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Computation of Time in Election Litigation in Nigeria – Emerging Trend and Implication for Litigants' Rights

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Abstract
Most steps in the course of civil litigation, including election litigation, are required to be taken within particular time frame with failure to comply attracting serious consequences. Until recently, the rules regulating computation of time in Nigeria seemed to have been fairly settled. These rules apply across the board to all legal transactions including litigations, election or otherwise. Most basic of these rules is that the day of occurrence of an event is not to be included in computing number of days from such event. Of recent, however, there appears to be an attempt to formulate different rules for computation of time in election litigation. It is proposed in this work to examine the possible legal justification for this departure and the implication for the rights of parties in election litigation in Nigeria.
Keywords: computation of time, election litigation in Nigeria, emerging trend.

1. Introduction

Time is an important consideration in the scheme of things as far as litigation before the courts are concerned. Most steps in the course of litigation are required to be taken within particular periods with failure to comply attracting serious consequences. Election Petition cases, though *sui generis,* are not free from time constraints as far as taking of certain steps in the course of such proceedings are concerned.[1] Oftentimes, the courts are confronted with the need to decide whether a particular step required in the course of litigation has been taken within the required time frame stipulated by law or the rules. Before now, it appears that similar rules have been applied as to computation of time both in election and other proceedings. For some time now, it appears that the principles applicable are settled. However, in recent times, the emerging trend flowing from different Supreme Court decisions seem to suggest an attempt to formulate different rules of computation of time in election matters which is different from and inconsistent with the apparently settled position.

It is the object of this paper to review erstwhile principles regulating computation of time in judicial proceedings in Nigeria including election cases, examine the emerging trend in computation of time in election petition cases and attempt to explore the possible legal justification for the departure from the *status quo*. The paper will conclude by taking a position as to whether the departure can be justified in law and suggest possible way forward.

2. Computation of Time – The General Position.

Computation of time in Nigeria has always been regulated by statute with series of judicial pronouncements on the effect of such statutes. The highest general enactment on computation of time in this country is the Interpretation Act[2] which in its section 15(2) (a) provides that "*(a) reference in an enactment to a period of days shall be construed –*
(a) where the period is reckoned from a particular event, as excluding the day on which the event occurs;"

The Interpretation Act is obviously a general statute regulating the construction of other statutes in Nigeria except where a particular statute provides for other interpretations in which case such interpretation will govern the statute concerned. As regards computation of time in judicial proceedings, especially in civil litigation, the provisions of section 15 of the interpretation Act[3] have essentially been adopted by the various procedural rules

[1] This include the time within which to file the petition itself and other processes in the course of the proceedings.

[2] Cap I23, Laws of Federation of Nigeria, 2004.
[3] ibid

applicable in Nigerian courts. For instance Order 48 rule 1(a) of the Federal High Court (Civil Procedure) Rules 2009[1] provides that "*(w)here, by any law or order made by a Judge, a time is appointed or limited for the doing of any act, the period shall be reckoned: (a)as excluding the day on which the order is made or on which the event occurs;"*

The Courts have had occasions to pronounce on the above provisions. In *Akeredolu v Akinremi*[2] section 15(2)(a) of the Interpretation Act came before the Supreme Court for interpretation. In that case, the issue was whether the notice of appeal before the Supreme Court was filed within time. A notice of appeal to the Supreme Court against final decisions of the Court of Appeal in civil cases is required to be filed within 3 months of the judgment of the Court of Appeal by virtue of section 31(2) of the Supreme Court Act.[3] The judgment of the Court of Appeal in that case was delivered on the 10th April, 1985 whereas the notice of appeal was filed on the 10th July, 1985. It was the contention of Chief G.O.K. Ajayi who filed a notice of preliminary objection challenging the competence of the notice of appeal that the notice of appeal ought to have been filed latest by 9th of July, 1985. In responding that the 10th of July was the last day upon which the notice of appeal ought to have been filed, Chief F.R.A. Williams came up with three principles namely:

i. where a period of time is prescribed by statute and that period is to be computed by reference to an event which has happened, then the question whether the computation included or excluded, the day on which the event happened would depend on the true intention of the legislature;

ii. where the time prescribed is for the benefit of the person affected by the computation, then as much time should be given as the language of the statute admits. **Generally, the computation would always exclude the date on which the event happened;**

iii. when a construction of the time prescribed would work detrimentally against the person affected by the computation then the construction which avoids the detriment would be preferred.

