

CHAPTER 19 - BOUNDARY COMMISSION

ARRANGEMENT OF SECTIONS

SECTION

PART I—PRELIMINARY

1. Citation and commencement.
2. Interpretation.

PART II—ESTABLISHMENT AND FUNCTIONS OF STATE BOUNDARY COMMISSION

3. Establishment of State Boundary Commission.
4. Composition of Commission.
5. Qualifications of Commissioner of Commission.
6. Tenure of office and emoluments of members of Commission.
7. Functions of Commission.
8. Meetings of Commission.
9. Proceedings of Commission not to be invalidated by vacancy in membership or defect in appointment.

PART III—PROVISIONS RELATING TO INQUIRIES AND DETERMINATIONS

10. Determination of boundaries by Commission.
11. Procedure in respect of inquiries, etc.
12. Power to summon and examine witnesses and compel production of documents.
13. Evidence at inquiries.
14. Disclosures restricted.
15. Maintenance of secrecy.
16. Findings of Commission.
17. Procedure after inquiry.
18. Determination of boundaries and proceedings not subject to review.
19. Certain powers not affected by Edict.
20. Proceedings privileged.
21. Privileges and immunities of witnesses and Counsel.

PART IV—STATE BOUNDARY COMMISSION SECRETARIAT

22. Boundary Commission Secretariat.
23. Secretary.
24. Other staff of Commission, etc.
25. Internal Auditor.
26. Members of Commission not to sponsor appointments.

PART V—FINANCIAL PROVISIONS

27. Funds.
28. Estimates of expenditure.
29. Financial year.
30. Bank accounts.
31. Accounts and audit.
32. Witnesses to be paid allowances.

PART VI—GENERAL

33. Access to information and inspection.
34. Annual report.
35. Offences and penalties.
36. Provisions of this Edict to be in addition to provisions of any other law.

37. Repeals and savings.

SCHEDULE
OATH OF SECRECY

CHAPTER 19

BOUNDARY COMMISSION
AN EDICT TO ESTABLISH A BOUNDARY COMMISSION TO ASSIST BOUNDARY
DISPUTES WITH THE STATE

[11 July 1988]

PART I—PRELIMINARY

1. This Edict may be cited as the State Boundary Commission Edict.

2. In this Edict, unless the context otherwise requires:-

"Chief" means any person who is for the time being appointed by the Governor as Chief under the Chiefs (Appointment and Deposition) Law and includes an Emir;

"Council" means the State Executive Council;

"Governor" means the Governor of the State;

"Land Registry" means the Land Registry established by section 3 of the Land Registration Law;

"Legal Practitioner" means a person who is qualified to practice in Nigeria as a Barrister and Solicitor in accordance with the Legal Practitioners Act as amended;

"local area" means the area of any village or village group of town or kindred or clan or district;

"proprietary interest" means the right of disposition of interest in land by any person of:-

(a) the inhabitants of a local area; or

(b) the indigenes of any area of jurisdiction of a Chief;

"State" means the Adamawa/or Taraba State of Nigeria.

**PART II—ESTABLISHMENT AND FUNCTIONS OF THE STATE BOUNDARY
COMMISSION**

3. There is hereby established in the Governor's office a body to be known as the State Boundary Commission in this Edict referred to as "the Commission".

4.—(1) The Commission shall consist of the following members all of whom shall be appointed to the Commission by the Governor:-

(a) a Commissioner who shall be the Chairman;

(b) a representative of the State Security Service;

(c) the Divisional Police Officer of the Local Government area affected;

(d) a representative of the State Ministry of Justice;

(e) the Surveyor-General of the State;

(f) one member of Emirate and Traditional Council;

(g) the Director-General of Internal Affairs and Special Duties or his representative; and

(h) the Director-General in the Office of the Secretary to the Government (Political) or his representative.

(2) The Commission shall at any time be deemed to be duly constituted if the following members are present:-

(a) the Commissioner;

(b) the representative of the State Ministry of Justice;

- (c) the Surveyor-General of the State or his representative who shall be a surveyor; and
- (d) a representative of Emirate and Traditional Council.

