

BIO - FUELS ENERGY POLICY BILL, 2015

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A BILL

FOR

AN ACT TO PROVIDE A POLICY FRAMEWORK FOR THE DEVELOPMENT OF BIO-FUELS ENERGY INDUSTRY IN NIGERIA; ESTABLISH THE BIO-FUELS ENERGY REGULATORY COMMISSION; ESTABLISH THE BIO-FUELS RESEARCH AGENCY; AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Hon. O. K. Chinda

[] Commencement

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

1 PART I – GENERAL PROVISIONS

2 1. The primary objective of this Act is to firmly establish a thriving Objective
3 fuel ethanol industry utilizing agricultural products as a means of improving
4 the quality of automotive fossil-based fuels in Nigeria and all matters related
5 thereto and without detracting from the generality of the foregoing,
6 specifically to-

7 (a) promote job creation, rural and agricultural development and
8 technology acquisition and transfer;

9 (b) provide a framework which is capable of attracting foreign
10 investment in the bio-fuels industry;

11 (c) streamline the roles of the various tiers of government in order
12 to ensure an orderly development of the bio-fuels industry in Nigeria; and

13 (d) involve the oil and gas industry in a more purposeful
14 development of other sectors of the nation's economy.

15 2. This Act applies to the refining of petroleum products in whole Application
16 or in part within the territory of Nigeria.

17 Part II – Policy Environment

18 3.-(1) The blending of bio-fuels as a component of fossil-based Blending bio-fuels
19 fuels in the country as required for all automotive use is hereby guaranteed. with fossil based fuels

1 (2) The proportion of bio-fuels in the blend pursuant to subsection (1)
2 of this section shall be determined by the Commission from time to time.

Market entry

3 4.-(1) As from the commencement of this Act, no person shall carry
4 on business of bio-fuel manufacturing fuel and ethanol and/or bio-diesel unless
5 he is duly registered and licenced by the Minister.

6 (2) The licence granted by the Minister under subsection (1) of this
7 section shall include the permit for the company to add a capability to co-
8 generate electric power.

Industry
Classification

9 5. For the purposes of this Act, investment in the bio-fuel industry
10 shall be treated as an agro-allied activity and shall benefit from the incentives
11 put in place to foster the development of the agro-allied industry, in addition to
12 other incentives under this Act.

13 PART III – ESTABLISHMENT ETC. OF THE ENERGY DEVELOPMENT

14 FUND AND THE BOARD

Establishment of
the Bio-fuels
Energy Regulatory
Commission

15 6.-(1) There is hereby established a body to be known as the Bio-fuels
16 Energy Regulatory Commission (in this Act referred to as “the Commission”).

17 (2) The Commission shall be a body corporate with perpetual
18 succession and a common seal and may –

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

20 (b) hold and acquire property whether moveable or immovable.

Establishment of
the Governing
Board

21 7.-(1) There is hereby established for the Commission, a Governing
22 Board (in this Act referred to as “the Board”).

23 (2) The Board shall consist of the –

24 (a) Minister who shall be the Chairman;

25 (b) representative of the –

26 (i) Federal Ministry of Agriculture,

27 (ii) Federal Ministry of Commerce,

28 (iii) Federal Ministry of Industry,

29 (iv) Federal Ministry of Finance,

30 (v) Federal Ministry of Environment,

- 1 (vi) Federal Ministry of Science and Technology;
2 (c) a representative of the Bankers' Committee;
3 (d) a representative of Manufacturers Association of Nigeria;
4 (e) a representative of a Federal University of Agriculture
5 nominated by the National Universities Commission;
6 (f) the Director-General.

7 (3) The provisions of the Schedule to this Act shall have effect with First Schedule
8 respect to the proceedings of the Board and other matters contained therein.

9 8.-(1) The Director-General shall be appointed by the President on Appointment of
10 the recommendation of the Minister and subject to the confirmation of the the Director-
11 Senate. General

12 (2) The Director-General shall be a person with reasonable
13 experience in the bio-fuels energy sector and a holder of a first degree.

14 9.-(1) The Director-General shall hold office for a term of 5 years in Tenure of office,
15 the first instance and may be reappointed for a further term of 4 years and no etc.
16 more.

17 (2) The members of the Board other than ex-officio members shall
18 be paid such allowances as the Commission may, from time to time,
19 determine.

20 (3) A member of the Board ceases to hold office if he so ceases to
21 hold such relevant office necessary to be on the Board and the next
22 succeeding holder of such office shall continue as a member of the Board.

23 PART IV – FUNCTIONS OF THE COMMISSION

24 10. The Commission shall be responsible for implementing the Functions of the
25 strategies for growth of the bio-fuels industry in Nigeria, and specifically the Commission
26 Commission shall –

- 27 (a) register all bio-fuel plants/projects in Nigeria;
28 (b) issue licence to bio-fuel operators for the production of fuel
29 ethanol and/or bio-diesel in Nigeria;
30 (c) formulate and recommend fiscal, financial and other incentive

1 policies for the bio-fuel industry, as well as protection measures if and when
2 required;

3 (d) periodically, review and assess the economic, technical,
4 environmental and social impact of the use of bio-fuels, and shall determine
5 changes in policies required when necessary;

6 (e) monitor the supply and utilization of bio-fuels and bio-fuel blends
7 and recommend appropriate measures to the Minister in case of shortage in the
8 supply of bio-fuels or feedstock;

