure or to endeavour to procure the return of any person as a member of a Legislative House or to an elective office or the vote of any voter at any election upon or in consequence of any gift, loan, offer, promise, procurement or agreement,

corruptly procure, or engages or promises or endeavours to procure, the return of any person as a member of a legislative house or an elective office or the vote of any voter at any election,

- (d) upon or in consequence of any gift, loan, offer, promise, procurement or agreement corruptly procures, or engages or promises or endeavours to procure, the return of any person as a member of a Legislative House or to an elective office or the vote of any voter at any election,
  - (e) advances or pays or causes to be paid any money to or for the use of any other person, with the intent that such money or any part thereof shall be expended in bribery at any election, or who knowingly pays or causes to be paid any money to any person in discharge or repayment of any money wholly or in part expended in bribery at any election;
  - (f) after any election directly, or indirectly, by himself, or by any other person on his behalf receives any money or valuable consideration on account of any person having voted or refrained from voting, or having induced any other person to vote or refrain from voting or having induced any candidate to refrain from canvassing for votes for himself at any such election, commits an offence and is liable on conviction to a maximum fine of N100,000 or 12 months imprisonment or both.
- (2) A voter commits an offence of bribery who before or during an election directly or indirectly himself or by any other person on his behalf, receives, agrees or contracts for any money, gift, loan, or valuable consideration, office, place or employment, for himself, or for any other person, for voting or agreeing to vote or for refraining or agreeing to refrain from voting at any such election.
- (3) Nothing in this Section shall extend or apply to money paid or agreed to be paid for or on account of any lawful expenses bona fide incurred at or concerning any election.

- (4) Any person who commits the offence of bribery is liable on conviction to a maximum fine of N100,000 or imprisonment for 12 months or both.
- (5) Any person who conspires, aids or abets with any other person to commit any of the offences under this Part of this Act shall be guilty of the same offence and punishment thereto.
- (6) For the purposes of this Act, a candidate shall be deemed to have committed an offence if it was committed with his knowledge and consent or the knowledge and consent of a person who is acting under the general or special authority of the candidate with reference to the election.

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

- (2) No person in attendance at a polling booth under this Section shall, except for some purpose authorized by law, communicate to any person information as to the name or number on the register of any voter who has or has not voted at the place of voting.
- (3) No person shall:
  - (a) interfere with a voter casting his vote, or by any other means obtain or attempt to obtain in a polling station information as to the candidate for whom a voter in that place is about to vote for or has voted for; or
  - (b) communicate at any time to any other person information obtained in a polling station as to the candidate to whom a voter is about to vote or has voted for.

(4) Any person acting contrary to the provisions of this Section commits an offence and is liable on conviction to a maximum fine of N50,000 or to imprisonment for 6 months or both.

133. Any person who:

- (a) votes at an election or induces or procures any person to vote at an election, knowing that he or such person is prohibited from voting thereat; or
- (b) before or during an election, publishes any statement of the withdrawal of a candidate at such election knowing it to be false or reckless as to its truth or falsity; or
- (c) before or during an election publishes any statement as to the personal character or conduct of a candidate calculated to prejudice the chance of election of the candidate or to promote or procure the election of another candidate and such statement is false and was published without reasonable grounds for belief by the person publishing it that the statement was true, commits an offence and is liable on conviction to a maximum fine of N50,000 or imprisonment for a term of 6 months or both.

134.-(1) Any person who knowingly votes or attempts to vote in a constituency in respect of which his name is not on the register of voters commits an offence and is liable on conviction to a maximum fine of N50,000 or to imprisonment for a term of 6 months or both.

(2) Any person who knowingly brings into a polling station during an election a voters card issued to another person commits an offence and is liable on conviction to a fine of N50,000 or to imprisonment for 6 months or both.

135. Any person who at an election acts or incites others to act in a disorderly manner commits an offence and is liable on conviction to a maximum fine of N100,000 or imprisonment for a term of 12 months or both.

136.-(1) No person shall on the date on which an election is held do any of the following acts or things in a polling station or within a distance of 300 metres of a polling station:

- (a) canvass for votes;
- (b) solicit for the vote of any voter;
- (c) persuade any voter not to vote for any particular candidate;
- (d) persuade any voter not to vote at the election;
- (e) shout slogans concerning the election;
- (f) be in possession of any offensive weapon or wear any dress or have any facial or other decoration which in any event is calculated to intimidate voters;
- (g) exhibit, wear or tender any notice, symbol, photograph or party card referring to the election;
- (h) use any vehicle bearing the colour or symbol of a political party by any means whatsoever;
- (i) loiter without lawful excuse after voting or after being refused to vote;
- (j) snatch or destroy any election materials; and
- (k) blare siren.

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

- (a) convene, hold or attend any public meeting during the hours of poll as may be prescribed by the Commission;

- (b) unless appointed under this Act to make official announcements, operate any megaphone, amplifier or public address apparatus; or
- (c) wear or carry any badge, poster, banner, flag or symbol relating to a political party or to the election.
- (d) A person who contravenes any of the provisions of this Section commits an offence and is liable on conviction to a fine of N50,000 or imprisonment for 6 months for every such offence.

(4) Any person who snatches or destroys any election materials commits an offence and is liable on conviction to 24 months imprisonment.

137. A person who:

- (a) corruptly by himself or by any other person at any time after the date of an election has been announced, directly or indirectly gives or provides or pays money to or for any person for the purpose of corruptly influencing that person or any other person to vote or refrain from voting at such election. Or on account of such person or any other person having voted or refrained from voting at such election; or
- (b) being a voter, corruptly accepts or takes money or any other inducement during any of the period stated in paragraph (a) of this Section commits an offence and is liable on conviction to a fine of N100,000 or 12 months imprisonment or both.

138. A person who:

- (a) directly or indirectly, by himself or by another person on his behalf, makes use of or threatens to make use of any force, violence or restraint,
- (b) inflicts or threatens to inflict by himself or by any other person, any minor or serious injury, damage, harm or loss on or against another person in order



to induce or compel that person to vote or refrain from voting, or on account of such person having voted or refrained from voting, or

- (c) by abduction, duress, or a fraudulent device or contrivance, impedes or prevents the free use of the vote by a voter or thereby compels, induces, or prevails on a voter to give or refrain from giving his vote,
- (d) by preventing any political aspirants from free use of the media. Designated vehicles, mobilization of political support and campaign at an election, commits the offence of undue influence and is liable on conviction to a fine of N100,000 or imprisonment for 3 years.

139. The offences referred to in this Act shall apply to recall of a member of a Legislative House and a member of Local Government Council.

#### PART IX- DETERMINATION OF ELECTION PETITIONS ARISING FROM ELECTIONS

140.-(1) No election and return at an election under this Act shall be questioned in any manner other than by a petition complaining of an undue election or undue return (in this Act referred to as an "election petition") presented to the competent tribunal or court in accordance with the provisions of the Constitution or of this Act, and in which the person elected or returned is joined as a Party.

