

EROSION CONTROL AND PREVENTION COMMISSION BILL, 2017

ARRANGEMENT OF SECTIONS

*Section:*

PART I - ESTABLISHMENT OF THE EROSION CONTROL AND  
PREVENTION COMMISSION

1. Establishment of the Commission
2. Establishment and membership of the Governing Council
3. Tenure of office
4. Cessation of membership
5. Allowances of members
6. Powers of the Council

PART II - FUNCTION AND POWERS OF THE COMMISSION

7. Functions of the Commission
8. Powers of the Commission

PART III - APPOINTMENTS OF EXECUTIVE SECRETARY  
AND OTHER STAFF

9. Appointments and duties of the Executive Secretary of the Commission
10. Tenure of office and remuneration of the Executive Secretary
11. Resignation of the Executive Secretary
12. Appointments and duties of the Executive Secretary
13. Staff of the Commission and their remuneration
14. Appointment and secondment from public service
15. Engagement of Consultants and Advisers
16. Structures of the Commission

PART IV - FINANCIAL PROVISIONS AND AUDIT

17. Pensions and Gratuity
18. Provision of superannuation
19. Application of funds of the Commission
20. Power to accept gift

21. Power to borrow
22. Annual estimates and expenditure
23. Proper account to be kept by the Commission
24. Audit
25. Annual report
26. Power to acquire land

PART V - MISCELLANEOUS PROVISIONS

27. Limitation of suits against the Commission
28. Service of documents
29. Restriction on execution against property of the Commission
30. Indemnity of officers
31. Engagement of professionals other than staff
32. Power of Minister to give direction to the commission
33. Regulations
34. Interpretation
35. Citation.

SCHEDULE

# A BILL

## FOR

AN ACT TO PROVIDE FOR THE ESTABLISHMENT OF THE EROSION CONTROL PREVENTION COMMISSION AND VEST IT WITH THE RESPONSIBILITY FOR THE PREVENTION CONTROL, MANAGEMENT AND REDRESS OF EROSION AND FOR RELATED MATTERS

*Sponsored by Hon. Obinna Chidoka*

[ ] Commencement

BE IT ENACTED by the National Assembly of the Federal Republic of Nigeria as follows:

1 PART I - ESTABLISHMENT OF THE EROSION CONTROL AND  
2 PREVENTION COMMISSION

3 1.-(1) There is established a body to be known as Gully Erosion  
4 Control and Prevention Commission (in this Bill referred to as "the  
5 Commission"). Establishment  
of the Commission

6 (2) The Commission shall be a body corporate with perpetual  
7 succession and a common seal and may sue and be sued in its corporate  
8 name.

9 (3) The Head office of the Commission shall be in Abuja with  
10 operational Offices in Imo, Anambra, Abia, Enugu, Ebonyi, Edo, Akwa  
11 Ibom, Bayelsa, Delta Cross River, Rivers, Ekiti, Lagos, Ogun, Ondo, Osun,  
12 Oyo and Benue. Head Office of  
the Commission

13 2.-(1) There is established a Governing Council for the  
14 Commission (in this Bill referred to as "the Council") which shall be  
15 responsible for the discharge of the functions of the Commission. Establishment  
and membership  
of the Governing  
Council

16 (2) The Council shall consist of:

17 (a) a chairman;

18 (b) a representative each from the states set out in section 1 (3);

19 (c) A representative of the Federal Ministries in charge of:

- 1 (i) Environment;  
2 (ii) Transportation;  
3 (iii) Works;  
4 (iv) Agriculture and Rural Development;  
5 (v) Finance;  
6 (vi) Mines and Steel, and  
7 (vii) National Planning.  
8 (d) The Executive Secretary of the Commission.  
9 (e) Two representatives of recognised professional associations of  
10 environmentalists in Nigeria.

11 (3) The Chairman and members of the Council of the Commission  
12 shall be:

- 13 (a) Appointed by the President on the recommendation of the  
14 Minister subject to the confirmation by the Senate;  
15 (b) Persons of proven integrity, honour and ability; and  
16 (c) Part-time members except the Executive Secretary who shall be a  
17 full-time member.

