

# A BILL FOR

AN ACT TO AMEND THE ELECTORAL ACT 2022 TO PROVIDE FOR THE HEARING AND DETERMINATION OF ALL ELECTION PETITIONS BY THE RESPECTIVE ELECTION PETITIONS TRIBUNALS AND THE APPELLATE COURTS IN ACCORDANCE WITH SPECIFIED TIMELINES BEFORE SWEARING-IN OF SUCCESSFUL CANDIDATES AT ELECTIONS, PROVIDE A LEGAL FRAMEWORK FOR THE INDEPENDENT NATIONAL ELECTORAL COMMISSION (INEC) TO QUICKLY RELOCATE VOTING IN AREAS DEEMED UNSAFE DUE TO SECURITY THREATS, GUARANTEE ELECTORAL CANDIDATES/PARTICIPANTS AND PETITIONERS ACCESS TO CERTIFIED COPIES OF ELECTION MATERIALS AND DOCUMENTS AFTER EVERY ELECTION FOR THE PURPOSES OF SUBSTANTIATING CLAIMS BEFORE THE ELECTION TRIBUNAL AND FOR RELATED MATTERS

*Sponsors:*

- |                                    |                            |
|------------------------------------|----------------------------|
| Hon. Ikeagwuonu Ugochinyere        | Hon. Abdullmaleek Danga    |
| Hon. Aliyu Mustapha                | Hon. Francis Waive         |
| Hon. Zakari Dauda Nyampa           | Hon. Abdulla Muhammed      |
| Hon. Abiante Awaji-Inombek D.      | Hon. Ghali Tijani Mustapha |
| Hon. Chinedu Emeka                 | Hon. Emmanuel Ukpong-Udo   |
| Hon. Chinwe Maureen Gwacham        | Hon. Boma Goodhead         |
| Hon. Matthew Nwogu                 | Hon. Onobun M. Iziegbeaya  |
| Hon. Obinna Aguocha                | Hon. Midala Balami         |
| Hon. Peter Aniekwe                 | Hon. Emeka Idu Godwin O.   |
| Hon. Mohammed Bello                | Hon. Usman Basiru          |
| Hon. Ukpongudo Emmanuel Effiong    | Hon. Obinna Aguocha        |
| Hon. Ukodhiko Ajirioghene Jonathan | Hon. Obika Joshua Chinedu  |
| Hon. Peter Aniekwe                 | Hon. Amobi Godwin Ogah     |
| Hon. Mark Esset Udo                | Hon. Dekeri Sunday Anamero |
| Hon. Paul Nnamchi                  | Hon. Atu Chimaobi Sam      |
| Hon. Odimayo Okunjimi              | Hon. Gwacham M. Chhinwe    |
| Hon. Jajere Mohammed Buba Fika     | Hon. Tafoki Dalhatu Shehu  |

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of

Nigeria as follows:

- |   |  |                                |
|---|--|--------------------------------|
| 1 | 1. The Electoral Act 2022 (in this Part referred to as "the Principal Act"), is amended as set out in this Bill. | Amendment of the Principal Act |
| 2 |  |                                |
| 3 | 2. Section 24 of the Principal Act is altered by deleting the extant   | Amendment of Section 24        |

1 subsection2 and replacing it with a new subsections 2-8 and renumbering  
2 accordingly to read as follows:

3 "(2) Where a date has been appointed for the holding of an election,  
4 and there is reason to believe that a serious breach of the peace is likely to occur  
5 if the election is proceeded with on that date or it is impossible to conduct the  
6 elections as a result of natural disasters or other emergencies or by reason of  
7 force majeure it becomes impossible for an election to hold at the designated  
8 polling unit or area-

9 (a) The Commission may postpone the election and shall in respect of  
10 the area, or areas concerned, appoint another date for the holding of the  
11 postponed election, provided that such reason for the postponement is cogent  
12 and verifiable or;

13 (b) may in consultation with the relevant security agencies designate  
14 an alternative venue within the same constituency to serve as a substitute  
15 polling unit or area for the conduct of the election in the affected area on same  
16 date or a postponed date"

17 (3) If at any polling unit the electoral commission determines there is  
18 a substantiated security threat that could compromise the conduct of free, fair  
19 and peaceful elections at the designated polling venue, the commission shall  
20 declare such venue unsafe for voting purposes.

