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Supplement to Official Gazette Extraordinary No. 54 Vol. 74, 30th September,
1987—Part A

NATIONAL ELECTORAL COMMISSION DECREE 1987



Decree No. 23

[30th September 1987]

Commencement.

THE FEDERAL MILITARY GOVERNMENT hereby decrees as follows :—

1.—(1) There shall be established for Nigeria a body to be known as the National Electoral Commission (hereinafter in this Decree referred to as “the Commission”).

Establishment and composition of National Electoral Commission.

(2) The Commission shall consist of a Chief National Electoral Commissioner who shall be the Chairman and eight other members including a woman, to be known as National Electoral Commissioners.

2.—(1) The Chairman and other members of the Commission shall be appointed by the National Council of State on the nomination of the President, Commander-in-Chief of the Armed Forces and shall be persons of proven integrity who shall not have been actively involved in partisan politics.

Appointment and tenure of office of members of the Commission.

(2) The Chairman who shall be the chief executive and the accounting officer of the Commission shall not be less than fifty years of age and the other members shall not be less than forty years of age but no person above the age of seventy years shall be eligible to serve on the Commission.

(3) A member of the Commission shall hold office for five years in the first instance and shall be eligible for re-appointment for another period of five years and no more.

(4) A member may at any time be removed from office by the National Council of State for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misbehaviour but shall not be removed from office except in accordance with the provisions of this subsection.

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

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

(7) There shall also be paid to every member upon the completion of his period of service, a gratuity calculated in such manner as the Federal Military Government may direct.

(8) The amounts payable under this section shall be charged upon and paid out of the Consolidated Revenue Fund of the Federation.

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

**Functions of
the Commission.**

3.—(1) The functions of the Commission shall be—

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

(b) to provide clear guidelines, rules and regulations for the emergence, recognition and registration of two political parties ;

(c) to register two political parties and determine their eligibility to sponsor candidates for any of the elections referred to in paragraph (a) of this subsection ;

(d) to monitor the organisation and conduct of the political parties ;

(e) to monitor the financing of the political parties ;

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

(g) to recommend to the Federal Military Government the amount of public funds required for the organization and conduct of the affairs of the two political parties ;

(h) to arrange for the annual examination and auditing of the funds and accounts of the political parties ;

(i) to provide rules which shall govern the qualifications to vote and be voted for at elections ;

(j) to carry out such other functions as may be conferred on it by law.

(2) The functions of the Commission under paragraph (a) of subsection (1) of this section shall include—

(a) the division of the area of the Federation or as the case may be, the area of a State, into such number of constituencies as may be prescribed by law for the purpose of elections to be conducted by the Commission ; and

(b) the registration of voters, the preparation and maintenance of register of voters for the purpose of any such election.

**Establishment of State
Electoral
Commission.**

4.—(1) There shall be established in each State of the Federation a State Electoral Commission which shall perform the following functions, that is—

(a) to organise, undertake and supervise all elections to local government councils within the State ;

(b) to tender such advice as it may consider necessary to the National Electoral Commission on the compilation of the register of voters in so far as that register is applicable to local government elections in that State ;

(c) to perform such other duties as the National Electoral Commission may, from time to time delegate to it.

(2) The Chairman and members of the State Electoral Commission shall be appointed by the National Council of State on the recommendation of the Commission.

(3) The Chairman and any member of the State Electoral Commission may be removed by the National Council of State on the recommendation of the Commission.

5.—(1) The Armed Forces Ruling Council may give to the Commission such directives as appear to it to be just and proper for the effective discharge of the functions of the Commission under this Decree.

Directives by
the Armed
Forces Rul-
ing Council.

(2) It shall be the duty of the Commission to comply with any directions given pursuant to subsection (1) of this section.

6. 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 be qualified for any elective office or for election as a member of any legislative body.

Members of
the Commis-
sion dis-
qualified
from holding
elective office.

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

Proceedings,
etc., of the
Commission.

(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 President, 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 five.

(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 by any defect in the appointment of a member.

8.—(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 but shall not include persons who are not members of the Commission

The Secretary and other employees of the Commission.

9.—(1) There shall be a Secretary to the Commission who shall have such qualifications and experience as are appropriate for a person required to perform the functions of his office under this Decree and shall be appointed by the National Council of State.

