



CREATION OF STATES AND BOUNDARY ADJUSTMENTS (PROCEDURE) ACT

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SCHEDULE

Direction to hold a referendum to ascertain the wishes of persons in the area where the request for creation of a new State originated

CREATION OF STATES AND BOUNDARY ADJUSTMENTS (PROCEDURE) ACT

An Act to regulate the procedure for the creation of new States and boundary adjustment and for matters connected therewith.

[1982 No.9.]

[15th November, 1982] [Commencement.]

PART I

Request and proposal

1. Requests

(1) A request for the creation of a new State or boundary adjustment within the Federal

Republic of Nigeria shall be in writing and shall be submitted to either the President of the Senate or the Speaker of the House of Representatives or the Clerk of the National Assembly.

- (2) A request shall be deemed to be supported by at least two-thirds majority of members representing the area demanding the creation of a new State in-
 - (a) the Senate and House of Representatives;
 - (b) the House of Assembly in respect of the area; and
 - (c) the local government councils in respect of the area, only if those members append their signatures or right-hand thumb impressions to the request.
- (3) The request shall contain the following particulars-
 - (a) the name of the proposed State;
 - (b) a full and clear description of the area covered by the request; and
 - (c) the names of all elected members for the time being of the local government councils, House of Assembly, House of Representatives and the Senate representing the area covered by the request and supporting the impressions appended thereto directly opposite their names.
- (4) Notwithstanding the foregoing provisions, a request for the creation of a new State received prior to the commencement of this Act and accepted by the National Assembly as having satisfied the requirements of the Constitution shall be deemed to have been made in accordance with the provisions of this Act.

2. Directions to Independent National Electoral Commission

- (1) The National Assembly shall, where it is satisfied that a request so received has complied with section 8 (1)
 - (a) of the Constitution of the Federal Republic of Nigeria 1999, direct the Independent National Electoral Commission by resolution to conduct a referendum of the area (where the demand for the creation of the new State originated) with respect to the said proposal.

[Cap. C23.]

- (2) The proposal shall, within thirty days after it has been accepted by resolution of both Houses of the National Assembly, be published in the Gazette.
- (3) The Clerk to the National Assembly shall communicate the directives of the National Assembly within thirty days to the Independent National Electoral Commission as prescribed in Form 1 and the manner prescribed in the Schedule to this Act.

[Form 1. Schedule.]

PART II

Referendum

3. Supervision of referendum

- (1) When the Independent National Electoral Commission receives the direction aforesaid it shall within three months there from, organise and supervise a referendum in the area demanding the creation of a new State.
- (2) The Independent National Electoral Commission shall make regulations with respect to the general conduct and regulation of a referendum under the provisions of this Act.

4. Date and time of referendum

- (1) Subject to the provisions of this Act, the referendum shall be held on a day appointed by the Independent National Electoral Commission by notice published in the Gazette and in any other news media and the day so appointed (referred to as "the appointed day") shall not be before the expiration of one month beginning with the day of the first publication of the notice.

- (2) Voting for the purposes of the referendum shall take place on the appointed day during such hours as may be specified in the notice.
- (3) For the purposes of the referendum, it shall be lawful to use the current register of voters in existence at the time of such referendum.

5. Form of question at referendum

The sole matter on which a voter shall be invited to cast his vote at the referendum shall be the question as to whether or not he agrees to the proposal to create the new State.

6. Independent National Electoral Commission to issue certificate

- (1) After the referendum has been held and the result ascertained, the Chairman of the Independent National Electoral Commission shall forthwith issue a certificate as prescribed in Form 2 in the Schedule to this Act, certifying the result of the referendum to the Clerk of the National Assembly.
- (2) The Independent National Electoral Commission shall also forthwith cause the result of the referendum to be published in the Gazette and in any other news media.

7. Jurisdiction of State High Court

- (1) A State High Court shall have original jurisdiction to determine any question arising from or in connection with the organisation, conduct or result of the referendum.
- (2) For speedy disposal of such matters and any appeals arising there from, the Chief Justice of Nigeria may make special rules of court for the exercise of the jurisdiction conferred by this section.

8. Expenses

Any expenses certified by the Chairman of the Independent National Electoral Commission to be expenses incurred in respect of any referendum conducted under this Act, shall be charged upon the Consolidated Revenue Fund of the Federation.