5. No person shall be qualified to be appointed as a Commissioner of the Commission unless:-

(a) he is a member of one of the following bodies:-

- (i) the Nigerian Institute of Land Surveyors;
- (ii) the Nigerian Institute of Town Planners; and
- (iii) the Nigerian Institute of Architects;

(b) he is professionally competent to read and understand and interpret:-

- (i) plans, maps and air photographs; and
- (ii) other necessary tools concerned with land and land demarcation; and

(c) he has had post qualification experience for a period of not less than 10 years in relation to the qualifications mentioned in paragraph (b).

6.— (1) The Commissioner shall hold office for five years upon such terms and conditions as may be specified in his instrument of appointment.

(2) All members of the Commission, other than the Commissioner and *ex-officio* members, shall, subject to subsections (3) and (4), hold office for a period of three years.

(3) A member may at any time resign his office in writing addressed to the Governor and may be removed from office by the Governor acting in accordance with the advice of the Commissioner for:-

- (a) disability;
- (b) neglect of duty; or
- (c) misconduct.

(4) A member nominated by any authority as its representative on the Commission shall cease to be a member if the Governor, on the recommendation of the authority by writing addressed to him and copied to the Commissioner, revokes his appointment.

(5) The Commissioner shall notify the Governor of all vacancies occurring in the membership of the Commission.

(6) Members of the Commission ceasing to hold office shall, subject to subsections (3) and (4) be eligible for re-appointment.

(7) Where any member of the Commission is incapacitated by illness or any other cause from performing the functions of his office the Governor may, acting in accordance with the advice of the Commissioner, appoint another person to act in his office until the member is able to resume the performance of his functions.

(8) There shall be paid to the Commissioner and other members of the Commission in respect of their membership such subsistence, travelling, sitting and other allowances as the Governor may approve on the recommendations of the State Commissioner for Finance and Economic Planning.

7.—(1) The functions of the Commission shall be:-

- (a) to inquire into and determine the boundaries set out in section 10;
- (b) to inquire into any other matter which appears to the Commission to be incidental to, or reasonably related to, the foregoing and which in the opinion of the Commission, ought to be inquired into; and
- (c) to submit its report to the Governor giving reasons for its findings and making such recommendations as it thinks fit.

(2) For the purposes of paragraphs (a) and (b) of subsection (1), the Commission shall liaise with the National Boundary Commission on issues relating to inter-state boundary and international

boundaries.

8. The Commission may regulate its own procedure.

9. The proceedings of the Commission shall not be invalidated by any vacancy in the membership of the Commission or any defect in the appointment or qualification of any member thereof.

PART III—PROVISIONS RELATING TO INQUIRIES AND DETERMINATIONS

10.— (1) Without prejudice to the general effect of section 7, the Governor may, by order, refer to the Commission for the determination of boundaries:-

- (a) between the areas of two or more districts within a Local Government;
- (b) between the areas of two or more village areas of a district within a Local Government;
- (c) between the areas of two or more wards or a village in a district within a Local Government.

(2) In determining the boundaries in accordance with subsection (1) of section 7 and subsection (1) of this section, the Commission shall settle as the boundary such line as appears to it to be suitable having regard to both the administrative convenience and the proprietary interest of a local area or, in the case of the area of jurisdiction of a Chief, the jurisdictional interest of that Chief by reference to which the boundary is defined.

11. Where an order is made under section 10, the Commission shall hold an inquiry and for the purpose, the Commission:-

- (a) shall cause to be published in the area concerned not less than seven days' notice of the holding of the inquiry, the place and the date of the commencement of the inquiry;
- (b) shall permit any Local Government or local area or community which satisfies the Commission that it is interested in, or concerned with, the boundary, which is the subject-matter of the inquiry, to be represented by a Legal Practitioner at the inquiry;
- (c) shall, where necessary, inspect the land which the boundary to be determined shall traverse;
- (d) may exclude any member of the public from any sittings of the Commission.