(2) In this Section "tribunal or court" means:

(a) in the case of Presidential election, the Court of Appeal.; and

(b) in the case of any other elections under this Act, the Election Tribunal established under the Constitution or by this Act.

(3) the Election Tribunals provided for under the Constitution and this Act shall be constituted not later than 14 days before the election.

141. An election petition under this Act shall be presented within thirty (30) days from the date the result of the election is declared.

142.-(1) There shall be established for the Federal Capital Territory one or more Election Tribunals (in this Act referred to as the Area Council Election Tribunal) which shall to the exclusion of any other court or tribunal, have original jurisdiction to hear and determine any question as to whether:

- (a) any person has been validly elected to the office of Chairman. Vice-Chairman or Councillor;
- (b) the term of office of any person elected to the office of chairman, Vice-Chairman or Councillor has ceased;
- (c) the seat of a member of an Area Council has become vacant; and
- (d) a question or petition brought before the Area Council Election Tribunal has been properly or improperly brought.

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

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

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

- (2) The decision of the Area Council Election Appeal Tribunal in respect of Area Council elections shall be final.
- (3) An Area Council Election Appeal Tribunal shall consist of a Chairman and four other members and the Chairman shall be a Judge of the High Court and the four other members shall be appointed from among judges of the High Court of the Federal Capital Territory, Abuja, Kadis of the Sharia Court of Appeal of the Federal Capital Territory, Abuja, Judges of the Customary Court of Appeal or other members of the Judiciary of the Federal Capital Territory, Abuja not below the rank of a Chief Magistrate.
- (4) The quorum of an Area Council Election Tribunal shall be the Chairman and two other members.

144.-(1) An election petition may be presented by one or more of the following persons:

- (a) a candidate in an election;
  - (b) a political party which participated in the election;
- (2) The person whose election is complained of, is in this Act, referred to as the Respondent, but if the petitioner complains of the conduct of an Electoral Officer, a Presiding Officer, a Returning Officer or any other person who took part in the conduct of an election, such officer or person shall for the purpose of this Act be deemed to be a respondent and shall be joined in the election petition in his or her official status as a necessary party;

PROVIDED that where such officer or person is shown to have acted as an agent of the Commission, his non-joinder as aforesaid will not on its own operate to void the petition if the Commission is made a party.

145.-(1) An election may be questioned on any of the following grounds-

- (a) that a person whose election is questioned was, at the time of the election, not qualified to contest the election;
- (b) that the election was invalid by reason of corrupt practices or non-compliance with the provisions of this Act;
- (c) that the respondent was not duly elected by majority of lawful votes cast at the election; or
- (d) that the petitioner or its candidate was validly nominated but was unlawfully excluded from the election.

(2) An act or omission which may be contrary to an instruction or directive of the Commission or of an officer appointed for the purpose of the election but which is not contrary to the provisions of this Act shall not of itself be a ground for questioning the election.

146.-(1) An election shall not be liable to be invalidated by reason of non-compliance with the provisions of this Act if it appears to the Election Tribunal or Court that the election was conducted substantially in accordance with the principles of this Act and that the non compliance did not affect substantially the result of the election.

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

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

(2) If the Tribunal or the Court determines that a candidate who was returned as elected was not validly elected on the ground that he did not score the

majority of valid votes cast at the election, the Election Tribunal or the Court, as the case may be, shall declare as elected the candidate who scored the highest number of valid votes cast at the election and satisfied the requirements of the Constitution and this Act.

(3) Subject to the provision of subsection (2) of Section 149 of this Act, on the motion of a respondent in an election petition, the Election Tribunal or the Court, as the case may be, may strike out an election petition on the ground that it is not in accordance with the provisions of this Part of this Act, or the provisions of First Schedule of this Act.

148. Without prejudice to the provisions of Section 294 subsection (1) of the Constitution of the Federal Republic of Nigeria 1999, an election petition and an appeal arising therefrom under this Act shall be given accelerated hearing and shall have precedence over all other cases or matters before the Tribunal or Court.

149.-(1) If the Election Tribunal or the Court, as the case maybe, determines that a candidate returned as elected was not validly elected, then if notice of appeal against that decision is given within 21 days from the date of the decision, the candidate returned as elected shall, notwithstanding the contrary decision of the Election Tribunal or the Court, remain in office pending the determination of the appeal.

(2) If the Election Tribunal or the Court, as the case may be, determines that a candidate returned as elected was not validly elected, the candidate returned as elected shall, notwithstanding the contrary decision of the Election Tribunal or the Court, remain in office pending the expiration of the period of 21 days within which an appeal may be brought.

150.-(1) Where the Commission, an Electoral Officer, Returning Officer to any other official of the Commission has been joined as a respondent in an-election petition, a legal officer of the Commission or a legal practitioner engaged by the Commission shall represent the Commission, Electoral Officer, Presiding

Officer, Returning Officer or other official of the Commission at the Tribunal or Court.

- (2) The Attorney-General of the State concerned (acting in person or through any of his legal officers) or the Attorney General of the Federation (acting in person or through any of his legal officers) may represent the Commission and the Officers referred to in subsection (1) of this Section with the written consent or authority of the Commission.
  - (3) A private legal practitioner or legal officer engaged by the Commission pursuant to subsections (1) and (2) of this Section shall be entitled to be paid such professional fees or honorarium, as the case may be, to be determined by the Commission.
151. The rules of procedure to-be adopted for election petitions and appeals arising therefrom shall be those set out in First Schedule to this Act.

#### PART X- MISCELLANEOUS

152. No person holding an elective office to which this Act relates or a registered member of a political party shall be eligible for or be appointed to carry out the duties of a returning officer, an electoral officer, presiding officer or a poll clerk; and any officer appointed to carry out any of those duties shall be ineligible for nomination as a candidate for election while he continues to hold any such appointment.
153. Notwithstanding the powers of the Commission to conduct elections or referendum as conferred by this Act and the Constitution, the Commission shall conduct a referendum or plebiscite for the creation of states or on any other matter in respect of which a referendum or plebiscite may be required under the Constitution or any other law made by the National Assembly.
154. If the registration card of a voter is lost or accidentally destroyed, the voter may attend in person at the office of the registration officer and apply for

another registration card and the registration officer shall make such enquiries as the Commission may prescribe for the purpose; and where the registration officer is satisfied as to the loss or accidental destruction of the registration card, he may issue another card to the voter.