PART III

Transmission of certificate of result

9. Transmission of certificate of results to States

- (1) Upon receipt of the certificate of a result of the referendum from the Independent National Electoral Commission and if the result shows that the proposal for the creation of the new State has been approved by at least a two-thirds majority of the people of the area who actually voted, then the

President of the Senate shall transmit a copy of the said certificate of result of the referendum issued by the

Independent National Electoral Commission to the Speaker of every State House of Assembly in the

Federation who shall cause it to be laid before the House for its consideration.

- (2) The House shall thereupon take a vote on a motion moved by any of the members thereof for the approval of the said result of the referendum.
- (3) The Clerk of each House of Assembly shall issue a certificate as prescribed in Form 3 in the Schedule to this Act certifying the result of the votes taken on the motion and forthwith deliver or cause to be delivered such certificate to the Clerk of the National Assembly who shall in turn submit same to the President of the Senate and the Speaker of the House of Representatives.
- (4) If the certificate of the result of the voting on the said motion in the Houses of Assembly shows that the motion has been approved by a simple majority

of all the States of the Federation supported by a simple majority of the members of the House of Assembly, a resolution may be proposed by any member in each House of the National Assembly calling on the House to approve the proposal for the creation of the new State.

- (5) If the resolution is passed by two-thirds majority of members of each House of the National Assembly, the National Assembly shall proceed to enact a law creating the new State.

PART IV

Miscellaneous

10. Interpretation

In this Act, unless the context otherwise requires-

"Clerk of the National Assembly" means Clerk to the National Assembly within the meaning of section 51 of the Constitution;

"Constitution" means Constitution of the

Federal Republic of Nigeria 1999; [Cap. C23.]

"Gazette" means the Federal Republic of Nigeria Official Gazette;

"Local government council" means an elected local government council established in 1976 or there after pursuant to section 7 of the Constitution;

"State" means a State of the Federal Republic of Nigeria.

11. Short title

This Act may be cited as the Creation of States and Boundary Adjustments (Procedure) Act.

SCHEDULE

[Section 2 (3).]

Form 1

Direction to hold a referendum to ascertain the wishes of persons in the area where the request for creation of a new State originated whereas the National Assembly has received a request for the creation of a new State to be known aswithas its capital city and comprising the following areas of the State namely-

.....
(Describe the areas in terms of State or Federal Constituencies or local government areas)

Whereas the request is supported by at least two-thirds majority of members representing the areas aforementioned in each of the following namely-

(1) The House of Assembly inState;
and

(2) The House of Assembly in
.....State; and

(3) Two thirds of the total number of the following local government councils-

(a)

.....

.....local government (b)

.....

.....local government (c)

.....

.....local government, etc.

And whereas it is proposed to create the said

.....State.

Now, therefore I..... the Clerk to the National Assembly in exercise of the powers conferred upon me by section 2 (3) of the Creation of States and Boundary Adjustment (Procedure) Act and all other powers enabling me in that behalf, hereby direct the Independent National Electoral Commission to hold a referendum within three months in the areas comprising the proposed

.....State for the purpose of ascertaining the wishes of the people of the area aforesaid with respect to the proposal for the creation of the new State within the Federal Republic of Nigeria.

[Cap. C37.]

Dated thisday of20

.....

.....

Clerk to the National Assembly

Form 2

[Section 6 (1).]

Form of certificate of results of the referendum

To the President of the Senate

IChairman of the Independent National Electoral Commission hereby certify that the result of the referendum held on theday of20.....in compliance with your direction dated.....to the Independent National Electoral Commission to hold a referendum in respect of the areas demanding the creation of.....State as described in your said direction, was as follows-

(1) Number of registered voters who actually voted..... (2) "Yes" votes (i.e. votes in support of the creation of the said State).....

(3) Percentage of "Yes" votes.....
DATED thisday of20.....
.....

Chairman

Independent National Electoral Commission

[Section 9 (3).]

Form of certificate of resolutions approving or rejecting the result of a referendum for the creation of a new State

To the Clerk to the National Assembly

I hereby certify that on theday of20
.....the House of Assembly ofState passed a
resolution approving/rejecting the result of the referendum as certified by the
certificate dated.....day of..... 20
.....issued by the Chairman of the Independent National Electoral
Commission for the creation ofState within the Federal Republic of
Nigeria.

DATED thisday of
.....20.....

Clerk to the House of Assembly
of.....State

CREATION OF STATES AND BOUNDARY ADJUSTMENTS

(PROCEDURE) ACT

SUBSIDIARY LEGISLATION

No Subsidiary Legislation