For the above principles Chief Williams relied on section 15 of the Interpretation Act as well as the cases of *In re North Ex parte Hasluck,*[4] *Marren v. Dawson Bentley & Co. Ltd.*[5]and *Pritam Kaur v. Russel & Sons Ltd.*[6]

Ultimately, the decision of the Supreme Court had to turn on whether the day of the occurrence of the event, which in this case was the date of the judgment of the Court of Appeal, ought to be included in the computation of time. If the day of the judgment was to be included then the 3 months period for filing the appeal would have expired on the 9th of July 1985. However if the day of the judgment was excluded, then the computation would have started from the 11th of April, 1985 and the 3 months would then have expired on the 10th of July 1985. The full court of the Supreme Court unanimously agreed with Chief Williams and held that, in computing time, the date of the happening of the event must be excluded and that the notice of appeal filed on the 10th of July, 1985 was competently filed within time. In his lead judgment Aniagolu JSC held that:

> It would follow that in computing the period for the filing of the appeal in this matter the date – 10th April, 1985 - on which the Court of Appeal delivered its judgment must be excluded. The calculation thus begins on 11th April, 1985 and three months from hence must end at midnight of 10th July, 1985. The one day by which Mr Ajayi has said the appellants were out of time becomes the one day which by section 15(2) of the Interpretation Act 1964, must be excluded in the computation, on the footing that the appeal was filed on 10th July, 1985. The principle of this exclusion of the day of the happening of the event has become a principle of general acceptance. Maxwell on Interpretation of Statutes 12 Ed. page 309, citing Lester v. Garland (1808) 15 Ves. 248 and Re North Ex parte Hasluck (supra), has it thus: "Where a statutory period runs "from" a named date "to" another, or the statute prescribes some period of days or weeks or months or years within which some act has to be done, although the computation of the period must in every case depend

[1] See also Or 44 r 1 & 2 of High Court of Lagos State (Civil Procedure) Rules 2012; Or 20 r 1 High Court of Federal Capital Territory Abuja (Civil Procedure) Rules 2004 etc.
[2] (1985) 2NWLR (Pt. 10) p.787
[3] Cap S15 Laws of the Federation of Nigeria, 2004
[4] (1895) 2 QB p. 264
[5] (1961) 2 QBD p. 135
[6] (1973) QB p. 336

> on the intention of Parliament as gathered from the statute, generally the first day of the period will be excluded from the reckoning, and consequently the last day will be included."[1]

The rationale for the rule excluding the day of the occurrence of an event in computation of time was offered by Oputa JSC, in his characteristic philosophical approach, when he held in his concurring judgment that:

> Excluding the date on which the event happened that gave rise to the computation accords with good sound common-sense, otherwise one will be faced with the difficulty of calculating a fraction of a day as a day. It is my humble view that unless expressly so provided by Statute, to argue that a fraction of a day is equal to a whole day involves the ineradicable fallacy of making a part equal to a whole. Such an interpretation would be an assault on common-sense and would do violence to the plain meaning of words. To avoid regarding part of a day as a whole day, the day on which the event happened should be excluded from the computation. The judgment now appealed against could not have been delivered at 12 mid-night of 9th April 1985. If it were delivered any time after 9.a.m. (when the courts usually begin sitting) then the present applicants are being allowed less than the 3 months granted them by S. 31(2)(a) of the Supreme Court Act 1960.

3. Computation of Time in Election Petition

The above general principle of computation of time has always been applied to election petition cases. In *Iyirhiaro v. Usoh*[2] the court held that the day on which the election result is announced is not inclusive in calculating time. Time begins to run on the day following the day of the happening of the event. If the last day of the time limited falls on a holiday the day following the holiday becomes the last day.[3] In the case of *Yusuf v. Obasanjo*[4] in holding that the date of the occurrence of an event must be excluded in computation of time in election petition matters, Uwaifo JSC relied on section 15(2)(a) of the Interpretation Act and held that:

> S.132 (of the Electoral Act 2002) provides that: "an election petition may be presented within thirty (30) days from the date the result of the election is declared."It is not in dispute that the Presidential election result in question was declared on 22 April, 2003. The Petitioners in this case had 30 days within which to appeal against it. The 30 days will be calculated from 23 April to end on 22 May, 2003." (Underlining supplied for emphasis).