Schedule

18 (4) The supplementary provisions set out in the Schedule to this Bill  
19 shall have effect with respect to the proceedings of the Council and other  
20 matters contained therein.

Tenure of Office

21 3. The Chairman and members of the Council other than the  
22 Executive Secretary shall each hold office

23 (a) for a term of 4 years and may be re-appointed for a further term of 4  
24 years and no more; and

25 (b) on such terms and conditions as may be specified in their letters of  
26 appointment.

Cessation of  
Membership

27 4.-(1) A person shall cease to hold office as a member of the Council  
28 on the occurrence of any of the following:

29 (a) he becomes bankrupt, suspends payment or compounds with his  
30 creditors;

1 (b) he is convicted of a felony or any offence involving dishonesty  
2 or fraud;

3 (c) he becomes of unsound mind or is incapable of carrying out his  
4 duties;

5 (d) he is guilty of a serious misconduct in relation to his duties;

6 (e) in the case of a person who possesses any professional  
7 qualification and he is disqualified or suspended, other than at his own  
8 request from practicing his profession in any part of the world by any order  
9 of a competent authority made in respect of that member; or

10 (f) he resigns his appointment by a letter addressed to the President.

11 (2) Where a member of the council ceases to hold office for any  
12 reason whatsoever, before the expiration of the term for which he is  
13 appointed another person representing the same interest as that member  
14 shall be appointed to the Council for the expired term.

15 (3) A member of the Council may be removed by the President on  
16 the recommendation of the Minister if he is satisfied that it is not in the  
17 interest of the Commission or the public that the member continues in office.

18 (4) Where a vacancy occurs in the membership of the Council, it  
19 shall be filled by the appointment of a successor to hold office for the  
20 remainder of the term of office of his predecessor.

21 5. Members of the Council shall be paid such allowances and  
22 expenses as the Government may direct from time to time.

Allowances of  
members

23 6. The Council shall have power to:

Powers of the  
Council

24 (a) manage and superintend over the affairs of the Commission;

25 (b) make, alter and revoke rules and regulations for the effective  
26 running of the Commission;

27 (c) employ and pay the staff of the Commission such  
28 remunerations and allowances as payable to persons in similar organization  
29 in the country;

30 (d) enter into contracts and do such other things as may be

Functions of  
the Commission

1 necessary or expedient for the discharge of its functions and ensure the efficient  
2 performance of the functions of the Commission; and

3 (e) receive, disburse and account for funds of the Commission.

4 P ART II - FUNCTIONS AND POWERS OF THE COMMISSION

5 7. The Commission shall:

6 (a) carry out an extensive survey of the extent of gully erosion in the  
7 country;

8 (b) manage, control redress and prevent gully erosion in the country;

9 (c) formulate policies and guidelines for the prevention, control and  
10 management of gully erosion in the country;

11 (d) advise on balanced and responsible use of land in the country;

12 (e) conceive, plan and implement in accordance with set rules and  
13 regulations projects and programmes for gully erosion prevention, control and  
14 management;

15 (f) co-ordinate and promote research activities relating to gully  
16 erosion control, management and prevention;

17 (g) adopt an integrated approach addressing the physical, biological  
18 and socio-economic aspects of the process of gully erosion;

19 (h) monitor the state of preparedness of all organisations or agencies  
20 which may contribute to the control of gully erosion;

21 (i) integrate strategies for poverty eradication into the process with  
22 participation of affected local communities;

23 (j) educate and inform the public on gully erosion prevention and  
24 control measures.

25 (k) examine and implement innovative ways of promoting alternative  
26 livelihoods including training in new skills;

27 (l) collate data from relevant agencies so as to enhance planning and  
28 field operation of gully erosion prevention, management and control.