21 (4) Upon declaring a polling venue unsafe, the commission shall  
22 within 48 hours designate an alternative polling venue within the same  
23 constituency that can accommodate voters registered to vote at the original  
24 location.

25 (5) In selecting an alternative venue, the commission shall conduct  
26 due diligence to ensure the new location poses no credible security risk and is  
27 reasonably accessible to registered voters.

28 (6) The commission shall publicize the change in venue through  
29 multiple channels with sufficient notice prior to election day to ensure all  
30 voters are properly informed.

1 (7) On election day, the original venue shall remain closed for  
2 voting while the alternative venue conducts polling activities for the  
3 registered voters from the original location.

4 (8) Votes cast at the alternative venue shall be collated separately  
5 but counted together with other results from the same constituency.

6 3. Section 66 of the Principal Act is altered by inserting a new  
7 subsections (1) - (5) as follows:

Amendment of  
Section 66

8 (1) In an election to the office of President or State Governor, and  
9 all other elective positions whether or not contested and in any contested  
10 election to any other elective office, the result shall be ascertained by  
11 counting the votes cast for each candidate and subjected to the provisions of  
12 sections 133, 134 and 179 of the Constitution, the candidate that receives the  
13 highest number of votes shall be declared elected by the appropriate  
14 returning officer.

15 (2) No Returning Officer or other official of the Commission shall  
16 declare the result of an election without first comparing the votes scored by  
17 each candidate with the list of accredited voters in the respective polling  
18 units or registration areas as recorded in the BVAS or any other technology  
19 deployed for voters accreditation.

20 (3) The Returning Officer in each polling unit shall confirm that the  
21 total number of votes cast is in harmony with the number of accredited  
22 voters as recorded in the BVAS or any other technology deployed by INEC  
23 before proceeding to declare the winner of the election in the polling unit.

24 (4) The Returning Officer in each polling unit must obtain a  
25 certification in writing for the reconciliation and verification of results from  
26 their polling unit agents.

27 For the purposes of verifying election results under Section 66 (4), the  
28 presiding officer shall:

29 (a) Tally and confirm that the total number of votes cast is equal to  
30 or less than the total number of accredited voters in the polling unit.

1 (b) Confirm that the number of votes scored by each candidate does  
2 not exceed the total number of accredited voters;

3 (c) Carry out any other verification processes as may be prescribed  
4 by the Commission;

5 (d) Where any discrepancy is found between the results to be  
6 declared and the B.V.A.S or any other technology, the presiding officer shall  
7 reconcile the difference before declaring the result or nullify the entire election  
8 in the event where the figures obtained cannot be adequately reconciled.

9 (5) INEC shall not issue a Certificate of Return to any candidate  
10 declared winner until reconciliation and verification of election results has  
11 been conducted and duly confirmed in accordance with subsection (1) - (4).

12 (6) INEC shall carryout any consequential administrative action(s)  
13 necessary to give full effect to the verification of election results against the  
14 accredited voters' list as provided in this Act. Any declaration of winner made  
15 in contravention of Sections 66 shall be null and void."

Amendment  
of Section 74

16 4. Section 74 of the Principal Act is altered by deleting the extant  
17 section 74 and substituting a new section 74 subsections 1-3 as follows:

18 74 (1) A person or party who participated as an electoral candidate in  
19 an election, or any person petitioning the election tribunal challenging the  
20 outcome of any election result shall have access to inspect and obtain certified  
21 copies of election materials including-

22 (a) Voters registers;

23 (b) Results sheets;

24 (c) Ballot papers;

25 (d) Signature accreditation registers;

26 (e) Any other documents relevant to the petition.

27 (2) The Resident Electoral Commissioner in a state where an election  
28 is conducted shall, within 14 days after an application is made to him by any of  
29 the parties to an election petition, cause a certified true copy of such document  
30 as listed in sub section (1) above to be issued to the said party.

1 (3) Any Resident Electoral Commissioner who willfully fails to  
2 comply with the provisions in subsection (1) commits an offence and is  
3 liable on conviction to a fine of N20,000,000 or imprisonment for a term of  
4 12 months or both.