Also in *Ezeigwe v. Nwawulu*[5] another election petition case, Onnoghe JSC in re-stating the principle as to the computation of time in election petition cases held that:
"the law is now settled that in calculating or computing time stipulated by statute, generally the first day of the period will be excluded from the reckoning....." Again the Supreme Court relied on section 15 (2)(a) of the Interpretation Act.

This same line of reasoning was adopted by the Court of Appeal in *Kabir & Anor v. AC & Ors.*[6]

4. A Departure from the General Position

However there appears to be currently an attempt to depart from this seemingly settled position of the law in relation to computation of time in election petition cases. For instance in *Umaru & Anor v. Aliu & Ors*[7] the Court of Appeal per Abba Aji JCA held that:

> (T)he section simply states that an election petition presented under the electoral act shall be presented within 30 days from the date the result of the election is declared."From "in that provision connotes immediately without any delay. In other words it means, the event will be reckoned from the stated period. Perhaps, if you may say, that is what gives the section its uniqueness as election matters are sui generis. It simply means from the happening of the event and in the instant case, the declaration of the election results on the 15th April, 2011.[8]

[1] Akeredolu v. Akinremi supra at p. 794
[2] [1999] 4 NWLR (Pt. 597) p.41
[3] See further Afe Babalola, Election Law ans Practice (Ibadan, Afe Babalola, 2003) p.214 - 215
[4] [2003] 16 NWLR (Pt. 847) 554 at 629
[5] [2010] 4 NWLR (Pt.1183) 159 at 197
[6] (2011) LPELR – 8929 (CA)
[7] (2009) LPELR – 5052 (CA)
[8] See also Adesule v. Mayowa & Ors (2011) LPELR – 3691 (CA)

More recently, the Supreme Court in *PDP v. INEC*[1] per Okoro JSC while interpreting paragraph 6 of the Practice Directions (Election Appeals to the Supreme Court (No. 33 of 2011) which provides that the Respondent's brief shall be filed within 5 days of the service of the Appellant's brief held as follows:

> (t)he 26th Respondent was served on 22nd August, 2014. Its time started to run from that same date irrespective of the fact that it was served at 4.00pm, or thereabout. Accordingly its time for filing its brief expired on 26th August 2014. The subsequent filing of the brief on 27th August 2014 was done outside the time allowed by the practise directions.... On the whole, I hold that the brief of the 26th respondent filed on 27th August 2014, having been filed in flagrant disobedience to paragraph 6 of the practice direction is incompetent and is hereby struck out.

A similar decision was reached by the Supreme Court in *Okechukwu v. INEC*[2]

5. Can the Departure be Justified?

The striking feature of all the decisions in the Election Petition cases seeking to depart from the general position is that they all held that the Interpretation Act does not apply to construction of electoral statutes on the ground that election matters are *sui generis.* Another striking feature is that they all omit to refer to or cite the earlier Supreme Court cases of *Yusuf v. Obasanjo*[3] and *Ezeigwe v. Nwawulu.*[4] As regards the contention that Interpretation Act is not applicable to electoral statutes in Nigeria, Ariwoola JSC in *Okechukwu v. INEC*[5] held at page 204 of the report that:

> Ordinarily, but for the sui generis nature of election matters, according to the common construction of the English language: 'within any number of days after an act is to be understood exclusive of the day of the act'.... in Morton v. Hamson (1962) VR 364 at 365 the Court held that the modern rule in relation to period of time fixed by a statute "within" which an act is to be done after a specified event is that the day of the event is to be excluded, the next day is the first day of the stipulated period and the time expires on the last day of the period, counting from and of course including the first day. However, being aware of the sui generis nature of election related matters in which time is of the essence, and the stand of this court on the interpretation of the practice directions vis-a-vis Interpretation Act, I hold no hesitation in concluding that the provisions of the Interpretation Act on computation of time shall not apply to the requirement of time by the practice directions. Time shall run, in the peculiarity of our Electoral Act, Practice Directions and the 1999 Constitution of the Federal Republic of Nigeria "as amended" from the day of the act and the day shall not be excluded.