12. For the purpose of any inquiry under this Edict, the Commission shall have all the powers of a District Judge in connection with any civil cause in respect of:-

- (a) enforcing the attendance of witnesses;
- (b) examination of witnesses; and
- (c) compelling the production of documents.

13.—(1) Where an inquiry is held under this Edict, the Commission may:-

(a) hear evidence relevant to the inquiry as may be affected by any person;

(b) require any person who, in its opinion, is able to give any information relating to any matter being inquired into by it:-

- (i) to furnish the information to it; and
- (ii) to produce any document, paper or thing that in its opinion relates to the matter inquired into and that may be in the possession or control of that person, whether or not the document, paper or thing is in the custody or under the control of a department or other authority;

(c) by itself or any other person authorised by it:-

- (i) enter upon and inspect any land for the purpose of obtaining evidence or information required by or that may be of assistance to it; or
- (ii) enter upon any land for the inspection of any proposed boundary lines or the making

of a plan required under paragraph (a) of section 16 and subsection (1) of section 17.

(2) The Commission may summon before it and examine on oath any person who, in the opinion of the Commission, is able to give any information mentioned in subsection (1) and for that purpose may administer an oath.

(3) A witness before the Commission shall be entitled to the same privileges to which he would have been entitled if he were a witness before a court.

(4) No person shall be liable to prosecution for an offence against any law by reason of his compliance with any requirement of the Commissioner under this section.

14.—(1) Where the State Attorney-General certifies that:-

(a) the giving of any information; or

(b) the answering of any question; or

(c) the production of any document, paper or thing,

might involve the disclosure of any proceedings of the Executive Council or a Committee thereof relating to matters of a secret confidential nature and would be injurious to public interest, the Commission shall not require the information or answer to be given or, as the case may be, the document, paper or thing to be produced.

(2) Subject to subsection (1), no law authorising or requiring:-

(a) the withholding of any document, paper or thing; or

(b) the refusal to answer any question,

on the ground that the disclosure of the document, paper or thing or the answering of the question would be injurious to the public interest shall apply in respect of any inquiry by or proceedings before the Commission.

15.—(1) The Commissioner and every person holding an office or appointment under this Edict shall maintain secrecy in respect of all matters that come to their knowledge in the exercise of their functions under this Edict.

(2) Every person holding office or appointment under this Edict other than such office or appointment the functions of which the Commissioner considers not to require the handling of any secret matters shall, before proceeding to carry out his duties under this Edict, take and subscribe to the Oath of Secrecy set out in the Schedule to this Edict.

(3) Notwithstanding anything in this section, the Commissioner may disclose in any report made by him under this Edict such matters as in his opinion ought to be disclosed in order to establish grounds for the Commission's conclusions and recommendations.

16. The findings of the Commission shall include:-

(a) a description of all boundaries determined and a plan thereof;

(b) a statement of all proprietary or jurisdictional interest by reference to which the boundary has been determined and the findings of the Commission with respect to the limits of such interests which are relevant to the settlement of the boundary;

(c) the manner and extent, if any, in or to which the rights or interests in or over land of any:-

(i) Local Government, local area or community whose boundaries were referred to the Commission for determination; or

(ii) Local Government, local area or community permitted to be represented by a Legal Practitioner at the inquiry,

may be affected by the determination;

(d) any other matter which in the circumstances of a particular case the Commission considers ought to be included; and

(e) the reasons for the findings.

17.—(1) The Governor shall, if satisfied with the findings of the Commission as soon as practicable, cause the boundaries and the rights or interests in or over land finally determined in accordance with this Edict to be demarcated on the ground and a cadastral survey plan thereof prepared.

(2) Where the Governor is not satisfied with the findings of the Commission, then he may ask the Commission for clarification.

(3) Where a cadastral survey plan has been prepared and before the expiry of six months after delivery of the findings of the Commission, the Governor:-

(a) shall file in the Land Registry:-

- (i) a certified true copy of the findings;
- (ii) the description of the boundaries;
- (iii) the rights of interests in or over land; and
- (iv) the cadastral survey plan; and

(b) shall publish a notice in the Official Gazette of the State to the effect:-

(i) that the boundaries and the rights or interests in or over the land referred to in the findings have been determined; and

(ii) that the document containing the rights or interests has been deposited in the Land Registry.