29 (m) cooperate with relevant inter-governmental organisations;

30 (n) facilitate through International cooperation the transfer of

1 technology knowledge and know how on the prevention, control and  
2 management of gully erosion;

3 (o) ensure sound and efficient management of the resources  
4 available to the Commission from the Federation Account;

5 (p) receive financial and technical aid from international  
6 organisations and non- governmental agencies for the purpose of prevention  
7 management and control of gully erosion.

8 (q) carry out such other functions as the President may from time to  
9 time direct.

10 8.-(1) The Commission shall have power to do anything which will  
11 facilitate the carrying out of its functions and in particular may:

Powers of the  
Commission

12 (a) sue and be sued in its corporate name;

13 (b) acquire, hold, manage and alienate movable and immovable  
14 property;

15 (c) monitor and control gully erosion in the affected areas;

16 (d) enter into contracts for the prevention, control and management  
17 of all gully erosion problems;

18 (e) purchase or acquire any asset, business or property considered  
19 necessary for the proper conduct of its functions;

20 (f) sell, let, lease or dispose of any of its property;

21 (g) undertake or sponsor research where necessary for the  
22 performance of its functions; and

23 (h) train managerial, technical or other category of staff for the  
24 purpose of running the affairs of the Commission;

25 (i) enter into partnerships, combines, relationships,  
26 understandings, agreements and joint ventures for the purpose of carrying out  
27 any of the functions.

28 (2) The powers conferred on the Commission may be exercised by  
29 it or through any of its officers, employees, agents authorized in that behalf  
30 by the Commission.

1 PART III - APPOINTMENT OF EXECUTIVE SECRETARY AND OTHER  
2 STAFF OF THE COMMISSION

Appointment and duties of the Executive Secretary of the Commission

3 9.-(1) There shall be an Executive Secretary of the Commission who  
4 shall be appointed by the President.

5 (2) The Executive Secretary shall :

6 (a) be the chief executive and accounting officer of the Commission  
7 and

8 (b) be responsible to the Council for the execution of the policies and  
9 the administration of the daily affairs of the Commission.

Tenure of and office term of remuneration of the Executive Secretary

10 10.-(1) The Executive Secretary shall be appointed for a term of 5  
11 years in the first instance and may be r appointed for a further term of 5 years  
12 and no more, subject to satisfactory performance.

13 (2) The Executive Secretary shall:

14 (a) be paid such remuneration as may be prescribed in his letter of  
15 appointment; and

16 (b) ensure compliance with the provision of section 21 of this Act  
17 relating to power to borrow.

Executive Secretary

18 11. The Executive Secretary shall hold office on such terms and  
19 conditions as are specified in his letter of appointment, and may resign his  
20 appointment by writing under his hand delivered to the Minister.

Appointment and duties of Administrative Secretary

21 12. The Council shall appoint for the Commission an Administrative  
22 Secretary who shall:

23 (a) be a legal practitioner and is so qualified for a period of not less  
24 than 10 years;

25 (b) keep the records of transactions and correspondence of the  
26 Commission; and

27 (c) perform such other functions as the Council or Executive  
28 Secretary may direct.

Staff of the Commission and their functions and remuneration

29 13. The Council shall appoint for the Commission such number of  
30 employees as may in the opinion of the Council be expedient and necessary for

1 the proper and efficient performance of the Commission and pay them  
2 remuneration and allowances as it determines.

3 14.-(1) Notwithstanding the provisions of sections 12 and 13 of  
4 this Act, the Council shall have power to appoint for the Commission either  
5 directly or on secondment from any public service in the Federation, of  
6 employees may, in the opinion of the Council be required to assist the  
7 Commission in the discharge of any of its function under this Act.

Appointment and  
Secondment from  
Public service

8 (2) The person seconded under this section may elect to be  
9 transferred to the service of the Commission, and al previous service he may  
10 render in the public service shall count as service to the Commission for the  
11 purpose of al pension subsequently payable by the Commission.

12 15. Without prejudice to the provisions of sections 13 and 14 of  
13 this Act, the Council may engage such consultant and advisers as it may  
14 require for the effective discharge of the functions of the Commission.