Similar position was adopted by the Court in PDP v. INEC.[6] It can be observed that no authority is cited in all these cases for the sweeping statement that Interpretation Act does not apply to election matters or construction of electoral statutes. It must also be pointed out that the Interpretation Act was cited and relied upon by the same Supreme Court in the earlier Supreme Court cases of *Yusuf v. Obasanjo*[7]and *Ezeigwe v. Nwamulu*[8]which were obviously election cases involving computation of time under electoral statutes.

It is humbly submitted that the Interpretation Act applies to all statutes except where its application to a particular statute is excluded either by the provision of the Interpretation Act itself or by the provision of the statute concerned. The provision of the Interpretation Act itself is instructive in this regard. It provides in its Section 1 that*"(T)his Act shall apply to the provisions of any enactment except in so far as the contrary intention appears in this Act or the enactment in question."*[9]

It must be emphasised that an Interpretation Act is the statute providing general guidance as to interpretation of all statutes within the country except where such interpretation is excluded. An Interpretation Act as been

[1] [2014] 17 NWLR (Pt. 1437) p. 525 at 554
[2] [2014] 17 NWLR (Pt. 1436) p. 255 at 284 & 311
[3] Supra
[4] Supra
[5] Supra
[6] Supra at 554 & 571
[7] Supra
[8] Supra
[9] See also C.O. Adubi, Drafting, Conveyances & Wills (Lagos, The Lighthouse Publishing Co. Ltd., 1995) p.35

described as *".... the dictionary for all other Acts of Parliament of a particular jurisdiction. It is, in essence, part of every other Act of Parliament but it applies only if there is no contrary intention".*[1]

The Interpretation Act has not in any way excluded electoral statutes from its interpretation and there is nothing on the face of the electoral statutes in Nigeria, including the Electoral Act 2010 and the Practice Directions that excludes the application of the Interpretation Act in their construction. This much was acknowledged by the Court of Appeal in *Kabir v. AC*[2]where the court held that:

> let me place on record, *ex abundanti cautela*, that the Interpretation Act is applicable to all legislations. Little wonder, section 1 of that Act provides: "this Act shall apply to the provisions of any enactment except in so far as the contrary intention appears in this Act or the enactment in question." That is noted in the case of Ahmed v. FGN [2009] 13 NWLR (Pt.1159) p. 53. Similarly it is applicable to all proceedings, criminal and civil alike. See Shekete v. N.A.F. [2007] 14 NWLR (Pt 1053) p.159. Interestingly, throughout the length and breadth of the 166 section Electoral Act 2006, it never barred the application of the Interpretation Act to it. Nor does the Act exclude the Electoral Act 2006 from its domain of application. (Underlining supplied for emphasis.)

It is clear from the above that an Interpretation Act is the statute with default provision for interpretation of all statutes. Except where its provision is excluded, it will be deemed to be applicable. Where it is not to be applicable, it must be so expressly provided and its exclusion cannot be implied. To that extent, it cannot be correct, as suggested by the Court of Appeal in *Adesule v. Mayowa & anor* [3] that:

> If the legislature intended a resort to the Interpretation Act in the construction of the provisions of the Electoral Act, the intention would have been expressly stated or implied from the Act itself. See S.99 (4) of Decree No. 36, 1998 which states "subject to the express provisions of the decree the Interpretation Act shall apply to the interpretation of the provisions of the decree." The absence of similar provision in the Electoral Act, 2006 means that the Act did not authorise a resort to the Interpretation Act in the construction of its provisions." (Underlining supplied for emphasis).

We therefore humbly submit that the correct position of the law is that the Interpretation Act applies to every statute unless its application to a particular statute is expressly or impliedly excluded. We further submit that there is no express or implied exclusion of the Interpretation Act in relation to electoral statute in Nigeria. Therefore, the attempt to justify the departure from the general rule as to computation of time on the basis that the Interpretation Act does not apply to election matters, with due respect, can hardly be supported by legal reasoning.