155.-(1) The Commission may prescribe:

- (a) a scale of remuneration for officers appointed under this Act for the conduct of elections ; (b) a scale of maximum charges in respect of other expenses incurred by an Electoral Officer, a Presiding Officer or a Returning Officer in connection with an election, and may revise the scale as it thinks fit or expedient.
- (2) An Electoral Officer, Presiding Officer, or Returning Officer shall, in addition to any remuneration prescribed under paragraph (a) of subsection (1) of this Section be entitled to such sums in respect of expenses not exceeding the prescribed scale, in connection with the conduct of an election as are reasonable.
- (3) The Commission may pay such honoraria as it may determine to all other persons and officers who may be involved in one way or the other in conducting an election under this Act, or in carrying out any task in connection with an election or election petition arising therefrom.
- (4) All fees and other remuneration approved under subsection (1) of this Section shall be charged upon the Consolidated Revenue Fund of the Federation and shall be paid in such manner as the Commission deems fit.

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

157. The Commission shall consider any recommendation made to it by a Tribunal with respect to the prosecution by it of any person, for an offence disclosed in any election petition.
- 158.-(1) An offence-committed under this Act shall be triable in a Magistrate Court or a High Court of a State in which the offence is committed, or the Federal Capital Territory, Abuja.
- (2) A prosecution under this Act shall be undertaken by legal officers of the Commission or any legal practitioner appointed by it.
- 159.-(1) An order for an inspection of a polling document or an inspection of a document or any other packet in the custody of the Chief National Electoral Commissioner or any other officer of the Commission may be made by the election Tribunal or the Court if it is satisfied that the order required is for the purpose of instituting or maintaining an election petition.
- (2) A document other than a document referred to in subsection (1) of this Section relating to the election and which is retained by the Chief National Electoral Commissioner or any other officer of the Commission in accordance with this Section shall be open for inspection on an order made by the Election Tribunal or a Court in exercise of its powers to compel the production of documents in legal proceedings, but shall not otherwise be open for inspection.
160. Without prejudice to the other provisions of this Act, the Commission may delegate any of its powers and functions to any National Electoral Commissioner, Resident Electoral Commissioner, Electoral Officer, any other officer of the Commission or any other officer appointed under the provision of this Act subject to any conditions or limitations which it may consider necessary or expedient to impose and no such delegation shall be construed to limit the right of the Commission to exercise such power itself.



161. The Commission may, subject to the provisions of this Act, issue regulations, guidelines, or manuals for the purpose of giving effect to the provisions of this Act and for its administration thereof.
162. The Commission shall have power to conduct civic education and enlightenment in the print and electronic media to enhance its functions.
163. Notwithstanding any other provisions of this Act, any defect or error arising from any actions taken by an official of the Commission in relation to any notice, form or document made or given or other thing whatsoever done by him in pursuance of the provisions of the Constitution or of this Act, or any rules made thereunder remain valid, unless otherwise challenged and declared invalid by a competent Court of Law or Tribunal.
164. In this Act:

"Appointment" includes appointment to an office, confirmation of appointment, promotion or transfer;

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

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

"Attorney-General of the Federation" means the Chief Law Officer of the Federation;

"Authority" includes .government or government agency and corporate bodies;

"Chief Electoral Commissioner" means the Chairman of Independent National Electoral Commission;

"Civil Servant" means a person employed in the civil service of the Federation or of a State or local government;

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

"Commission" means the Independent National Electoral Commission established by the Constitution;

"Constitution" means the Constitution of the Federal Republic of Nigeria 1999;

"Conviction" means a pronouncement by a Court or Tribunal that a person is guilty of an offence under this Act or under the provisions of the Constitution whether or not any punishment is imposed on the person as a result of the conviction. Conviction further includes admission by a person in writing, verbally, or by conduct that he is guilty, or has committed or aided and abetted the commission of the offence or crime concerned. The "Conduct" referred to in this sub-Section is, for instance, where a person reimburses the sums of money or any part thereof obtained through corrupt practice in order to avoid prosecution;

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

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

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

"Federation" means the Federal Republic of Nigeria;

"Function" includes power and duty;

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

"Government" includes the Government of the Federation, of a State or of a Local Government Area or Area

Council, or any person or organ exercising power or authority on its behalf;

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

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

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

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

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

"National Assembly" means the Senate and the House of Representatives;

"Offensive Weapon or Missile" includes any cannon, gun, rifle, carbine, revolver, pistol or any other firearm, bow and arrow, spear, cutlass, knife, dagger, axe, cudgel, or any other thing capable of being used as an offensive weapon or missile, including teargas, acid, and any inflammable substance capable of injuring a person;

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

"Petition" means an election petition under this Act;

"Polling Station" means the place, enclosure, booth, shade or house at which voting takes place under this Act and includes polling unit;

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

"Power" includes function and duty;

"President" means the President of the Federal Republic of Nigeria

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

"Registration Officer" includes supervisory assistant, registration officer and assistant registration officer;

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

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

"School Certificate" has the meaning as defined in the Constitution;

"Secret Society" has the meaning as defined in the Constitution;

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

"State Commission" means State Independent Electoral Commission established by Section 197 of the

Constitution;

"Campaigning in Public" referred to in Section 101 means the campaign that commences after the publication of the Notice of Election by the commission pursuant to Section 31 of this Act;

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

165. The following enactments are repealed:

- (a) The Electoral Act 2002;
- (b) Independent National Electoral Commission (Establishment) Act No.17 of 1998; and
- (6) Independent National Electoral Commission (Amendment) Act No. 33 of 1998.

166. This Act may be cited as the Electoral Act, 2006:

#### FIRST SCHEDULE

Sections 147 (3), 151 and 164 (1)

#### RULES OF PROCEDURE FOR ELECTION PETITIONS

Interpretation

1. In this Schedule:

"Attorney-General" means the Attorney-General of the Federation and includes the Attorney-General of a State where the context admits;

"Civil Procedure Rules" means the Civil Procedure Rules of the Federal High Court for the time being in force;

"Election" means any election under this Act to which an election petition relates;

"Registry" means a Registry setup for an Election Tribunal established by the Constitution or this Act or the Registry of the Court of Appeal;

"Secretary" means the Secretary of an election tribunal established by the Constitution or this Act and shall include the Registrar of the Court of Appeal or any officer or clerk acting for him;

"Tribunal" means an Election Tribunal established under this Act or the Court of Appeal;

"Tribunal Notice Board" means a notice board at the Registry or a notice board at the place of hearing where notice of presentation of election petition or notice of hearing an election petition or any other notice may be given or posted.

#### Security for Costs

2.-(1) At the time of presenting an election petition, the petitioner shall give security for all costs which may become payable by him to a witness summoned on his behalf or to a respondent.

(2) The Security shall be of such amount not less than N5,000.00 as the Tribunal or Court may order and shall be given by depositing the amount with the Tribunal or Court.

- (3) Where two or three persons join in an election petition, a deposit as maybe ordered under subparagraph (2) of this paragraph of this Schedule shall be sufficient.
- (4) If no security is given as required by this paragraph, there shall be no further proceedings on the election petition.