Engagement of  
Consultants and  
Advisers

15 16.-(1) There shall be established in the Head Office of the  
16 Commission, the following Departments:

The structure of  
the Commission'

- 17 (a) Administration and Finance;  
18 (b) Education and Public Awareness;  
19 (c) Works and Services;  
20 (d) Planning, Research and Statistics;  
21 (e) Monitoring and Evaluation; and  
22 (f) Legal Services.

23 (2) The Council shall set up its own monitoring panel to monitor  
24 the projects being executed by the Commission.

25 (3) The Council, may with the approval of the President, increase  
26 the number of Departments as it may deem necessary and expedient to  
27 facilitate the realization of the objectives of the Commission.

28 PART IV - FINANCIAL PROVISIONS AND AUDIT

29 17. The staff of the Commission shall be entitled to pensions,  
30 gratuities and other retirement benefits as are enjoyed by persons holding

Pensions and  
Gratuity

1 equivalent grade in the Civil Service of the Federation.

Provision of  
Superannuation

2 18. The Commission shall pay gratuities or provide and maintain  
3 superannuation scheme (whether contributory or not) for the employees.

Funds of the  
Commission

4 19.-(1) The Commission shall establish and maintain a fund into  
5 which all moneys accruable to the Commission shall be paid and from which  
6 all the activities of the Commission shall be funded.

7 (2) There shall be paid and credited to the fund;

8 (a) all moneys in the accounts of the Ecological Fund relating to the  
9 states affected by erosion;

10 (b) Federal Government contribution to the Fund of the Commission  
11 equivalent of 100 percent of the total money due to member state of the  
12 Commission from the Ecology Fund;

13 (c) donations, gifts, grants and testamentary disposition from  
14 individuals or corporate organisations at home or abroad;

15 (d) all other assets that may, from time to time, accrue to the  
16 Commission.

17 (3) The funds of the Commission shall be disbursed according to the  
18 approved formula.

19 (4) The Commission shall apply the proceeds of the Fund established  
20 pursuant to section 19 (1) of this Act to:

21 (a) the cost of administration of the Commission;

22 (b) the payment of salaries, fees, remuneration, allowances, pensions  
23 and gratuities payable to the members of the Governing Council and the  
24 employees of the Commission;

25 (c) the payment of all contracts, including mobilisation, fluctuations  
26 Variations, legal fees and cost on contract Administration;

27 (d) the payment for all purchases; and

28 (e) undertaking such other activities as are connected with all or any  
29 of the functions of the Commission under this Act.

30 (5) The Council shall cause the accounts of the Commission to be

1 audited quarterly and shall be externally audited once every year.

2           **20.**-(1) The Commission may accept gifts of land, money or other Power to accept  
 3 property on such terms and conditions, if any, as may be specified by the gifts  
 4 person or organisation making the gift.

5           (2) The Commission shall not accept any gift if the conditions  
 6 attached are inconsistent with the functions of the Commission under this  
 7 Act.

8           **21.**-(1) The Commission may, from time to time, borrow money as Power to borrow  
 9 it may require to execute or complete some special projects of the  
 10 Commission.

11           (2) The Commission shall not, without the approval of the  
 12 President, borrow money which exceeds N1,000,000.00 at anyone time.

13           **22.**-(1) The Council shall not later than 30th September, of each Annual estimates  
 14 year, submit to the National Assembly through the Minister an estimate of and expenditure  
 15 the expenditure of the Commission during the next succeeding year.

16           (2) The Council shall approve all expenditure of the Commission.

17           **23.** The Commission shall:

18           (a) cause to be kept proper accounts and records of the transactions Proper account  
 19 and affairs of the Commission and ensure that all payments out of its moneys to be kept by  
 20 are correctly made and properly authorized; Commission

21           (b) ensure that adequate control is maintained over the assets  
 22 belonging to or in the custody of the Commission and over its incurring of  
 23 liabilities;

24           (c) prepare in respect of each financial year a statement of accounts  
 25 in such forms as the Auditor-General may direct.

