

CHAPTER 255

NATIONAL ELECTORAL COMMISSION ACT

ARRANGEMENT OF SECTIONS

- SECTION
1. Establishment and composition of National Electoral Commission.
 2. Appointment and tenure of office of members of the Commission.
 3. Functions of the Commission.
 4. Establishment of office of the National Electoral Commission in each State.
 5. Directives by the Armed Forces Ruling Council.
 6. Members of the Commission disqualified from holding Elective office.
 7. Proceedings, etc. of the Commission.
 8. Committees of the Commission.
 9. The Secretary and other employees of the Commission.
 10. Interpretation.
 11. Short title.

CHAPTER 255

NATIONAL ELECTORAL COMMISSION ACT

An Act to provide for the establishment, composition and functions of the National Electoral Commission. 1987 No. 23.

[30th September, 1987] Commence-
ment.

- I. (1) There shall be established for Nigeria a body to be known as the National Electoral Commission (hereinafter in this Act referred to as "the Commission").
- (2) The Commission shall consist of a Chief National Electoral Commission who shall be the Chairman and eight other members including a woman, to be known as National Electoral Commissioners.
- Establish-
ment and
composition
of National
Electoral
Commission.

Appointment
and tenure
of office of
members of
the
Commission.

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.
- (2) The Chairman who shall be the chief executive and the accounting officer of the Commission shall not be less than forty-five 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 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 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.

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 Act or in the Constitution of the Federal Republic of Nigeria or any other law; Functions of the Commission.
- (b) to register the two political parties established by the Armed Forces Ruling Council, namely— Cap. 62
1989 No. 37.
 - (i) the National Republican Convention; and
 - (ii) the Social Democratic Party;
- (c) to determine the eligibility of the two political parties to sponsor candidates for any of the elections prescribed by paragraph (a) of this section;
- (d) to monitor the organisation and conduct of the two political parties as named in paragraph (b) of this subsection;
- (e) to determine the number of registration centres for each ward of the Federation;
- (f) to provide guidelines to the two political parties stipulating the rules and procedure for electioneering campaigns;
- (g) to specify the mechanism for fund raising and other sources of financing for the two political parties;
- (h) to arrange for the annual examination and auditing of the funds and accounts of the two 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 or local Government, into such number of constituencies as may be prescribed by law for the purpose of elections to be conducted by the Commission; and 1989 No. 8.
- (b) the registration of voters, the preparation and maintenance of register of voters for the purpose of any such election.

Establishment of office of the National Electoral Commission in each State.

1989 No. 8.

Directives by the Armed Forces Ruling Council.

Cap. 62

Members of the Commission disqualified from holding elective office.

Proceedings, etc., of the Commission.

4. (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.

(2) There shall be in each State of the Federation, a Resident Electoral Commissioner and such other persons who shall be appointed by the President, Commander-in-Chief of the Armed Forces to discharge such functions as may be required by the Commission under this Act.

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

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 Act.

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

(3) Any decision reached by the President, Commander-in-Chief of the Armed Forces or the Armed Forces Ruling Council in accordance with this Act, shall be final and binding and notwithstanding the provisions of the Constitution of the Federal Republic of Nigeria, no suit or legal action in any court of law or tribunal shall lie against any person for any act done or intended to be done in pursuance of any decision of the President, Commander-in-Chief of the Armed Forces or the Armed Forces Ruling Council.

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 Act shall not be qualified for any elective office or for election as a member of any legislative body.

7. (1) The Commission shall meet for the conduct of 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 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 Act. 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 Act 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 Act; and shall have power to pay to persons so employed such remuneration (including allowances) as the Commission may, after consultation with the Federal Civil Service Commission, determine.

(4) Nothing in subsection (3) 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.

(5) All employees of the Commission appointed pursuant to subsections (3) and (4) 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.

(6) The Commission shall be an organisation declared as a public service as specified in the Second Schedule to the Pensions Act.

Cap. 346

Interpreta-
tion.

10. In this Act, 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 Act; 1989 No. 37.

“Constitution” means the Constitution of the Federal Republic of Nigeria; Cap. 62

“functions” includes powers and duties;

“member” means a member of the Commission and includes the Chairman;

“political association” means any body of persons (corporate or unincorporate) who agree to act together for any common political purpose and shall have applied to the Commission for the purpose of registration under this Act excluding any association formed for any ethnic, social, cultural, occupational or religious purpose; 1989 No. 8.

“political party” means— 1989 No. 37.

(a) the National Republican Convention; or

(b) the Social Democratic Party.

“Secretary” means the Secretary of the Commission appointed pursuant to section 9 of this Act.

11. This Act may be cited as the National Electoral Commission Act. Short title.

10638

CAP. 255]

*National Electoral
Commission Act*

NATIONAL ELECTORAL COMMISSION ACT

CHAPTER 255

SUBSIDIARY LEGISLATION

No Subsidiary Legislation