# AN OVERVIEW OF KEY INNOVATIONS IN THE ELECTORAL ACT, 2026

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## Introduction

Nigeria's Electoral Act, 2026 represents one of the most consequential overhauls of the country's electoral framework since the return to democratic rule in 1999. Enacted on 18 February 2026, the Act repeals the Electoral Act, 2022 and introduces a suite of reforms aimed at strengthening transparency, enhancing internal party democracy, and modernising electoral administration. Yet, as with many ambitious legislative interventions, the Act also raises profound constitutional, institutional, and practical questions.

This piece notes that the Act *"introduces a range of significant innovations that are poised to reshape Nigeria's electoral landscape."* This article examines those innovations, situating them within Nigeria's broader democratic trajectory and assessing their likely impact ahead of the 2027 general elections.

**Digital Membership Registers: Transparency or Overreach?**Section 77(2)– (7) of the 2026 Electoral Act introduces a far-reaching reform by mandating every political party to maintain a comprehensive digital register of its members. This register must capture detailed personal information, including name, sex, date of birth, address, state, local government area, ward, polling unit, National Identification Number, and photograph, and must exist in both hard and soft copies. Upon registration, each member is to be issued a membership card, reinforcing formal recognition within the party structure. The requirement for the issuance of a membership card to members of a political party is a mandatory requirement, which did not exist under section 77 of the 2022 Electoral Act. Crucially, section 77 of the 2026 Electoral Act requires that the digital register be submitted to INEC no later than 21 days before any party primaries, congresses, or conventions. Similarly, only individuals whose names appear in the submitted register are eligible to vote or be voted for, and parties are expressly prohibited from using any alternative register for these internal processes. In the same vein, section 77(7) of the Electoral Act, 2026 introduces a stringent sanction regime for political parties that fail to comply with the requirement of submitting their digital

membership registers to the Independent National Electoral Commission ("INEC" or "the Commission") not later than 21 days before the date fixed for party primaries, congresses, or conventions. Specifically, the provision stipulates that any political party that fails to submit its register within the prescribed timeframe shall be rendered ineligible to field candidates for the relevant election.

This marks a clear departure from the position under section 77 of the Electoral Act, 2022. Under the 2022 regime, while political parties were required to maintain and submit membership registers, there were no explicit punitive consequences for non-compliance. Additionally, the Act did not prohibit parties from relying on alternative or supplementary registers for the conduct of primaries, congresses, or conventions.

This reform is designed to curb manipulation of party membership lists, a longstanding source of intra-party disputes. By prohibiting the use of alternative registers and imposing the severe sanction of disqualification from fielding candidates, the Act seeks to enforce discipline and transparency.

However, the sanction raises concerns about proportionality. Excluding an entire political party from an election due to administrative non-compliance risks disenfranchising millions of voters. In a political environment where administrative lapses may be inadvertent rather than malicious, the penalty may be viewed as excessive. Courts may ultimately be called upon to balance regulatory discipline with democratic participation.

**Ouster of courts' jurisdiction in internal affairs of political parties**

Perhaps the most controversial innovation is section 83(5), which states that *"no Court in Nigeria shall entertain jurisdiction over any suit or matter pertaining to the internal affairs of a political party."* The courts have historically been reluctant to interfere in party affairs. For instance, in the case of ***Ndukwe v. Ayu (2023) 5 NWLR (Pt. 1877) 309***, the Supreme Court held that "*the courts do not have the requisite statutory vires to interfere in or with political decisions by political parties, in the processes of running their domestic affairs for the purposes of winning elections.*" , The explicit statutory ouster of jurisdiction in this 2026 Act is unprecedented.Most importantly, questions linger over the constitutionality of section 83(5) of the Electoral Act, seeing that it purports to oust the jurisdiction of

courts in the internal affairs of political parties. This is particularly in the light of the provisions of section 4(8) of the Constitution of the Federal Republic of Nigeria, 1999 (as amended) ("the Constitution"), which restrains the National Assembly and the State Houses of Assembly from enacting "*any law that ousts or purports to oust the jurisdiction of a court of law or of a judicial tribunal established by law.*"

Compounding the tension issection 83(6) of the Electoral Act, 2026 which provides that:

> ***"(6) Where such action is brought in negation of this provision – (a) no interim or interlocutory injunction shall be entertained by the Court, but the Court shall suspend its ruling and deliver it at the stage of final judgment and shall give accelerated hearing to the matter. (b) the Court shall, at the conclusion of the matter, impose costs of not less than ₦10,000,000.00 on the counsel who filed the action and not less than ₦10,000,000.00 on the Plaintiff/Applicant and in addition to payment to the Commission of any cost, including solicitors' fees incurred by it where joined as a party."***

The above provision contemplates that, notwithstanding the restriction in section 83(5) of the Electoral Act, courts may still entertain matters relating to internal party affairs, but without granting interim or interlocutory reliefs, with accelerated hearing, and subject to substantial cost consequences at the conclusion of the case.