#### Presentation of Election Petition

3. (1) The presentation of an election petition under this Act shall be made by the petitioner (or petitioners if more than one) in person, or by his Solicitor, if any, named at the foot of the election petition to the Secretary, and the Secretary shall give a receipt.
- (2) The Petitioner shall, at the time of presenting the election petition, deliver to the Secretary a copy of the election petition for each respondent and ten other copies to be preserved by the Secretary.
- (3) The Secretary shall compare the copies of the election petition received in accordance with subparagraph (2) of his paragraph with the original petition and shall certify them as true copies of the election petition on being satisfied by the comparison that they are true copies of the election petition.
- (4) The petitioner or his Solicitor, as the case may be, shall, at the time of presenting the election petition, pay the fees for the service and the publication of the petition, and for certifying the copies and, in default of the payment, the election petition shall be deemed not to have been received ; unless the ,Tribunal or Court otherwise orders.

#### Contents of Election Petition

4.-(1) An election petition under this Act shall:

- (a) specify the parties interested in the election petition,

- (b) specify the right of the petitioner to present the election petition,
  - (c) state the holding of the election, the scores of the candidates and the person returned as the winner of the election; and
  - (d) state clearly the facts of the election petition and the ground or grounds on which the petition is based and the relief sought by the petitioner.
- (2) The election petition shall be divided into paragraphs each of which shall be confined to a distinct issue or major facts of the election petition, and every paragraph shall be numbered consecutively.
  - (3) The election petition shall further:
    - (a) conclude with a prayer or prayers, as for instance, that the petitioner or one of the petitioners be declared validly elected or returned, having polled the highest number of lawful votes cast at the election or that the election may be declared nullified, as the case may be; and
    - (b) be signed by the petitioner or all petitioners or by the Solicitor, if any, named at the foot of the election petition.
  - (4) At the foot of the election petition there shall also be stated an address of the petitioner for service at which address documents intended for the petitioner may be left and its occupier.
  - (5) If an address for service is not stated as specified in subparagraph (4) of this paragraph, the petition shall be deemed not to have been filed, unless the Tribunal or Court otherwise orders.
  - (6) An election petition, which does not conform with, subparagraph (1) of this paragraph or any provision of that subparagraph is defective and may be struck out by the Tribunal or Court.

Further Particulars



5. Evidence need not to be stated in the election petition, but the Tribunal or Court may order such further particulars as may be necessary:

- (a) to prevent surprise and unnecessary expense;
- (b) to ensure fair and proper hearing in the same way as in a civil action in the Federal High Court; and
- (c) on such terms as to costs or otherwise as may be ordered by the Tribunal or Court.

#### Address of Service

6. For the purpose of service of an election petition on the respondents, the petitioner shall furnish the Secretary with the address of the respondents' abode or the addresses of places where personal service can be effected on the respondents. Action by Secretary

7.-(1) On the presentation of an election petition and payment of the requisite fees, the Secretary shall forthwith:

- (a) cause notice, of the presentation of the election petition, to be served on each of the respondents;
- (b) post on the tribunal notice board a certified copy of the election petition; and
- (c) set aside a certified copy for onward transmission to the person or persons required by law to adjudicate and determine the election petition.

(2) In the notice of presentation of the election petition, the Secretary shall state a time, not being less than five days but not more than seven days after the date of service of the notice, within which each of the respondents shall enter an appearance in respect of the election petition.

- (3) In fixing the time within which the respondents are to enter appearance, the Secretary shall have regard to: (a) the necessity for securing a speedy hearing of the election petition; and
- (b) the distance from the Registry or the place of hearing to the address furnished under subparagraph (4) of paragraph 4 of this Schedule.

#### Personal Service on Respondent

8.-(1) Subject to subparagraph (2) and (3) of this paragraph, service on the respondents:

- (a) of the documents mentioned in subparagraphs (1) (a) of paragraph 7 of this Schedule; and
  - (b) of any other documents required to be served on them before entering appearance, shall be personal.
- (2) Where the petitioner has furnished, under paragraph 6 of this Schedule, the addresses of the places where personal service can be effected on the respondents and the respondents or any of them cannot be found at the place or places, the Tribunal or Court on being satisfied, on an application supported by an affidavit showing that all reasonable efforts have been made to effect personal service, may order that service of any document mentioned in subparagraph (1) of this paragraph be effected in any ways mentioned in the relevant provisions of the Civil Procedure Rules for effecting substituted service in civil-cases and that service shall be deemed to be equivalent to personal service.
  - (3) The proceedings under the election, petition shall not be vitiated notwithstanding the fact that;
    - (a) the respondents or any of them may not have' been served personally; or

- (b) a document of which substituted service has been effected pursuant to an order made under subparagraph (2) of this paragraph did not reach the respondent, and in either case, the proceedings may be heard and continued or determined as if the respondents or any of them had been served personally with the document and shall be valid and effective for all purposes.

#### Entry of Appearance

9.-(1) Where the respondent intends to oppose the election petition, he shall:

- (a) within such time after being served or deemed to have been served with the election petition; or
  - (b) where the Secretary has stated a time under subparagraph (2) of paragraph 7 of this Schedule, within such time as is stated by the Secretary, enter an appearance by filing in the Registry a memorandum of appearance stating that he intends to oppose the election petition and giving the name and address of the Solicitor, if any, representing him or stating that he acts for himself, as the case may be, and, in either case, giving an address for service at which documents intended for him may be left or served.
- (2) If an address for service and its occupiers are not stated, the memorandum of appearance shall be deemed not to have been filed, unless the Tribunal or Court otherwise orders.
- (3) The memorandum of appearance shall be signed by the respondent or his Solicitor, if any.
- (4) At the time of filing the memorandum of appearance, the respondent or his Solicitor, as the case may be, shall:
- (a) leave a copy of the memorandum of appearance for each of the other parties to the election petition and three other copies of the memorandum to be preserved by the Secretary; and

- (b) pay the fees for service as may be prescribed or directed by the Secretary and in default of the copies being left and the fees being paid at the time of filing the memorandum of appearance, the memorandum of appearance shall be deemed not to have been filed, unless the Tribunal or Court otherwise orders.
- (5) A respondent who has a preliminary objection against the hearing of the election petition on grounds of law may file a conditional memorandum of appearance.

#### Non-filing of Memorandum of Appearance

- 10,-(1) If the respondent does not file a memorandum of appearance as required under paragraph 9 of this Schedule, a document intended for service on him may be posted on the Tribunal notice board and that shall be sufficient notice of service of the document on the respondent.
- (2) The non-filing of a memorandum of appearance shall, not bar the respondent from defending the election petition if the respondent files his reply to the election petition in the Registry within a reasonable time, but, in any case, not later than twenty-one(21) days from the receipt of the election petition.

#### Notice of Appearance

- 11: The Secretary shall cause copies of the memorandum of appearance to be served on, or its notice to be given to the other parties to the election petition.

#### Filing of Reply

- 12.-(1) The respondent shall, within fourteen (14) days of entering an appearance file in the Registry his reply, specifying in it which of the facts alleged in the election petition he admits and which he denies, and setting out the facts on which he relies in opposition to the election petition.