18. —(1) Subject to section 19 and notwithstanding anything contained:-

- (a) in any instrument establishing a Local Government;
- (b) in any judgement,

the determination of any boundary or rights or interests in or over land of which notice has been published in accordance with paragraph (b) of subsection (3) of section 17, shall be final and conclusive as to that boundary or those rights or interests in or over land.

(2) For the purposes of subsection (1), no proceedings of the Commission shall be held bad nor be called into question for want of form.

(3) Except as otherwise provided in this Edict, nothing in the determination of boundary shall affect the rights or interests in or over land of:-

- (a) any Local Government; or
- (b) any community; or
- (c) any person.

(4) The determination of any boundary or rights or interests in or over land shall not have effect until notice has been published in accordance with paragraph (b) of subsection (3) of section 17.

19. Nothing in this Edict shall affect:-

- (a) any powers conferred on Council by the Local Government law define by instrument the area of authority of any Local Government or to revoke any such instrument; or
- (b) any powers conferred on the Governor or any other person by any enactment to divide the State or any part thereof into administrative units or other units.

20. —(1) No proceedings shall lie against any member of the Commission for anything done, reported or said by him in the course of the exercise or intended exercise of his findings under this Edict unless it is shown that he acted in bad faith.

(2) No member of the Commission shall be called upon to give evidence in any court or in any proceedings of a judicial nature in respect of anything coming to his knowledge in the exercise of his functions under this Edict.

(3) Anything said or any information supplied or any document, paper or thing produced by any person in the course of an inquiry by or proceedings before the Commission under this Edict is privileged in the same manner as if the inquiry or proceedings were proceedings in a court.

(4) For the purposes of the rules of law relating to defamation, any report made by the Commission under this Edict shall be deemed to be privileged and a fair and accurate report thereon shall be deemed to be privileged.

21. A witness or Legal Practitioner appearing before the Commission shall be entitled to the same privileges and immunities as a witness or Legal Practitioner appearing before the State High Court.

PART IV—STATE BOUNDARY COMMISSION SECRETARIAT

22. There shall be a State Boundary Commission Secretariat, in this Edict referred to as the Secretariat, headed by an officer to be designated the Secretary.

23.— (1) The Secretary shall act as Secretary to the Commission and shall perform such administrative functions relating to the work of the Commission as the Commissioner may prescribe.

(2) The Secretary shall also perform such other functions as the Commissioner may by writing delegate to him and shall be assisted in his functions by such of the employees of the Commission as the Commissioner may direct.

(3) The Secretary shall, subject to the directions of the Commissioner, be charged with the day-to-day administration of the Secretariat and the control of the staff of the Commission.

24.—(1) The Commission may, from time to time engage such employees as may be necessary for the proper and efficient conduct of the business and functions of the Commission.

(2) The Commission may also engage the services of such consultants and advisers as the Commission may determine.

(3) The employees and advisers of the Commission shall be engaged on such terms and conditions as the Commission may determine.

(4) Public officers may be transferred or seconded to the Commission or may otherwise give assistance thereto.

25.—(1) The Commission shall have an Internal Auditor.

(2) Subject to this Edict, the Internal Auditor shall be responsible to the Secretary of the Commission for the performance of his functions.

(3) As part of his functions under this Edict, the Internal Auditor shall, at intervals of three months, prepare a report on the internal audit work carried out by him during the period of three months immediately preceding the preparation of the report and submit the report to the Secretary of the Commission.

(4) Without prejudice to the general effect of subsection (3), the Internal Auditor shall make in each report such observations as appear to him necessary as to the conduct of the financial affairs of the Commission during the period to which the report relates.

(5) The Internal Auditor shall send a copy of each report prepared by him under this section to the Governor and also to the Commissioner for the State Ministry of Finance and Economic Planning and each of the members of the Commission.

26. No member of the Commission shall personally sponsor or recommend any application for employment of any person under this Edict and any member who infringes this section shall be liable to be removed from the Commission.