This section is almost certain to face judicial scrutiny, and its survival is far from guaranteed. In essence, huge questions hover in respect of the issue of the constitutionality of section 83(5) of the Electoral Act, 2026, and it remains to be seen, what position the courts will take if the constitutionality of the provision is challenged.

**Mode of nomination of candidates by political parties**

Section 84(2) eliminates indirect primaries, restricting nomination procedures to direct primaries and consensus. This is a departure from the provisions of section 84(2) of the Electoral Act, 2022, which provides that the procedure for the nomination of candidates shall be by direct, indirect primaries, or consensus.

By virtue of section 84(2) of the Electoral Act, 2022, the use of indirect primaries by political parties has, for the time being, been effectively phased out of Nigeria's electoral process. This marks a deliberate shift in the mode of candidate nomination, with greater emphasis placed on direct participation by party members.

The rationale for this exclusion appears to be rooted in the persistent challenges associated with the delegate system. Delegates, who serve as intermediaries in indirect primaries, have historically been susceptible to undue influence, including financial inducements from aspirants seeking to secure party tickets. This vulnerability has, in many instances, undermined the credibility of the nomination process and weakened internal party democracy.

The Electoral Act, 2026, also retains the direct primaries option under the Electoral Act 2022. Under this provision, all duly registered members of a political party are entitled to participate in the selection process. Section 86 of the Act complements this framework by mandating that *"all direct primaries shall be conducted in accordance with the guidelines of each political party."* This provision emphasizes the role of internal party constitutions and regulatory frameworks in shaping the conduct of primaries, ensuring that the process respects both statutory requirements and party-specific rules.

The statutory recognition of direct primaries represents a notable step toward strengthening internal party democracy. By broadening participation beyond a limited delegate system, direct primaries aim to reduce elite domination, curb candidate imposition, and enhance transparency in the nomination process.

Questions also persist as to the propriety of retaining consensus arrangements within the candidate selection process. While consensus candidacy is often justified on grounds of party unity and cost reduction, it is not without its own democratic shortcomings.

In practice, consensus arrangements can be deployed in a manner that sidelines the broader membership of a political party. There is a real risk that party elites may impose a preferred candidate under the guise of consensus, thereby undermining the participatory ideals that the exclusion of indirect primaries seeks to promote. In such circumstances, an otherwise unpopular candidate may emerge, not through the collective will of party members, but through the influence and backing of the party's leadership.

Accordingly, although consensus remains a legally permissible mode of candidate emergence, its continued use raises legitimate concerns about transparency, inclusiveness, and the overall integrity of intra-party democracy.

**Increase in campaign expenditure limits**

Section 92 of the Act establishes clear and enforceable limits on campaign spending, prescribing maximum expenditure ceilings for candidates contesting various elective offices. The objective is to promote fairness, curb undue financial influence, and combat corruption in the electoral process. The prescribed limits are as follows:

- Presidential candidates: ₦10,000,000,000 (ten billion Naira)
- Governorship candidates: ₦3,000,000,000 (three billion Naira)
- Senatorial candidates: ₦500,000,000 (five hundred million Naira)
- House of Representatives candidates: ₦250,000,000 (two hundred and fifty million Naira)
- State House of Assembly candidates: ₦100,000,000 (one hundred million Naira)
- Area Council Chairmanship candidates: ₦100,000,000 (one hundred million Naira)

Section 92 of the Electoral Act, 2026, substantially mirrors section 88 of the Electoral Act, 2022 in prescribing limits on campaign expenditure. However, a closer examination reveals significant upward revisions that raise both practical and normative concerns.

Under the 2022 Act, the maximum election expenses for a presidential candidate were capped at ₦5,000,000,000. By contrast, the 2026 Act introduces a one hundred percent increase in this threshold, effectively doubling the permissible campaign spending for presidential elections. This sharp escalation signals a legislative acknowledgment of rising campaign costs, but it also raises concerns about the deepening monetisation of Nigeria's electoral process.