- (2) Where the respondent in an election petition, complaining of an undue return and claiming the seat or office for a petitioner intends to prove that the claim is incorrect or false, the respondent in his reply shall set out the facts and figures clearly and distinctly disproving the claim of the petitioner.
- (3) the reply may be signed by the respondent or the Solicitor representing him, if any.
- (4) At the time of filing the reply, the respondent or his Solicitor, if any, shall leave with the Secretary copies of the reply for service on the other parties to the election petition with ten (10) extra copies of the reply to be preserved by the Secretary, and pay the fees for service as may be prescribed or directed by the Secretary, and in default of leaving the required copies of the reply or paying the fees for service, the reply shall be deemed not to have been filed, unless the Tribunal or Court otherwise orders.

#### Service of Reply

13. The Secretary shall cause a copy of the reply to be served on each of the other parties to the election petition.

#### Amendment of Election Petition and Reply

- 14.-(1) Subject to subparagraph (2) of this paragraph, the provisions of the Civil Procedure Rules relating to amendment of pleadings shall apply in relation to an election petition or a reply to the election petition as if for the words "any proceedings" in those provisions there were substituted for the words "the election petition or reply".

- (2) After the expiration of the time limited by:
  - (a) Section 141 of this Act for-presenting the election petition, no amendment shall be made:

- (i) introducing any of the requirements of subparagraph (1) of paragraph 4 of this Schedule not contained in the original election petition filed, or
  - (ii) effecting a substantial alteration of the ground for, or the prayer in, the election petition, or
  - (iii) except anything which may be done under the provisions of subparagraph (3) of this paragraph, effecting a substantial alteration of or addition to, the statement of facts relied on to support the ground for, or sustain the prayer in the election petition; and
- (b) paragraph 12 of the Schedule for filing the reply, no amendment shall be made:
- (i) alleging that the claim of the seat or office by the petitioner is incorrect or false; or
  - (ii) except anything which may be done under the provisions of subparagraph (3) of this paragraph, effecting any substantial alteration in or addition to the admissions or the denials contained in the original reply filed, or to the facts set out in the reply.

#### Particulars of Votes Rejected.

15. When a petitioner claims the seat alleging that he had the highest number of valid votes cast at the election, the party defending the election or returned at the election shall set out clearly in his reply particulars of the votes, if any, which he objects to and the reasons for his objection against such votes, showing how he intends to prove at the hearing that the petitioner is not entitled to succeed.

#### Petitioner's Reply

16.-(1) If a person in his reply to the election petition raises new issues of facts in defence of his case which the petition has not dealt with, the petitioner shall

be entitled to file in the Registry, within five (5) days from the receipt of the respondent's reply, a petitioner's reply in answer to the new issues of fact, so however that:

- (a) the petitioner shall not at this stage be entitled to bring in new facts, grounds or prayers tending to amend or add to the contents of the petition filed by him; and
  - (b) the petitioner's reply does not run counter to the provisions of subparagraph (1) of paragraph 14 of this Schedule.
- (2) The time limited by subparagraph (1) of this paragraph shall not be extended.

Further Particulars or directive

- 17.-(1) If a party in an election petition wishes to have further particulars or other directions of the Tribunal or Court, he may, at any time after entry of appearance, but not later than ten days after the filing of the reply, apply to the Tribunal or Court specifying in his notice of motion the direction for which he prays and, the motion shall, unless the Tribunal or Court otherwise orders, be set down for hearing on the first available day.
- (2) If a party does not apply as provided in subparagraph (1) of this paragraph, he shall be taken to require no further particulars or other directions and the party shall be barred from so applying after the period laid down in subparagraph (1) of this paragraph has lapsed.
  - (3) Supply of further particulars under this paragraph shall not entitle the party to go beyond the ambit of supplying such further particulars as have been demanded by the other party, and embark on undue amendment of, or additions to, his petition or reply, contrary to paragraph 14 of this Schedule.

Hearing of Petition to be in open Tribunal or Court

18. Every election petition shall be heard and determined in an open Tribunal Court.

#### Time and Place of Hearing Petition.

19.-(1) Subject to the provisions of subparagraph (2) of this paragraph, the time and place of the hearing of an election petition shall be fixed by the Tribunal or Court and notice of the time and place of the hearing, which may be as in Form TF.005 set out in Schedule 2 of this Act, shall be given by the Secretary at least five days before the day fixed for the hearing by:

- (a) posting the notice on the Tribunal notice board; and
- (b) sending a copy of the notice by registered post or through a messenger to:
  - (i) the petitioner's address for service;
  - (ii) the respondent's addresses for service, if any; or
  - (iii) the Resident Electoral Commissioner or the Commission as the case may be.

(2) In fixing the place of hearing, the Tribunal or Court shall have due regard to the proximity to and accessibility from the place where the election was held.

#### Notice of Hearing

20. The Resident Electoral Commissioner or Commission as the case may be shall publish the notice of hearing by causing a copy of the notice to be displayed in the place which was appointed for the delivery of nomination papers prior to the election or in some conspicuous place or places within the constituency, but failure to do so or any miscarriage of the copy of notice of hearing shall not affect the proceedings if it does not occasion injustice against any of the parties to the election petition.

#### Posting of Notice on Tribunal notice board deemed to be Good Notice



21. The posting of the notice of hearing on the Tribunal notice board shall be deemed, and taken to be good notice, and the notice shall not be vitiated by any miscarriage of the copy or copies of the notice sent pursuant to paragraph 19 of this Schedule.

#### Postponement of Hearing

- 22.-(1) The Tribunal or Court may, from time to time, by order made on the application of a party to the election petition or at the instance of the Tribunal or Court, postpone the beginning of the hearing to such day as the Tribunal or Court may consider appropriate having regard at all times to the need for speedy conclusion of the hearing of the election petition.
- (2) A copy of the order shall be sent by the Secretary by registered post or messenger to the Electoral Officer or the Resident Electoral Commissioner or the Commission who shall publish the order in the manner provided in paragraph 20 of this schedule for publishing the notice of hearing, but failure on the part of the Electoral Officer or Resident Electoral Commissioner or the Commission to publish the copy of the order of postponement shall not affect the proceedings in any manner whatsoever.
- (3) The Secretary shall post or cause to be posted on the tribunal notice board a copy of the order.
- (4) Where the Tribunal or Court gives an order of postponement at its own instance; a copy of the order shall be sent by the Secretary by registered post or messenger to the address for service given by the petitioner and to the address for service, if any, given by the respondents or any of them.
- (5) The provisions of paragraph 21 of this Schedule shall apply to an order or a notice of postponement as they do to the notice of hearing.

#### Non-Arrival of Chairman of Tribunal or Presiding Justice of Court

23. If the Chairman of the Tribunal or Presiding Justice of the Court has not arrived at the appointed time for the hearing or at the time to which the hearing has been postponed, the hearing shall be by reason of that fact stand adjourned to the following day and so from day to day.

