

Date Printed: 01/06/2009

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JTS Box Number: IFES\_15

Tab Number: 12

Document Title: ESTABLISHMENT AND FUNCTIONS, ETC. OF THE  
INDEPENDENT NATIONAL ELECTORAL COMMISSION

Document Date: 1998

Document Country: NGA

Document Language: ENG

IFES ID: EL00381



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INDEPENDENT NATIONAL ELECTORAL COMMISSION  
(ESTABLISHMENT, ETC.) DECREE 1998



Decree No. 17

[5th August 1998] Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby  
decrees as follows:-

PART I - ESTABLISHMENT AND FUNCTIONS, ETC. OF  
THE INDEPENDENT NATIONAL ELECTORAL  
COMMISSION

1.-(1) There is hereby established a body to be known as the Independent National Electoral Commission (in this Decree referred to as "the Commission").

Establishment  
of the Independent  
National Electoral  
Commission, etc.

(2) The Commission -

(a) shall be a body corporate with perpetual succession; and

(b) may sue and be sued in its corporate name.

2.-(1) The Commission shall consist of a Chairman who shall be the Chief National Electoral Commissioner and the Chief Executive of the Commission and twelve other members to be known as National Electoral Commissioners.

Membership  
of the  
Commission.

(2) The Chairman and members of the Commission shall not be less than 50 and 40 years of age respectively.

(3) The Chairman and members of the Commission shall be -

(a) persons of unquestionable integrity; and

(b) appointed by the Head of State, Commander-in-Chief of the Armed Forces.

Tenure of office.

3.-(1) The Chairman and members of the Commission shall each hold office for a period of five years and on such terms and conditions as may be specified in their letters of appointment.

(2) A member may at any time be removed from office by the Head of State, Commander-in-Chief of the Armed Forces for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for any act of misconduct but shall not be removed from office except in accordance with the provisions of this subsection.

(3) A member may resign his membership by notice in writing addressed to the Head of State, Commander-in-Chief of the Armed Forces and that member shall, on the date of the receipt of the notice by the Head of State, Commander-in-Chief of the Armed Forces, cease to be a member.

(4) There shall be paid to every member of the Commission such salaries and allowances as the Federal Government may, from time to time, direct.

(5) A member shall not while holding office hold any other office of emolument whether in the Federal or State public service.

Functions  
of the  
Commission.  
Cap. 62 LPN.  
1993 No. 107.

4.-(1) The functions of the Commission shall be to -

(a) organise, conduct and supervise all the elections and matters pertaining to elections into all the elective offices provided in the Constitution of the Federal Republic of Nigeria 1979, as amended or any other enactment or law;

(b) register political parties in accordance with the provisions of the relevant enactment or law ;

(c) monitor the organisation and operation of the political parties including their finances;

(d) arrange for the annual examination and auditing of the funds and accounts of the political parties and publish a report on such examination and audit for public information;

(e) conduct the registration of persons qualified to vote and the preparation, maintenance and revision of the register of voters for the purpose of any election;

(f) monitor political campaigns and provide rules and regulations which shall govern the political parties;

(g) ensure that all Electoral Commissioners, Electoral and Returning Officers take and subscribe the Oath of Office prescribed by law; and

(h) delegate any of its powers to any State Resident Electoral Commissioner;

(i) carry out such other functions as may be conferred upon it by a Decree or any other enactment or law.

(2) Notwithstanding the functions of the Commission specified under subsection (1) of this section, the Commission shall have power to divide the area of the Federation or as the case may be, the area of a State, Local Government or Area Council into such number of constituencies as may be prescribed by law for the purpose of elections to be conducted by the Commission.

5.-(1) There shall be established in each State of the Federation, an office of the Commission which shall perform such functions as may be assigned to it, from time to time, by the Commission.

Establishment  
of office in  
each State.

(2) There shall be in each State of the Federation and the Federal Capital Territory, Abuja, a Resident Electoral Commissioner who shall -

(a) be persons of unquestionable integrity;

(b) not be less than 40 years of age; and

(c) be appointed by the Head of State, Commander-in-Chief of the Armed Forces.

(3) The Resident Electoral Commissioner appointed pursuant to subsection (2) of this section, may be removed by the Head of State, Commander-in-Chief of the Armed Forces.

Commission not to be subject to the control of any other person or authority.

Members of the Commission disqualified from holding elective office.

Proceedings, etc., of the Commission.

6. In the discharge of its functions under this Decree, the Commission shall not be subject to the direction or control of any other person or authority.