In a similar vein, section 92(8) of the 2026 Act increases the ceiling on individual donations to ₦500,000,000, a tenfold rise from the ₦50,000,000 limit stipulated under section 88(8) of the 2022 Act. While this adjustment may be intended to reflect economic realities such as inflation and currency depreciation, it risks

amplifying the influence of wealthy individuals in the political process, potentially skewing the playing field in favour of well-funded candidates.

Beyond these increases, more fundamental questions arise regarding the practicability and enforceability of the prescribed limits. Given prevailing economic conditions in Nigeria, including inflationary pressures and the high cost of nationwide campaigning, it is doubtful whether candidates, particularly at the presidential level, will realistically adhere to these thresholds. The gap between statutory limits and actual campaign spending has historically been wide, and there is little indication that this trend will automatically reverse under the new regime.

Equally critical is the issue of enforcement. Without robust monitoring mechanisms, transparent disclosure requirements, and credible sanctions for non-compliance, the statutory limits risk becoming largely aspirational. Effective oversight by regulatory and law enforcement bodies, most notably the Independent National Electoral Commission (INEC) and the Economic and Financial Crimes Commission (EFCC), will be essential to ensure that these provisions are not merely symbolic. Strengthening audit processes, mandating real-time financial disclosures, and prosecuting breaches where they occur would go a long way in enhancing compliance.

Ultimately, while the revised limits under the Electoral Act, 2026 may reflect economic realities, their success will depend less on the figures themselves and more on the political will and institutional capacity to enforce them. Without this, the broader objective of curbing excessive spending and reducing vote-buying may remain elusive.

**Mandatory Deployment of the Bimodal Voter Accreditation System**

Section 47(2) of the Act requires the use of the Bimodal Voter Accreditation System (BVAS) for voter accreditation at all polling units. The BVAS uses fingerprint and facial recognition to verify voter identity electronically against the voter register.

The Electoral Act 2022 did not expressly mandate the use of BVAS. The device had been deployed by INEC under its administrative guidelines, but its use rested on regulatory rather than statutory authority. This distinction had practical consequences: the absence of a statutory basis for BVAS deployment complicated arguments in election petitions that irregularities in its use amounted to statutory

non-compliance for example the Presidential Election 2023, and courts reached inconsistent conclusions on the point.

Section 47(2) of the Act removes that ambiguity by making BVAS deployment a statutory requirement.

## Limited grounds for challenging an Election

Section 138(1) of the Electoral Act, 2026, represents a significant limitation/restriction of the grounds upon which an election may be challenged. By limiting the grounds for challenging an election to (a) corrupt practices or non-compliance with the Act, and (b) the failure of a respondent to secure a majority of lawful votes cast, the provision departs from the broader framework under section 134 of the Electoral Act, 2022.

Most notably, the Act omits the long-standing ground that an election may be questioned on the basis that the returned candidate was not qualified to contest the election. This omission is, on its face, both striking and problematic, particularly when viewed against the backdrop of constitutional provisions such as section 131 of the Constitution of the Federal Republic of Nigeria 1999 (as amended), which clearly set out the qualifications for the office of President.

However, the implication that a constitutionally unqualified person could be elected without any legal avenue for challenge may not be entirely accurate. The Electoral Act, being a statute, is subordinate to the Constitution. What is more likely is that the legislature intended, whether deliberately or inadvertently, to shift disputes relating to qualification away from post-election petitions and into the pre-election phase. This provision appears to be a legislative override of the judicial position that the qualification of a candidate is both a pre-election and post-election matter that can be challenged either in the Federal or State High Court or the Election Tribunal.[1]

Nevertheless, this legislative override is not without difficulty. It assumes that all qualification issues will be identified and conclusively resolved before the election,

[1] Fayemi v. Oni (2020) 8 NWLR (Pt. 1726) 222 (Pp. 249-250, paras. G-C)

which may not always be the case. It also raises concerns about access to justice, particularly where new facts emerge after the election.

In sum, while section 138(1) of the Electoral Act, 2026 appears to exclude qualification as a ground for post-election challenge, the constitutionality of such exclusion remains questionable, and is likely to invite judicial interpretation in the long run.

## Conclusion

The Electoral Act, 2026 marks a transformative moment in the evolution of Nigeria's electoral framework. While it introduces commendable reforms aimed at enhancing transparency, strengthening internal party democracy, and leveraging technology in the electoral process, it also raises critical legal and practical questions, particularly in relation to constitutional consistency, enforceability, and the potential for unintended consequences. Ultimately, the success of these innovations will depend not only on their legislative design but on effective implementation, institutional capacity, and judicial interpretation. As Nigeria approaches the 2027 general elections, the Act will undoubtedly serve as both a test and a tool for deepening Nigeria's democratic governance.

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