#### Hearing Continues from Day to Day

24.-(1) No formal adjournment of the Tribunal or Court for the hearing of an election petition shall be necessary, but the hearing shall be deemed adjourned and may be continued from day to day until the hearing is concluded unless the Tribunal or Court otherwise directs as the circumstances may dictate.

(2) If the Chairman of the Tribunal or the Presiding Justice of the Court who begins the hearing of an election petition is disabled by illness or otherwise, the hearing may be recommended and concluded by another Chairman of the Tribunal or Presiding Justice of the Court appointed by the appropriate authority.

#### Adjournment of Hearing

25.-(1) After the hearing of an election petition has begun, if the inquiry cannot be continued on the ensuing day or, if that day is a Sunday or a public holiday, on the day following the same, the hearing shall not be adjourned sine die but to a definite day to be announced before the rising of the Tribunal or Court and notice of the day to which the hearing is adjourned shall forthwith be posted by the Secretary on the notice board.

(2) The hearing may be continued on a Saturday or on a public holiday if circumstances dictate.

Power of Chairman of the Tribunal or the Presiding Justice of the Court to Dispose on Interlocutory Matters -

26. (1) All interlocutory questions and matters may be heard and disposed of by the Chairman of the Tribunal or the Presiding Justice of the Court who shall have control over the proceedings as a Judge in the Federal High Court.
- (2) After the hearing of the election petition is concluded, if the Tribunal or Court before which it was heard has prepared its judgment but the Chairman or the Presiding Justice is unable to deliver it due to illness or any other cause, the judgment may be delivered by one of the members, and the judgment as delivered shall be the judgment of the Tribunal or Court and the member shall certify the decision of the Tribunal or Court to the Resident Electoral Commissioner, or to the Commission.

#### Effect of Determination of Election Petition

27. (1) At the conclusion of the hearing, the Tribunal shall determine whether a person whose election or return is complained of or any other person, and what person, was validly returned or elected, or whether the election was void, and shall certify the determination to the Resident Electoral Commissioner or the Commission.
- (2) If the Tribunal or Court has determined that the election is invalid, then, subject to Section 147 of this Act, where there is, an appeal and the appeal fails, a new election shall be held by the Commission.
- (3) Where a new election is to be held under the provisions of this paragraph, the Commission shall appoint a date for the election which shall not be later than 3 months from the date of the determination.

#### Withdrawal Abatement of Petition.

- 28.-(1) An election petition shall not be withdrawn without leave of the Tribunal or Court.

- (2) Where the petitioners are more than one, no application for leave to withdraw the election petition shall be made except with the consent of all the petitioners.
- (3) The application for leave to withdraw an election shall be made by motion after notice of the application has been given to the respondents.
- (4) The notice of motion shall state the grounds on which the motion to withdraw is based, supported with affidavit, verifying the facts and reasons for withdrawal. signed by the petitioner or petitioners in the presence of the Secretary.
- (5) At the time of filing the notice of motion, the petitioner or petitioners shall leave copies for service on the respondent.
- (6) The petitioner or petitioners shall also file the affidavits required under paragraph 29 of this Schedule together with copies for each respondent and pay the fees prescribed or directed by the Secretary for services.

#### Affidavits against Illegal Term of Withdraw

29. Before the leave for withdrawal of an election petition is granted, each of the parties to the petition shall produce an affidavit, stating that:
- (a) to the best of the deponent's knowledge and belief no agreement or term of any kind whatsoever has been made; and
  - (b) no undertaking has been entered into, in relation to the withdrawal of the petition, but if any lawful agreement has been made with respect to the withdrawal of the petition, the affidavit shall set forth that agreement and shall make the foregoing statement subject to what appears from the affidavit.

#### Time for Hearing Motion for Leave to Withdraw Petition

- 30.-(1) The time for hearing the motion for leave to withdraw the election petition shall be fixed by the Tribunal or Court.
- (2) The Secretary may give notice of the day fixed for the hearing of the motion to the respondents and post or cause to be posted on the Tribunal notice board a copy of the notice.

#### Payment of Costs to Respondents

31. If the election petition is withdrawn, the petitioner shall be liable to pay appropriate costs to the respondents or any of them unless the Tribunal or Court otherwise orders.

#### Abatement of Proceedings in Election Petition

- 32.-(1) If a sole petitioner or the survivor of several petitioners die then, subject to subparagraphs (2) and (3) of this paragraph, there shall be no further proceedings on the election petition and the Tribunal or Court may strike it out of its cause list.
- (2) The death of a petitioner shall not affect his liability for the payment of costs previously incurred in the course of proceeding in respect of the election petition prior to its abatement.
- (3) Where notice, with copies for each party to the election petition supported by the affidavit of two witnesses testifying to the death of a sole petitioner or of the survivor of several petitioners, is given to the Secretary, he shall submit the notice to the Tribunal or Court and if the Tribunal or Court so directs, the Secretary shall:
- (a) serve notice thereof on the other parties to the petition;
  - (b) post or cause to be posted a notice thereof on the Tribunal notice board; and

- (c) cause notice thereof to be published in conspicuous places in the constituency, in such form as the Tribunal or Court may direct.

#### Notice of no Opposition to Petition

33.-(1) If before the hearing of an election petition, a respondent, other than the Electoral Officer, the Returning Officer or Presiding Officer, gives to the Tribunal or Court notice in writing signed by him or his Solicitor before the Secretary that he does not intend to oppose the election petition, the Secretary shall:

- (a) serve notice thereof on the other parties to the election petition; and
  - (b) post or cause to be posted a notice thereof on the Tribunal notice board.
- (2) The Respondent shall file the notice with a copy for each other party to the election petition not less than six days before the day appointed for hearing of the election petition.
- (3) A respondent who has given notice of his intention not to oppose the election petition shall not appear or act as a party against the election petition in any proceeding on it; but the giving of the notice shall not of itself cause him to cease to be a respondent. Countermand of Notice of Hearing

34.-(1) Where a notice of:

- (a) the Petitioner's intention to apply for leave to withdraw an election petition; or
- (b) the death of the sole Petitioner or the survivor of several petitioners; or
- (c) the Respondent's' intention not to oppose an election petition, is received after notice of hearing of the election petition has been given, and before the hearing has begun, the Secretary shall forthwith countermand the notice of hearing.

(2) The countermand shall be given in the same manner, and, as near as may be, as the notice of hearing.