Another excuse sought to be used to justify the departure from the general rule as to computation of time and in holding that the date of the event must be included in computation of time in election matters is the use of the word "from" in the electoral statutes. The contention here is that the word "from" means that the period provided for must be calculated as including the date of the event. For instance, the Court of Appeal in *Umaru v. Aliu*[4] held that:

> 'from' in that provision connotes immediately without any delay. In other words, it means, the event will be reckoned from the stated period. Perhaps, if we may say, that is what gives the section its uniqueness as election matters are sui generis. It simply means from the happening of the event and in the instant case, the declaration of election results on the15th April, 2007. The intention of the legislature is clear and it is that the computation must include the date on which the event happened and that is the declaration of the result of the election and time will begin to run from that date and 30 days will include the date on which the declaration was made....[5]

Whilst the legal effect of the word "from" is not completely settled,[6] the preponderance of authorities is that the word "from" connotes that the date of the event must be excluded from the computation of time. In *Goldsmith's*

[1] See Crabbe, V.C.R.A.C, Legislative Drafting (London, Cavendish Publishing Ltd., 1998), Vol 1, p. 168
[2] Supra
[3] Supra
[4] Supra
[5] See also Adesule v. Mayowa supra
[6] Imhanobe, S.O, Understanding Legal Drafting and Conveyancing (Abuja, Secured Title Publishers, 2002) p. 44– 45. See also English v. Cliff [1914] 2Ch p.376 at 383.

Company v. The West Metropolitan Railway Company[1] it was held by Mathew LJ that *"the rule is now well established that when a particular time is given from a certain date within which an act is to be done, the day of the date is to be excluded."*

Norton on Deeds[2] states that: *"in computing a time from the date, or the day of the date, of a deed or any fixed day – the day is prima facie to be excluded, but the context or other admissible evidence may show that it is to be so included."* In *Stroud's Judicial Dictionary,*[3] it is stated that the word "from" is much akin to "after" and when used in reference to computation of time e.g. "from" a stated date prima facie excludes the day of that day. Also in *Staffordshire Tramway Co. v. Sickness and Accident Assurance Association,*[4] it was held that the word "from" when used in statutes prima facie excludes the date of the event. It was further stated in the case that the word from in the expression "for twelve calendar months from November 24, 1887" in a policy of insurance "was to exclude November 24, 1887 and to include November 24, 1888."

It is acknowledged that the word "from" may sometimes include the date of the occurrence of the event where the context requires.[5] It is to be noted that the cases where the courts have decided to construe the use of the word "from" in the electoral statute in Nigeria to include the day of the event have continued to glibly state that the context of the electoral statutes in Nigeria demand such interpretation. However, it cannot be disputed that the wordings of the electoral statutes under construction in those cases are exactly the same as electoral statutes interpreted by the Supreme Court in cases like *Ezeigwe v. Nwawulu* [6] and *Yusuf v. Obasanjo*[7] where, even with the use of the word "from", the courts still went ahead to hold that the day of the event must be excluded from the computation of time under these electoral statutes. It is therefore apparent that the use of "from" cannot be a satisfactory justification for the departure from the general rule regarding computation of time in Nigeria.

Another attempt at justification as can be seen from the cases quoted above[8] is that election matters are *sui generis* and that the context of electoral statutes justify such departure. However those courts seeking the departure have failed to point out any specific provisions of those enactments that provide for such justification. They have also failed to consider that such departure seriously derogates from rights vested in individuals by the statutes prescribing the relevant period within which required steps are to be taken.

It cannot be seriously disputed that including the day of the event will entail treating part of a day as a whole day. In that event, the litigant would have been deprived of having the benefit of the full period provided for him by the legislature. It must be remembered that when the legislature provides for a number of days within which an act should be taken, the legislature must be taken to mean the full number of days except where a contrary intention is expressed in a statute. For this purpose, each day must be taken to mean a period of 24 hours. This is in view of the settled position of the law that unless a contrary intention is expressed, a day means a "clear day" made up of a period of 24 hours beginning at 12 mid-night and does not take into account fractions of the day.[9]

Where the day of the event is included in computation of time, there is no way the full period provided by the legislature can be utilised by a litigant. For instance, in *PDP v. INEC,*[10] paragraph 6 of the Practice Direction (Election Appeals to the Supreme Court) No 33, 2011, provides that the *"Respondent shall file in the court his own brief of argument within 5 days of the service of the appellant's brief."* The appellant in that case served his brief of argument on the respondent around 4pm on 22nd August, 2014. The respondent filed its brief of argument on 27th August, 2014. The respondent's brief of argument was struck out by the Supreme Court on the ground that time started to run on the 22nd and that the 5 days expired on the 26th. It cannot be disputed that by holding that
the time expired on the 26th, the court gave the respondent in that case 4 days 8 hours, assuming that he had until 12 mid-night on 26th to file his reply. However, since it is unlikely for a party to file processes after the close of business which is normally 4pm, the respondent had less than 4 days 8hours.