26           **24.**-(1) The Auditor-General of the Federation shall: Audit

27           (a) inspect and audit the accounts and records of financial  
 28 transaction of the Commission;

29           (b) inspect records relating to assets of the Commission; and

30           (c) draw the attention of the Minister to any irregularity revealed

1 and disclosed by the inspection and audit.

2 (2) The Auditor-General may dispense with all or any part of detailed  
3 inspection and audit of any account or record referred to in subsection.

4 (3) The Auditor-General or any officer authorized by him is entitled at  
5 all reasonable time to a full and free access to all accounts, records, documents  
6 and papers of the Commission relating directly or indirectly to the receipt or  
7 payment of money by the Commission or to the acquisition, receipt, custody or  
8 disposal of assets by the Commission.

Annual Report

9 25. The Commission shall submit to the President through the  
10 Minister not later than 30th June, of each financial year, a report of its activities  
11 during the preceding financial year and it shall include a copy of the audited  
12 accounts of the Commission for that year and a copy of Auditors Report on it.

Power to acquire  
land. Cap. 202  
LFN

13 26.-(1) For the purposes of providing offices and premises necessary  
14 for the performance of its functions under this Act, the Commission may,  
15 subject to the Land Use Act:

16 (a) purchase or take on lease any interest in land, or other property;  
17 and

18 (b) construct offices and premises and equip and maintain same.

19 (2) The Commission may, subject to the Land Use Act, sell or lease  
20 out any office or premises held by it, which office or premises is no longer  
21 required for the performance of its functions under this act.

22 PART V - MISCELLANEOUS PROVISIONS

Limitation of  
Suit against  
the Commission.  
Cap. 379 LFN

23 27.-(1) The provisions of the Public Officers Protection Act shall  
24 apply in relation to any suit instituted against the Commission or any of the  
25 officers or employees of the Commission.

26 (2) No suit shall be commenced against a member of the Council, the  
27 Executive Secretary, officer or employee of the Commission before the  
28 expiration of a period of one month after written notice of intention to  
29 commence the suit shall have been served upon the Commission by the  
30 intending plaintiff or his agent.

1 (3) The notice referred to in subsection (2) shall state the cause of  
2 action the particulars of the claims, the name and place of abode of the  
3 intending plaintiff and the relief which he claims.

4 28. A notice, summons or other document required or authorized  
5 to be served upon the Commission under the provisions of this Act or any  
6 other Law or enactment may be served by delivering it to the Executive  
7 Secretary or by sending it by registered post and addressed to the Executive  
8 Secretary at the principal office of the Commission.

Service of  
Documents

9 29.-(1) No execution or attachment of process shall be issued  
10 against the Commission or its properties in any action or suit without the  
11 consent of the Attorney-General of the Federation.

Restriction on  
execution against  
property of the  
Commission

12 (2) Notwithstanding the provisions of subsection (1) of this  
13 section, in any action or suit against the Commission, no execution or  
14 attachment of process in the nature thereof shall be issued against the  
15 Commission unless not less than three months notice in writing of the  
16 intention to execute or attach has been given to the Commission.

17 (3) Any sum of money which by the judgment of any Court is  
18 awarded against the Commission shall, subject to any direction given by the  
19 Court where notice of appeal of the said judgement has been given, be paid  
20 from the general reserve fund of the Commission.

21 30. A member of the Council, the Executive Secretary, any officer  
22 or employee of the Commission shall be indemnified out of the assets of the  
23 Commission against any proceedings, whether civil or criminal, in which  
24 judgement is given in his favour, or in which he is acquitted, if any such  
25 proceeding is brought against him in his capacity as a member of the Council,  
26 the Executive Secretary, officer or employee of the Commission.

Indemnity of  
Officers

27 31. The Executive Secretary may with the approval of the Council  
28 engage persons with knowledge or experience in gully erosion control and  
29 prevention or in matters relevant to the functions of the Commission to assist  
30 otherwise than on the basis of full - time employment.