(2) Subject to the general direction of the Commission, the Secretary—

(a) shall be responsible for keeping proper records of the proceedings of the Commission ; and

(b) shall be the head of the Commission's secretariat and be responsible for the administration thereof and 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 either directly or on secondment 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 to persons so employed such remuneration (including allowances) as the Commission may, after consultation with the Head of the Civil Service of the Federation, determine.

Interpretation.

10. In this Decree, unless the context otherwise requires—

"Chairman" means the Chairman of the National Electoral Commission ;

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

"Constitution" means the Constitution of the Federal Republic of Nigeria 1979 ;

"functions" includes powers and duties ;

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

"Secretary" means the Secretary to the Commission appointed pursuant to section 9 of this Decree.

Citation and repeal.

11.—(1) This Decree may be cited as the National Electoral Commission Decree 1987.

1977 No. 41.

(2) The Federal Electoral Commission Act 1977 is hereby repealed.

MADE at Lagos this 30th day of September 1987.

MAJOR-GENERAL I. B. BABANGIDA,
President, 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, composition and functions of a National Electoral Commission. It repeals the Federal Electoral Commission Act 1977.

**STATES (CREATION AND TRANSITIONAL PROVISIONS)
DECREE 1987**



Decree No. 24

[See Section 10 (2)]

Commence-
ment.

WHEREAS it is politically expedient in the interest of peace and harmony among the people of Nigeria that provision should be made for the creation of two additional States to the number of States mentioned in section 3 of the Constitution of the Federal Republic of Nigeria 1979 :

THE FEDERAL MILITARY GOVERNMENT therefore hereby decrees as follows :—

1.—(1) There shall, as from the commencement of this Decree, be created out of Kaduna State, a new State to be known as Katsina State.

Creation of
Katsina
State.

(2) The State created by subsection (1) of this section shall comprise the areas specified in Schedule 1 to this Decree.

2.—(1) There shall, as from the commencement of this Decree, be created out of Cross River State, a new State to be known as Akwa-Ibom State.

Creation of
Akwa-Ibom
State.

(2) The State created by subsection (1) of this section shall comprise the areas specified in Schedule 2 to this Decree.

3. Accordingly—

Amendment
of the
Constitution.

(a) section 3 of the Constitution of the Federal Republic of Nigeria 1979 is hereby amended—

(i) by substituting for the figure “19” appearing in subsection (1) thereof, the figure “21” ;

(ii) by inserting in the same subsection the names—Akwa-Ibom and Katsina in alphabetic sequence respectively.

(b) in the First Schedule to the Constitution of the Federal Republic of Nigeria, the names of the Local Government Council Areas specified in Schedules 1 and 2 to this Decree shall be deleted from Cross-River and Kaduna States respectively and shall be inserted in separate columns in alphabetic sequence in the First Schedule to the said Constitution under the States created by this Decree.

4. There shall be for each State created by this Decree a Military Governor and, subject to the subsection (2) of this section, the Military Governors shall be appointed by the Armed Forces Ruling Council.

Appoint-
ment of
Military
Governor for
each State.

Existing laws.

5. All existing laws in the State out of which a State under this Decree is created shall continue to have effect in the States hereby created subject to such modifications, as may be necessary to bring it into line with this Decree.

Continuance of certain powers, etc.

6.—(1) Subject to section 3 of this Decree and without prejudice to the provisions of this Decree relating to existing law, every Local Government Council, court and other public body which immediately before the commencement of this Decree exercised functions within a State as herein constituted shall continue to exercise those functions in the State.

(2) Any person who immediately before the commencement of this Decree held office as a member of the civil service of a State affected by this Decree and exercised functions of his office at or from a place in the area of a State created by this Decree shall, on and after the commencement of this Decree, unless at any time he is removed from or resigns his office in the manner provided by law, continue to hold and exercise the functions of his office in the State under this Decree.

(3) A body corporate or person who continues to exercise any office or function by virtue of this Decree shall exercise that office or function in accordance with the directions of the Military Governor.

Proceedings of courts.

7. The proceedings pending before any court of a State immediately before the commencement of this Decree may, after such commencement, be continued before that court and shall not be affected by the provisions of this Decree.

Transfer of public property.

8.—(1) Subject to subsection (2) of this section, any immovable property and any chattel which, immediately before the commencement of this Decree was situated in the area comprised in a State under this Decree and was held by a body corporate directly established by a Law of the Legislature or Edict of the Military Governor of the State or an instrument having effect as such a Law or Edict shall, by virtue of this section and without further assurance than this section vest in the Military Governor of the State concerned and be held by him for the purposes of the government of the State and no compensation shall be payable in respect of any transfer effected by this section.