[1] (1904) 1 KB p. 1 at 5. See also Cartwright v. MacCormmick (1963) 1 WLR p.18
[2] Norton, R.F, A Treatise on Deed (London, Sweet & Maxwell, 1928) p. 163
[3] Vol II p. 1182
[4] (1981) 1 QB p. 402
[5] Sidebottom v. Holland (1895) 1 QB p.378
[6] Supra
[7] Supra
[8] E.g. Okechukwu v. INEC supra; PDP v. INEC supra.
[9] See Wilkie v. IRC [1952] Ch p.153; Belfield v. Belfield [1945] VLR p. 231. Both cases cited in Imhanobe S.O. supra p.47.
[10] Supra

It is recognised and conceded that excluding the day of the event in computation of time is likely to give a litigant some hours over and above that provided by the legislature. For instance in *PDP v. INEC,*[1] if the court had excluded the day of service on the respondent i.e. 22nd and held that 5 days expired on 27th, the respondent would have had 5 days 8 hours. It is our humble submission, that such a situation will be more consistent with the general position of the law that statutes be given beneficial construction in favour of a litigant than a restrictive construction capable of depriving him of the opportunity of having his case heard on the merit.[2]

The fundamental question is whether the courts in the exercise of their judicial powers can interpret "5 days" to mean 4 days 8 hours under any guise or for any reason thereby reducing the period given to a litigant for the exercise of his right. The law seems to be settled that where the language of a statute is plain, the only jurisdiction the court has is to give the law its plain and ordinary meaning.[3] This is more so, where a contrary approach will deprive a litigant of some vested right. It cannot be disputed that filing of processes by a party in litigation is part of his right to fair hearing. A litigant who has 5 days within which to put his case before the court, but has the time reduced by the court to 4 days 8 hours can genuinely claim to have been deprived of his constitutional right to fair hearing. Such a litigant is likely to be shut out before the time provided by the legislature. Meanwhile, *"the general policy of the law and the interest of justice both demand that cases and appeals be heard on their merit rather than that a party be shut out on a technical rule of construction...."*[4]

Again the question is whether the *sui generis* nature of election cases or the context of electoral statutes can be sufficient justification for circumscribing a litigant's right to fair hearing by depriving him of the full benefit of the time allotted to him by statute in taking certain steps in the course of his litigation which a departure from the general rule relating to computation of time will necessarily entail. It is our humble submission that the answer must be in the negative.

In any event the Supreme Court did not refer to the cases of *Ezeigwe v. Nwawulu,*[5] *Yusuf v. Obasanjo*[6] and similar cases in the later cases seeking to depart from the well-known position of the law excluding the date of an event in computation of time. Whilst it is conceded that the Supreme Court has the inherent power to overrule its earlier decision, it is fundamental that where this is sought to be done, the earlier decisions sought to be overruled must be specifically referred to. Where a decision contrary to an earlier decision of the court is reached without reference to the earlier decision and without overruling same, then it can be said that the later decision is reached *per in curiam*. It cannot be seriously argued that a later decision which is inconsistent with an earlier decision of the Supreme Court has impliedly overruled that decision without reference to the earlier decision. It is our humble submission, that before a case of implied overrule can arise, it must be clear that the Supreme Court had the earlier case in contemplation before reaching a decision which is inconsistent with such earlier decision. The Supreme Court cannot be said to have an earlier case in contemplation without citing such decision. After citing such decision, the Supreme Court can expressly overrule it. However, if after citing such earlier decision the Supreme Court still goes ahead to reach a conclusion inconsistent with it, but without expressly overruling it, then such decision can be said to have been impliedly overruled.