#### Discretion of Tribunals or Court if no Reply

35. Where the Respondent has not entered an appearance, or has not filed his reply within the prescribed time or within such time as the Tribunal or Court may have allowed, or has given notice that he does not intend to oppose the petition, then if:

- (a) there remains no more than one other candidate in the election who was not returned; or
- (b) the election petition contains no prayer for determination that the election was void; or
- (c) there are no facts or grounds stated in the election petition or in the reply, if any, or stated in any further particulars filed in the proceedings or otherwise appearing on proof of which it ought to be determined that election was void; or
- (d) the election petition is one complaining of undue return and claiming the seat or office for the Candidate who was not returned and the Respondent has not raised any formal or written objections to any of the votes relied on by the Petitioner, the Tribunal or Court may, if it deems fit, determine the proceedings on the election petition without hearing evidence or further evidence, and in any case, the proceedings shall be continued and determined on such evidence or otherwise as the Tribunal or Court may deem necessary for the full and proper determination of the election petition.

#### Fees

36.-(1) The fee payable on the presentation of an election petition shall not be less than N1,000.00.

(2) A hearing fees shall be payable for the hearing at the rate of N40 per day of the hearing but not exceeding N2,000 in all, but the Tribunal or Court may direct a different fee to be charged for any day of the hearing;

(3) For the purpose of subparagraph (2) of this paragraph, the Petitioner shall make a deposit of not less than N200 at the time of presenting his petition.

(4) Subject to the provisions of this paragraph, the fees payable in connection with an election petition shall be at the rate prescribed for civil proceedings in the Federal High Court.

(5) No fees shall be payable by the Attorney-General of the Federation (acting in person or through any other legal officer) or by a respondent who was the Commission or any of its officers appointed pursuant to the provisions of this Act.

(6) No fees shall be payable for the summoning of witnesses summoned by the Tribunal or Court at its own instance.

#### Allocation of Costs

37.-(1) All costs, charges and expenses of and incidental to the presentation of an election petition and to the proceedings consequent thereon, with the exception of such as are otherwise provided for, shall be defrayed by the parties to the election petition in such manner and in such proportions as the Tribunal or Court may determine, regard being had to:

(a) the disallowance of any costs, charges or expenses, which may in the opinion of the Tribunal or Court have been caused by vexatious conduct, unfounded allegation or unfounded objection on the part of the Petitioner or of the Respondent, as the case may be; and



(b) the discouragement of any needless expenses by throwing the burden of defraying the expenses on the Party by whom it has been caused; whether that Party is or is not on the whole successful.

(2) Where the Tribunal or Court declare an election to be void, it may, if satisfied that the invalidity was due either wholly or in part to the culpable default of an officer responsible for the conduct of the election in the performance of his duties imposed by this Act, order that the whole or part of the cost awarded to the successful petitioner be paid by that officer.

#### Return of Security

38. Money deposited as security shall, when no longer needed as security for costs, charges or expenses, be returned to the person in whose name it is deposited or to the person entitled to receive it by order of the Tribunal or Court which may be made on motion after notice and proof that all just claims have been satisfied or otherwise sufficiently provided for as the Tribunal or Court may require.

#### Payment of Costs out of Security

39.-(1) The Tribunal or Court may, on application made by a person to whom any costs, charges or expenses is payable, order it to be paid out of a deposit made to secure it, after notice to the party by or on whose behalf the deposit was made, requiring him to file a statement within a specified time whether he opposes the application and the ground of his opposition.

(2) Where a dispute arises on an application under subparagraph (1) of this paragraph, the Tribunal or Court shall afford every person affected by the dispute an opportunity of being heard and shall make such order thereon as it may deem fit.

(3) A person shall, be deemed to have been afforded the opportunity of being heard if notice of the appointed time for the inquiry into the dispute was

given to him, though the person may not have been present at the making of the inquiry.

- (4) A notice to be given to a person under this paragraph may be given by the Secretary handing him the notice or sending it to him by registered letter:
  - (a) in the case of a party, at the address for service;
  - (b) in the case of an application for payment, at the address given in his application, so however, that the provisions of this subparagraph shall not preclude the giving of notice in any other manner in which notice may be given or which may be authorized by the Tribunal or Court.
- (5) Execution may be levied under an order for payment made by the Tribunal or Court under this paragraph in the same manner and to the same extent as execution may be levied under judgment for the payment of money.

#### Calling of Witnesses

- 40.-(1) On the hearing of an election petition, the Tribunal or Court may summon a person as a witness who appears to the Tribunal or Court to have been concerned in the election.
- (2) The Tribunal or Court may examine a witness so summoned or any other person in the Tribunal or Court although the witness or person is not called and examined by a party to the election petition, and thereafter he may be cross-examined by or on behalf of the Petitioner and the Respondent.
- (3) The expenses of a witness called by the Tribunal or Court at its own instance shall, unless the Tribunal or Court otherwise orders, be deemed to be costs of the election petition and may, if the Tribunal or Court so directs, be paid in the first instance by the Secretary in the same way as State witness expenses and recovered in such manner as the Tribunal or Court may direct.

- (4) Where the Tribunal or Court summons a person as a witness under this Paragraph, the provisions of the Civil Procedure Rules relating to the expenses of persons ordered to attend a hearing shall apply as if they were part of this paragraph.
- (5) The Tribunal or Court shall:
  - (a) in making and carrying into effect an order for the production and inspection of documents used in the election; and
  - (b) in the examination of any witness who produces or will produce a document, ensure that the way in which the vote of a particular person has been given shall not be disclosed.

#### Privileges of a Witness

- 41.-(1) A person called as a witness in proceedings in the Tribunal or Court shall not be excused from answering a question relating to an offence or connected with an election on the grounds that the answer thereto may incriminate or tend to incriminate him, or on the ground of privilege.
- (2) A witness who answers truly all questions which he is required by the Tribunal or Court to answer shall be entitled to receive a certificate of indemnity under the hand of the Chairman of the Tribunal or Presiding Justice of the Court stating that the witness has so answered.
- (3) An answer by a person to a question before the Tribunal or Court shall not, except in the case of a criminal proceeding for perjury in respect of the answer, be admissible in any proceeding, civil or criminal, in evidence against him.
- (4) When a person has received a certificate of indemnity in relation to an election and legal proceedings are at any time brought against him for an offence against the provisions of this Act, committed by him prior to the date of the certificate at or in relation to that election, the Tribunal or Court

having cognizance of the case shall, on proof of the certificate, stay the proceeding, and may, at its discretion award to that person such costs as he may have been put to in the proceedings.

#### Evidence of Respondent

42. At the hearing of an election petition complaining of an undue return and claiming the seat or office for a petitioner, the Respondent may, subject to the provisions of subparagraph (2) of paragraph 12 of this Schedule, give evidence to prove that the election of the Petitioner was undue in the same manner as if he were the person presenting the election petition complaining of the election.