(2) Nothing in this section shall apply to any such property held on behalf of the Federation for the purposes of the Government of the Federation or to immovable property and chattels in the ownership of statutory corporations or, as the case may be of public companies, owned or controlled by the Government of the Federation.

Financial provisions, etc.

9.—(1) There shall on the commencement of this Decree be an administration fund for each State created by this Decree from which shall be defrayed all expenses incurred by the Military Governor of the State in the performance of his functions.

(2) There shall be paid or credited to the fund—

(a) such sums of money provided by the Armed Forces Ruling Council as that Council may from time to time determine; and

(b) all other moneys held by the Military Governor for the purposes of the Government of the relevant State.

(3) Every such fund shall be managed in accordance with regulations made by the Military Governor of the State concerned; and without prejudice to the generality of the power conferred, the regulations shall in particular include provision—

(a) specifying the manner in which the assets of the fund are to be held, and regulating the making of payments to and from the fund;

(b) requiring the keeping of proper accounts and records for the purposes of the fund in such form as may be specified in pursuance of the regulations;

(c) for ensuring that the accounts are audited periodically by the Auditor-General of the Federation; and

(d) requiring copies of the accounts and of the auditor's report on them to be furnished to the Military Governor of the State concerned as soon as may be at the end of the period to which the accounts relate.

(4) Regulations may also provide—

(a) for the form in which a record of assets (other than assets of the fund) is to be kept;

(b) for the inspection by the Auditor-General of the Federation or otherwise, of any such record and of assets required to be mentioned in the record;

(c) for the furnishing to the Military Governor of the State concerned of information with respect to the record and any such assets as are mentioned in paragraph (b) of this subsection, or reports on inspections made in pursuance of that paragraph.

10.—(1) This Decree may be cited as the States (Creation and Transitional Provisions) Decree 1987.

Citation and
commence-
ment.

(2) The Decree shall be deemed to have come into force on 23rd September 1987.

SCHEDULES

SCHEDULE 1

Section 1 (1)

<i>Name of State</i>	<i>Local Government Council Areas</i>	<i>Capital</i>
Katsina	Daura, Mani, Dutsin-Ma, Katsina, Kankiya, Malunfashi and Funtua.	Katsina

SCHEDULE 2

Section 2 (2)

<i>Name of State</i>	<i>Local Government Council Areas</i>	<i>Capital</i>
Akwa-Ibom	Ikot-Ekpene, Abak, Eket, Ukanafun, Ikot-Abasi, Uyo, Etinan, Ikono, Itu and Oron.	Uyo

MADE at Lagos this 30th day of September 1987.

MAJOR-GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

Supplement to Official Gazette Extraordinary No. 54, Vol. 74, 30th September, 1987—Part B

S. I. 19 of 1987

TRANSITION TO CIVIL RULE (POLITICAL PROGRAMME) DECREE 1987

Transition to Civil Rule (Guidelines for Local Government Elections) Order 1987

Commencement : 30th September 1987

In exercise of the powers conferred upon me by section 7 of the Transition to Civil Rule (Political Programme) Decree 1987 and of all other powers enabling me in that behalf, I, Major-General Ibrahim Badamasi Babangida, President, Commander-in-Chief of the Armed Forces, Federal Republic of Nigeria, hereby make the following Order :—

1. The guidelines specified in the Schedule to this Order shall be used by the National Electoral Commission in the conduct of the Local Government Elections to be held throughout Nigeria on 12th December 1987.

Guidelines
for Local
Government
Elections.

2. This Order may be cited as the Transition to Civil Rule (Guidelines for Local Government Elections) Order 1987.

Citation.

SCHEDULE

Section 1

GUIDELINES FOR LOCAL GOVERNMENT ELECTIONS

1.—(1) The registration of voters for elections to Local Government Councils shall be carried out at registration centres as may be designated by the State Electoral Commissioner.

Registration
of voters.

(2) The registration centres shall be clearly identified in the interest of the electors.

2. Every registered voter shall be given a registration card containing the following information, that is—

Registration
card.

- (a) the name of the State ;
- (b) the name of the Local Government Council ;
- (c) the registration area and centre ;
- (d) the registration unit ; and
- (e) the voter's number.

3. A register of voters shall be prepared for each Local Government Council indicating sub-registers for wards and polling stations.