Another argument against departure from the general position of the law excluding the day of the event in Nigeria, is that such an approach will create inconsistency and uncertainty in our law. There is no disputing the fact that some of the beauties of any system of law is certainty and consistency. This rule of exclusion of the day of event in computation of time applies to every areas of law in Nigeria. For instance, in calculating time under statute of limitation, it is settled that the date of accrual of the cause of action is excluded in the computation of time.[7] Also under the rules applicable in the various High Courts in Nigeria, in computation of time for doing anything under the rules, the date of the event is excluded.[8] Furthermore, in computation of time within which to appeal or to take any steps in the course of such appeal, the day of the event is excluded.[9] Likewise in recovery

[1] Supra
[2] See Akeredolu v. Akinremi supra at p. 804.
[3] See FRN v Osahon [2006] 5 NWLR (Pt. 973) p. 361
[4] Oputa JSC in Akeredolu v. Akinremi supra. p. 804.
[5] Supra
[6] Supra
[7] John Eboigbe v. The Nigerian National Petroleum Corporation (1994) NWLR (Pt. 347) p. 649; Speaker Oyun Legislative Council & Anor v. Ajimoti & Ors (2011)LPELR – 4974 (CA)
[8] See for instance Or 48 r. 1(a) Federal High Court (Civil Procedure) Rules 2009; Or 44 r. 1 (a) High Court of Lagos State (Civil Procedure) Rules 2012; Or 20 r. 1 (a) High Court of Federal Capital Territory (Civil Procedure) Rules 2004.
[9] Akeredolu v. Akinremi (supra); Auto Import Export v. Adebayo & Ors (2002) 18 NWLR (Pt. 799) p. 554

of premises, similar principle applies.[1] In Company law, the day of the event e.g. service of notice of meeting or demand notice preceding winding up petition is excluded.[2]

Above all, the Nigerian Constitution itself, which undoubtedly is the *grund norm* of all laws in Nigeria, is required to be interpreted in accordance with the Interpretation Act under which Act the day of the event is excluded. Section 318(4) of the Constitution provides that *"the Interpretation Act shall apply for the purpose of interpreting the provisions of this Constitution."*

It must be emphasised that even after the amendment of section 285 of the Constitution which relates to election tribunals and the time within which election petitions should be filed and determined[3], the provisions of section 318(4) quoted above remained un-altered.

The question is, with the constitutional recognition of the status of the Interpretation Act, can the Act be side-tracked by the courts in the absence of any explicit statutes? The answer in our humble view is clearly in the negative.

6. Conclusion

There is no gain saying the fact that the issue of computation of time pervades almost all aspect of Nigerian law. It is therefore an issue that deserves serious attention. Until recently, there seems to be a consistent position which is that in computation of time within which to take any step, the day of the event must be excluded, with the effect that time starts to run from the following day. This position is based on section 15(2)(a) of the Interpretation Act. By the tenure of the Act itself, its provision is meant to regulate construction of all Statutes in Nigeria unless its application is excluded either by any provision in the Act itself, or by the provision of any other specific statute. It is therefore understandable that until recently, courts in Nigeria take it for granted that computation of time commences on the day following the day of the event from which the time is to be computed. This approach has engendered consistency, predictability, certainty and simplicity in the law relating to computation of time in Nigeria. However there appears to be a wave of attempt at disrupting this seemingly settled and definitely salutary position of the law relating to computation of time in this country.

It is the thesis of this paper that the law of computation of time as contained in section 15 (2) of the Interpretation Act and judicially applied in the case of *Akeredolu v. Akinremi*[4]is too well entrenched in our law, as to be side tracked without reasoned and deliberate justification. It can be seen from the above that none of the justifications offered for the departure can seriously be regarded as sufficient as to displace the well settled position of the law. We can only hope that the courts, especially the Supreme Court will have a re-think and revisit this critical issue before more damage is done and individual rights to fair hearing is sacrificed on the altar of expeditious hearing of election cases.

[1] Owoade v. Texaco African Ltd. (1973) 1 All NLR p. 100; A.P. v. Owodunni [1991] 8 NWLR (Pt.210) p. 139
[2] Tate Industries v. Devcom M. B. Ltd [2004] 17 NWLR (Pt.901) p. 182
[3] See S.9 of the Constitution of the Federal Republic of Nigeria, (2nd Alteration) Act, 2010
[4] Supra