5 5. Section 120 of the Principal Act is altered by inserting a new Amendment of  
6 subsection (7) paragraphs (a)-(d) as follows; Section 120

7 "7(a) Notwithstanding the fore-going provisions of this section  
8 and without prejudice to the provisions of the Act, any returning officer who  
9 knowingly and intentionally declares a false election result commits an  
10 offense and shall be liable to an imprisonment term of seven years upon  
11 conviction by a court of competent jurisdiction".

12 (b) The Returning Officer must ensure accreditation figures tally  
13 with the number of votes before announcement of election result. Failure to  
14 do so will attract the penalties stipulated under subsection 7(a) above;

15 (c) Where the Returning Officer commits any of the offences stated  
16 above, a legal action can be brought against him/her by an aggrieved  
17 party(ies) in a Court of competent jurisdiction;

18 (d) The Returning Officer in 7a above refers to the Presiding officer  
19 at the polling unit, Ward Collation Officer at the Registration Area or Ward  
20 Collation Centre, Local Government or Area Council Collation Officer at  
21 the Local Government or Area Council Collation Centre, State Collation  
22 Officer at the State Collation Centre and Chief Electoral Commissioner at a  
23 National Collation Centre".

24 6. Section 132 (7) of the Principal Act is altered by substituting "21 Amendment of  
25 days" with "30 days" as follows; Section 132

26 (7) An election petition shall be filed within 30 days after the date  
27 of the declaration of result of the elections.

28 7. Section 138 of the Principal Act is altered by deleting the extant Amendment of  
29 subsections 1 & 2 and replacing and replacing it with a new subsections (1)- Section 138  
30 (7) to follows;

1 (1) Notwithstanding any other provision of this Act or any other law,  
2 all petitions challenging the outcome of any election shall be filed, heard,  
3 determined and concluded by the various Election Petitions Tribunals, and the  
4 Appellate Courts within a period not later than 6 months from the date of such  
5 election before the swearing-in of the successful candidate at every election as  
6 declared by the Independent National Electoral Commission.

7 (2) Notwithstanding any other provision of this Act or any other law,  
8 all pre-election matters shall be concluded by the various courts before which  
9 they are instituted not later than 1 month to the date of any election.

10 (3) The Commission shall take all administrative steps necessary to  
11 give full effect to the determination of all pre-election and post-election  
12 petitions within 6 months as provided in this Act.

13 (4) Where an election is nullified by the applicable Elections Petitions  
14 Tribunal and a Notice of Appeal against the decision is filed within the  
15 stipulated period for appeal, the elected candidate shall, not remain in office or  
16 be sworn into office until after the determination of the appeal.

17 (5) If the Election Petitions Tribunal or the Court, as the case maybe,  
18 determines that a candidate returned as elected was not validly elected, the  
19 candidate returned as elected shall not remain in office or be sworn into office  
20 until after the expiration of the period of 21 days within which an appeal may be  
21 brought.

22 (6) For the purpose of this section -

23 (a) The respective Election Petitions Tribunal shall conclude hearing  
24 and deliver judgment on all petitions within 90 days of filing.

25 (b) Where an appeal arises from the decision of the Election Petitions  
26 Tribunal, the Court of Appeal shall conclude hearing and deliver judgment  
27 within 60 days of filing the appeal.

28 (c) The swearing-in of any candidate declared winner shall be  
29 deferred until the determination of all pre-election and election petitions in  
30 respect of the election and the expiration of time limits set out in subsections

1 6(A) and 6(B) above.

2 (7) The Independent National Electoral Commission shall not  
3 swear-in any candidate as winner of an election until-

4 (a) The pre-election and post-election period for filing petitions  
5 has lapsed without any petition, or

6 (b) All petitions and appeals challenging the result have been fully  
7 determined by the Elections Petitions Tribunal and Appellate Courts.

8 **8.** This Bill may be cited as Electoral Act, 2022 (Amendment) Bill,  
9 2024.

#### EXPLANATORY MEMORANDUM

This Bill seeks to amend the Electoral Act 2022 to provide for the hearing and determination of all election petitions by the respective Election Petitions Tribunals and the Appellate Courts in accordance with specified timelines before swearing-in of successful candidates at elections, provide a legal framework for the Independent National Electoral Commission (INEC) to quickly relocate voting in areas deemed unsafe due to security threats, guarantee electoral candidates/participants and petitioners access to certified copies of election materials and documents after every election for the purposes of substantiating claims before the election tribunal.