Register
for wards
and polling
stations.

4.—(1) Preliminary register of voters shall be displayed in each registration centre and such other places within a ward or wards as the State Electoral Commissioner may think fit.

preliminary
register.

(2) The preliminary register shall be displayed to afford opportunity for its inspection by members of the public to point out any errors in the preliminary register.

5.—(1) The preliminary register shall be corrected or amended, as the case may be, in order to remove any mistake in the register.

Correction of
register.

Public buildings to be used as registration centres and polling stations.

Qualifications of a voter.

(2) The preliminary register may be corrected by the Commission where it is in the interest of the public to do so.

6. Public buildings (including schools) as may be designated by the State Electoral Commissioner shall be used as registration centres and polling stations.

7. A person shall only be eligible to vote at any local government elections if—

(a) he has attained the minimum age of eighteen years ;

(b) he has been and is resident in the local government area for not less than twelve months prior to the date of elections ;

Provided that any indigene resident normally outside his Local Government Council area shall be required to vote in the Local Government Council Area of his residence ; he shall not be eligible to vote in his indigenous Local Government Council Area ;

(c) he is registered as a voter in the Local Government Council area and has obtained a registration card to be presented at the polling station on the day of elections.

Qualification of a candidate.

8.—(1) A person shall not be qualified as a candidate to contest any local government election unless—

(a) he has attained the age of 25 years prior to the day of the elections ;

(b) being a public officer (including the current Chairman, secretaries, councillors of Local Government Council) he has resigned his appointment not later than 12th October 1987 ;

(c) he is resident in the Local Government Council area in which he is contesting an election for at least twelve months prior to the elections ;

(d) he is not a person banned or prohibited from participation in politics in accordance with the Participation in Politics and Elections (Prohibition) Decree 1987 ;

(e) he produces evidence of tax payments for a period of three years immediately preceding the year of elections ;

(f) he has been nominated by ten registered voters in the area ;

(g) in the case of a candidate contesting as a councillor, he has made a deposit of ₦50.00 ;

(h) in the case of candidate contesting as a Chairman or Vice-Chairman of the Local Government Council, he has made a deposit of ₦200.

(2) Where a person seeking to contest as a candidate is involved in a case that may lead to his being banned from participation in politics and the case is pending before a court or tribunal, he may stand as a candidate in the election pending the determination of the case but as soon as he is found guilty by the court or tribunal, as the case may be, he shall withdraw from the election and if already elected, he shall cease to be a member or chairman as the case may be.

Campaigns for elections.

9.—(1) Candidates shall contact persons personally in places in the Local Government Area as may be designated by the Commission.

(2) Campaigns and addresses to be made by any candidate to members of the public shall be designed to outline what the candidate plans to do for the local government concerned.

(3) It shall be an offence punishable under this Order for any candidate to base his campaign or address on sectional, ethnic or religious differences.

(4) Any candidate who contravenes the provisions of subsection (3) of this section commits an offence under this Order and shall not only be prosecuted in the appropriate court but shall be disqualified as a candidate for the election.

(5) Any candidate who offers bribes to the electors directly or indirectly either by paying money to them or providing unsolicited services or treating them to parties commits an offence under this Order and shall be punished as provided under subsection (6) of this section.

(6) Any candidate who contravenes the provisions of subsections (3) and (5) of this section shall be tried in a magistrate court and if found guilty shall be liable to a term of imprisonment not exceeding three years or to ₦5,000 fine.

(7) In addition to the penalty under subsection (6) of this section, any candidate who commits an offence under this Order shall be disqualified from the elections.

10.—(1) Voting shall be carried out in one and the same day throughout the Federation.

**Voting and
counting.**

(2) Voting shall be by secret ballot.

(3) A candidate shall provide photographs of himself for use at the polling stations in order to identify him.

(4) The photographs required pursuant to subsection (3) of this section shall be 45cm X 30cm in size.

(5) The votes shall be counted in the presence of the candidates or their representatives and the results shall be announced at the polling stations.

(6) The results of the election shall be entered in a statement of result form to be issued at the polling stations by the presiding officers.

(7) The results from all polling stations shall be announced by the accredited electoral officers at the collating centres.

MADE at Lagos this 10th day of September 1987.

MAJOR-GENERAL I. B. BABANGIDA,
*President, Commander-in-Chief
of the Armed Forces,
Federal Republic of Nigeria*