Engagement of  
professionals  
other than staff

Power of the Minister to give direction	1	<b>32.</b> The Minister may give to the Commission directives of a general
	2	or special nature with respect to any of its functions.
Regulations	3	<b>33.</b> The Council may, with the approval of the Minister, make
	4	Regulations for the purpose of carrying out or giving full effect to the
	5	provisions of this Bill.
Interpretation	6	<b>34.</b> In this Bill unless the context otherwise requires:
	7	"Chairman" means the Chairman of the Governing Council of the
	8	Commission;
	9	"Commission" means Erosion Control and Prevention Commission;
	10	"Council" means a Governing Council of the Commission;
	11	"Gully Erosion" means land degradation and destruction resulting from
	12	various factors including natural causes (activities of rivers, rain, weathering)
	13	and human activities creating thereby gullies, ravines, craters, landslides and
	14	mudslide;
	15	"Member" means a member of the Council and includes the Chairman;
	16	"Minister" means the Minister in charge of matters relating to the
	17	Environment;
	18	"Power" includes functions and duty; and
	19	"President" means the President of the Federal Republic of Nigeria.
Citation	20	<b>35.</b> This Bill may be cited as the Erosion Control and Prevention
	21	Commission Bill, 2017.

SCHEDULE

SUPPLEMENTARY PROVISIONS RELATING TO THE COUNCIL, ETC.

*Cap. 192 LFN.*

- 25 1.-(1) Subject to this Act and section 27 of the Interpretation Act, the
- 26 Council may make standing orders regulating its proceedings or those of any of
- 27 its Committees.
- 28 (2) The quorum of the Council shall be the Chairman or the person
- 29 presiding at the meeting and five other members of the Council, one of whom
- 30 shall be ex-officio member and the quorum of any Committee of the Council

1 shall be as determined by the Council.

2 2.-(1) The Council shall meet whenever it is summoned by the  
3 Chairman and if the Chairman is required to do so by notice given to him by  
4 not less than eight other members, he shall summon a meeting of the Council  
5 to be held within fourteen days from the date on which the notice is given.

6 (2) Where the Council desires to obtain the advice of any person on  
7 a particular matter, the Council may co-opt him to the Council for such a  
8 period as it deems fit, but a person who is in attendance by virtue of this sub-  
9 paragraph shall not be entitled to vote at any meeting of the Council and  
10 shall not count towards a quorum.

11 *Committees*

12 3.-(1) The Council may appoint one or more Committees to carry  
13 out, on behalf of the Council such functions as the Council may determine.

14 (2) A Committee appointed under this paragraph shall consist of  
15 such number of persons as may be determined by the Council and a person  
16 shall hold office in the Committee in accordance with the terms of his  
17 appointment.

18 *Miscellaneous*

19 4.-(1) The fixing of the seal of the Commission shall be  
20 authenticated by the signatures of the Chairman or any other member of the  
21 Council generally or specifically authorized by the Council to act for that  
22 purpose and the Executive Secretary.

23 (2) Any contract or instrument which if made or executed by a  
24 person not being a body corporate, would not be required to be under seal  
25 may be made or executed on behalf of the Commission by the Executive  
26 Secretary or any person generally or specifically authorized by the Council  
27 to act for that purpose.

28 (3) A document purporting to be a document duly executed under  
29 the seal of the Commission shall be received in evidence and shall unless  
30 and until contrary is proved, be presumed to be so executed.

- 1           5. The validity of any proceedings of the Councilor of a Committee  
2 shall not be adversely affected by:  
3           (a) a vacancy in the membership of the Councilor Committee; or  
4           (b) a defect in the appointment of a member of the Councilor  
5 Committee;  
6           (c) reason that a person not entitled to do so took part in the  
7 proceedings of the Councilor Committee.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the establishment of the Erosion Control and Prevention Commission as a statutory body and to vest it with the responsibility to prevent, manage, control and redress erosion in the affected States.