7. Notwithstanding anything to the contrary in any law, a person who holds or has held office as a member of the Commission under this Decree shall not, after a period of 5 years immediately thereafter, be qualified for any elective office provided in the Constitution of the Federal Republic of Nigeria 1979, as amended or any enactment or law.

8.-(1) The Commission shall meet for the conduct of its business at such times, places and on such days as the Chairman may appoint.

(2) The Chairman shall preside at all meetings of the Commission but if he is absent from any meeting of the Commission the members present shall elect one of their number to preside at that meeting.

(3) During the Chairman's absence on leave or if the Chairman is otherwise not available or is unable to perform his functions, the Head of State, Commander-in-Chief of the Armed Forces may appoint any member of the Commission to act as Chairman for any specified period.

(4) The quorum for meetings of the Commission shall be eight.

(5) Questions put before the Commission at a meeting shall be decided by consensus and, where this is not possible, by a majority of the votes of the members present and voting.

(6) The Chairman shall in the case of an equality of votes have a casting vote in addition to his deliberative vote.

(7) Subject to this section, the Commission shall have power to regulate its proceedings and may make standing orders with respect to the holding of meetings, the notice to be given, the procedure thereat, the keeping of minutes of such proceedings and the custody and production for inspection of such minutes.

(8) The validity of any proceedings of the Commission shall not be affected by any vacancy in its membership or any defect in the appointment of a member or by reason that a person not entitled to do so took part in the proceedings.

(9) Where the Commission desires to obtain the advice or service of any person on a particular matter, the Commission may co-opt him to the Commission for such period as it thinks fit; but a person who is in attendance by virtue of this subsection shall not be entitled to vote at any meeting of the Commission and shall not count towards a quorum.

9.-(1) The Commission may appoint one or more committees to carry out on behalf of the Commission any of the Commission's functions under this Decree.

Committees  
of the  
Commission.

(2) A committee, appointed by the Commission under this section, shall consist of such number of persons as may be determined by the Commission.

## PART II - STAFF OF THE COMMISSION

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

Secretary to the  
Commission and  
other staff.

(a) be an officer in the public service of the Federation not below the rank of a Permanent Secretary and the accounting officer of the Commission;

(b) have such qualifications and experience as are appropriate for a person required to perform the functions of his office under this Decree; and

(c) be appointed by the Head of State, Commander-in-Chief of the Armed Forces.

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

(a) responsible for keeping 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 Decree or any other enactment or law.

(4) The Commission shall have power to appoint either directly, on secondment or on temporary basis from any public service in the Federation, such number of employees as may, in the opinion of the Commission, be required to assist the Commission in the discharge of any of its functions under this Decree and shall have power to pay persons so employed such remuneration (including allowances) as the Commission may, after consultation with the Federal Civil Service Commission, determine.

(5) Nothing in subsection (4) of this section, shall preclude the Commission from appointing persons from outside the public service of the Federation or of the State whenever it deems it necessary so to do.

(6) All employees of the Commission appointed pursuant to subsections (4) and (5) of this section, excluding such as are appointed on a temporary basis for an honorarium, shall have the same rights and obligations as the members of the public service defined by section 24 of the Pensions Act.

Cap. 346 LFN.

### PART III - MISCELLANEOUS

Interpretation.

11. In this Decree, unless the context otherwise requires -

"Chairman" means the Chairman of the Commission;

"Commission" means the Independent National Electoral Commission established by section 1 of this Decree;

"Constitution" means the Constitution of the Federal Republic of Nigeria 1979, as amended;

"functions" includes powers and duties;

"member" means a member of the Commission and includes the Chairman;

"Secretary" means the Secretary of the Commission appointed pursuant to section 10 of the Decree.

12. This Decree may be cited as the Independent National Electoral Commission (Establishment, Etc.) Decree 1998.

Citation.

MADE at Abuja this 11th day of August 1998.

**GENERAL ABDULSALAM ALHAJI ABUBAKAR,**  
*Head of State, Commander-in-Chief  
of the Armed Forces,  
Federal Republic of Nigeria.*

#### EXPLANATORY NOTE

*(This note does not form part of the above Decree but is intended to explain its purport)*

The Decree provides for the establishment of the Independent National Electoral Commission to, among other things, organise, conduct and supervise all elections and matters pertaining, to elections into all the elective offices provided for in the Constitution of the Federal Republic of Nigeria 1979, as amended or any other enactment or law.