PART V—FINANCIAL PROVISIONS

27. The funds of the Commission shall include all subventions, appropriations and grants from whatever source made to the Commission.

28.—(1) The Commission shall submit to the Governor at such times and in such form as the Governor may, in consultation with the State Commissioner responsible for Finance and Economic Planning direct, detailed estimates of its expenditure for the next following financial year.

(2) The expenditure of the Commission shall be in accordance with the estimates as approved by the Governor acting in consultation with the State Commissioner for Finance and Economic Planning.

29. The financial year of the Commission shall be a period of twelve months commencing on 1st January and ending on 31st December.

30. The Commission may have bank accounts in such banks as the Governor may approve.

31.—(1) The Commission shall keep proper accounts and proper records in relation thereto.

(2) The books and accounts of the Commission shall, within three months after the end of each financial year, be audited by an External Auditor in accordance with the Constitution of the Federal Republic of Nigeria 1979 as amended.

(3) The Commission shall pay fees in accordance with the guidelines on the level of fees to be paid to the External Auditor provided by the State Auditor-General.

32. Every witness summoned by the Commission shall be entitled to such allowances as are payable to a witness summoned by the State High Court in a criminal trial.

PART VI—GENERAL

33. For the purposes of the performance of its functions under this Edict, the Commission shall have access to all information and records of any Department of State which are reasonably necessary for the performance of such functions.

34.—(1) The Commission shall, as soon as possible after the expiration of each financial year but within six months after the termination of that year, submit to the Governor an annual report dealing generally with the activities and operations of the Commission within that year which shall, without prejudice to the generality of the foregoing, include:-

(a) a copy of the audited accounts of the Commission together with the State Director of Audit's report thereon (if any);

(b) each report submitted by the Internal Auditor under section 25 in relation to that financial year; and

(c) such other information as the Governor may request.

(2) A copy of the annual report shall be forwarded to the State Commissioner for Finance and Economic Planning.

(3) The Governor shall, as soon as possible but not later than three months after receiving the annual report, cause it to be laid before Council.

(4) The Commission may also submit to the Governor such other reports on its financial affairs as the Governor may by writing reasonably request from time to time.

35. Any person who:-

(a) without lawful justification or excuse wilfully obstructs, hinders or resists the Commission or any other person in the exercise of its or his powers under this Edict; or

(b) wilfully makes any false statement to or misleads or attempts to mislead the Commission or any other person in the exercise of its or his functions under this Edict; or

(c) without lawful justification or excuse refuses or wilfully fails to comply with any lawful request of the Commission or any other person under this Edict; or

(d) without due authority, removes, damages or defaces any boundary or other mark erected during the course and for the purposes of any inquiry under this Edict or erected in connection

with any determination or order effected under this Edict, commits an offence under this Edict and liable on summary conviction to a fine not exceeding N 500.00 and, in default of payment, to imprisonment for a term not exceeding six months.

36. The provisions of this Edict shall be in addition to the provisions of any other law or any rule of law under which any procedure is provided for the inquiry into or investigation of any matter and nothing in this Edict shall be deemed to limit or affect any such procedure.

37.—(1) The Inter-Tribal Boundaries Settlement Law and also any other enactment for the settlement of any boundary disputes and in force immediately before the commencement of this Edict are hereby repealed.

(2) Notwithstanding subsection (1), until the Commissioner and other members of the Commission are duly appointed to the Commission, any inquiry relating to the settlement of boundary disputes under the enactments referred to in subsection (1) shall continue to be held as if the enactments had not been repealed.

(3) As from the commencement of this Edict, all disputes pending under the enactments referred to in subsection (1) immediately before the commencement of this Edict shall be taken over and completed by the Commission.

SCHEDULE OATH OF SECRECY

I,.....
..... having been
appointed.....

.....
do hereby swear that I will not directly or indirectly reveal such matters as may be committed to my secrecy except as may be required for the discharge of my official duties or as may be specially permitted.

So help me God.

.....
Signature of the declarant
SWORN at Yola this day of 19

BEFORE ME

.....
Governor,
Gongola State of Nigeria.