#### Enlargement and Abridgement of Time

- 43.-(1) The Tribunal or Court shall have power, subject to the provisions of Section 141 of this Act and paragraph 14 of this Schedule, to enlarge time for doing any act or taking any proceedings on such terms (if any) as the Justice of the case may require except otherwise provided by any other provision of this Schedule.
- (2) An enlargement of time may be ordered although the application for the enlargement is not made until after the expiration of the time appointed or allowed.
- (3) When the time for delivering a pleading or document or filing any affidavit, answer or document, or doing anything or act is or has been fixed or limited by any of the sections, paragraphs or rules under or in pursuance of this Act or by a direction or an order of the Tribunal or Court, the costs of an application to extend the time, where allowed or of an order made thereon shall be borne by the party making the application unless the Tribunal or Court otherwise orders.

- (4) Every application for enlargement or abridgement of time shall be supported by affidavit.
- (5) An application for abridgement of time may be ex parte, but the Tribunal or Court may require notice of the application to be given to the other parties to the election petition.
- (6) An application for enlargement of time shall be made by motion after notice to the other party to the election petition but the Tribunal or Court may, for good cause shown by affidavit or otherwise, dispense with the notice.
- (7) A copy of an order made for enlargement or abridgement of time shall be filed or delivered together with any document filed or delivered by virtue of the order.

#### Service of Notice

- 44.-(1) Where a summons, notice or document, other than a notice or document mentioned in subparagraph (1) of paragraph 7 of this Schedule, is required to be served on a person for a purpose connected with an election petition, it may be served by delivering it to the person or by leaving it at his last known place of abode in the constituency with any person there found who is a resident of the abode and appears to be 18 years of age or more.
- (2) After a party has given an address for service it shall be sufficient if, in lieu of serving him personally with a document-intended for him, the document is served:
    - (a) on the person appearing on the paper last filed on his behalf as his Solicitor wherever the person may be found or, if the person is not found at his office, on the clerk there apparently in charge; or;
    - (b) on the person named as occupier- in his address for service wherever the person may be found or, if the person is not found at the address on:

- (i) the person there found apparently in-charge, if such address is a place of business, or;
  - (ii) a person, other than a domestic servant, there found who is a resident of the address and appears to be 18 years of age or more.
- (3) A party may change his address for service by giving notice of his new address for service and its occupier to the Secretary and to each party to the election petition, but, until a notice, is received by the Secretary, his old address for service shall continue to be his address for service.
- (4) Where service by one of the modes specified in this paragraph has proved impracticable, the Tribunal or Court may, on being satisfied, on an application supported by an affidavit showing what has been done, that all reasonable efforts have been made to effect service:
- (a) order that service be effected in any of the ways mentioned in the provisions of the Civil Procedure Rules relating to substituted service which service shall be sufficient; or (b) dispense with service or notice as the Tribunal or Court deems fit.

Two or more candidates as respondents.

45. Two or more candidates may be made respondents to the same petition and as the case may, for the sake of convenience be heard at same time but for all purposes (including the taking of security) the election petition shall be deemed to be a separate petition against each of the Respondents.

#### Consolidated Petitions

46. Where two or more petitions are presented in relation to the same election or return, all the petitions shall be consolidated, considered and be dealt with as one petition unless the Tribunal or Court shall otherwise direct in order to do justice or an objection in line against one or more of the petitions has been upheld by the Tribunal or Court.

## Electoral Officer, etc. as Respondents

47. (1) Where an election petition 'complains of the conduct of an Electoral Officer, a Presiding Officer, Returning Officer or any other official of the Commission he shall for all purposes be deemed to be a respondent and joined in the election petition as a necessary party, but an Electoral Officer, a Presiding Officer, Returning Officer or any other official of the-Commission shall not be at liberty to decline from opposing the petition except with the written consent of the Attorney-General of the Federation.
- (2) If consent is withheld by the Attorney-General under subparagraph (1) of this paragraph the Government of the Federation shall indemnify the Electoral officer, Presiding Officer, Returning Officer or such other official of the Commission against any costs which may be awarded against him by the Tribunal or Court in respect of the election petition.
- (3) Where the Commission, an Electoral Officer, a Presiding Officer, Returning Officer or any other official of the Commission has been joined as a respondent in an election petition, a Legal Officer of the Commission or a Legal Practitioner engaged by the Commission or the Attorney-General of the State concerned (acting in person or through any of his Legal Officers), or the Attorney-General of the Federation (acting in person or through any of his Legal Officers) shall represent the Commission Electoral Officer, Presiding Officer, Returning Officer or other official of the Commission at the Tribunal or Court.
- (4) A private Legal Practitioner engaged by the Commission under subparagraph (3) of this paragraph shall be entitled to be paid his professional fees and a Legal Officer so engaged shall be paid such honorarium as may be approved by the Commission.

Duplicate of Document.

48. In the absence of express provision in this Schedule, a party filing any document or process paper in connection with any step being taken in the proceedings of an election petition shall, unless the Secretary otherwise directs, leave with the Secretary copies of the document or process paper for service on each of the parties to the election petition in addition to three copies which the Secretary may preserve noncompliance with rules, etc.
49. (1) Non-compliance with any of the provisions of this Schedule, or with a rule of practice for the time being operative, except otherwise stated or implied, shall not render any proceeding void, unless the Tribunal or Court so directs, but the proceeding may be set aside wholly or in part as irregular, or amended, or otherwise dealt with in such manner and on such terms as the Tribunal or Court may deem fit and just.
- (2) An application to set aside an election petition or a proceeding resulting therefrom for irregularity or for being a nullity, shall not be allowed unless made within reasonable time and when the party making the application has not taken any fresh step in the proceedings after knowledge of the defect.
- (3) An application to set aside an election petition or a proceeding pertaining thereto shall show clearly the legal grounds on which the application is based.
- (4) An election petition shall not be defeated by an objection as to form if it is possible at the time the objection is raised to remedy the defect either by way of amendment or as may be directed by the Tribunal or Court.
- (5) An objection challenging the regularity or competence of the election petition shall be heard and determined before any further steps in the proceedings if the objection is brought immediately the defect on the face of the election petition is noticed.

#### Application of Rules of Court



50. Subject to the express provisions of this Act, the practice and procedure of the Tribunal or the Court in relation to an election petition shall be as nearly as possible, similar to the practice and procedure of the Federal High Court in the 'exercise 'of its civil jurisdiction, and the Civil Procedure Rules shall apply with such modifications as may be necessary to render them applicable having regard to the provisions of this Act, as if the petitioner and the respondent were respectively the plaintiff and the defendant in an ordinary civil action.

#### Practice and Procedure of Court of Appeal and Supreme Court.

51. Subject to the provisions of this Act, an appeal to the Court of Appeal or to the Supreme Court shall be determined in accordance with the practice and procedure relating to appeals in the Court of Appeal or of the Supreme Court, as the case may be, regard being had to the need for urgency on electoral matters.

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria, 1990.

I ASSENT.

NASIRU IBRAHIM ARAB,

Clerk to the National Assembly.

2nd Day of June. 2006.

CHIEF OLUSEGUN OBASANJO,

GCFR President of the Federal Republic of Nigeria

6th Day of June. 2006.



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