9 (f) review and adjust the minimum mandated bio-fuel blends as it
10 deems appropriate;

11 (g) determine and put in place industry stabilization mechanisms;

12 (h) designate and oversee the activities of the investment banks
13 appointed to manage the Bio-fuel Industry Equity Fund;

14 (i) establish and support the Bio-fuels Research Agency;

15 (j) monitor intra-industry commerce, in particular relationships
16 between out-growers and bio-fuel producers;

17 (k) present quarterly reports and briefings on the status of the bio-fuel
18 industry to the National Assembly;

19 (l) disseminate and share information with investors and other
20 interested members of the public;

21 (m) liaise with the Energy Commission of Nigeria in the formulation,
22 revision and implementation of the National Energy Policy;

23 (n) liaise with the National Sugar Development Council as may be
24 required; and

25 (o) liaise with government ministries, agencies, parastatals, research
26 institutes or other bodies for the purposes of development of bio-fuel
27 feedstock.

Power to establish
departments

28 **11.** The Commission shall have the power to establish such
29 departments as are necessary for the effective discharge of its mandate under
30 this Act.

1 PART IV – STAFF OF THE FUND

2 12.-(1) There shall be, for the Commission, a Director-General Director-General
3 shall be the chief executive of the Commission. of the Commission

4 (2) The Director-General shall, subject to the general control of the
5 Commission, be –

6 (a) responsible for keeping proper records of the proceedings of the
7 Commission; and

8 (b) the head of the secretariat and be responsible for –

9 (i) the day-to-day administration, and

10 (ii) direction and control of all other employees,

11 of the Commission.

12 13.-(1) The Commission shall appoint such officers and other Other Staff of the
13 employees as it may from time to time, deem necessary for the purpose of Commission
14 the Commission.

15 (2) The terms and conditions of service (including remunerations,
16 allowances, benefits and pensions) of officers and employees of the
17 Commission shall be as may be determined by the Commission.

18 14.-(1) The Commission may, subject to the provisions of this Act, Staff regulation
19 and with the approval of the Minister make regulations generally relating to
20 the conditions of service of the staff of the Fund and without prejudice to the
21 generality of the foregoing, such regulations may provide for –

22 (a) appointment, promotion and discipline (including dismissal) of
23 staff;

24 (b) appeals by such staff against dismissal or other disciplinary
25 measures and until such regulations are made, any instrument relating to the
26 conditions of service of officers in the civil service of the Federation shall be
27 applicable, with such modifications as may be necessary.

28 (2) Staff regulations made, under subsection (1) of this section
29 shall not have effect until approval by the Minister and when so approved the
30 Board shall cause them to be brought to the notice of all affected persons in

1 such manner as it may, from time to time, determine.

Pension provision

2 **15.** It is hereby declared that service in the Commission shall be
3 approved service for the purpose of the Pensions Act and, accordingly,
4 employees of the Commission shall be entitled to pensions, gratuity or other
5 retirement benefits as are prescribed under the Pensions Act.

6 PART VI – FINANCIAL PROVISIONS

Fund of the
Commission

7 **16.**-(1) The Commission shall establish and maintain a fund, which
8 shall be applied towards the discharge of its functions under this Act.

9 (2) There shall be paid and credited to the fund established pursuant to
10 subsection (1) of this section, such sums as may be provided by the Federal
11 Government for the Commission.

Powers to
accept gifts

12 **17.**-(1) The Commission may accept gifts of land, money or other
13 testamentary dispositions, endowments and contributions on such terms and
14 conditions, if any, as may be specified by the person or organization making the
15 gift.

16 (2) The Commission shall not accept any gift if the conditions
17 attached by the person or organization making the gift are inconsistent with the
18 functions of the Commission.

Fees

19 **18.** The Commission shall be entitled to charge, retain and utilize for
20 its purposes, fees collected for the services rendered by the Commission under
21 this Act.

Borrowing, etc.
by the Commission

22 **19.**-(1) The Commission may, with the consent or in accordance with
23 any specific authority given by the Minister, borrow by way of loan or
24 overdraft such specified amount of money as may be required by the
25 Commission for meeting its obligations and discharging its functions under
26 this Act.

27 (2) The Commission may, subject to the provisions of this Act and the
28 conditions of any trust created in respect of any property, invest all or any of its
29 funds.

30 (3) The Commission may invest any of its funds in securities

1 prescribed by the Trustees Investment Act or in such other securities as may,
2 from time to time, be approved by the Minister.

3 (4) Subject to the provisions of the Land Use Act, and any special
4 or general direction, which the Minister may give in that behalf, the
5 Commission may acquire any land required for its purpose under this Act.

6 20. The Commission may, from time to time, apply the proceed of
7 the fund established in pursuance of section 16 of this Act to – Application of
the Funds of the
Commission

8 (a) meet the cost of administration of the Commission;

9 (b) reimburse members of the Commission or any committee set
10 up by the Commission for expenses authorized or approved by the
11 Commission in accordance with such rates as may be approved in that behalf
12 by the Minister;

13 (c) the payment of salaries, fees or other remuneration or
14 allowances, pensions and gratuities payable to the employees of the
15 Commission;

16 (d) the maintenance of any property acquired by or vested in the
17 Commission; and

18 (e) all or any of the functions of the Commission under this Act or
19 any matter connected with those functions.

20 21.-(1) The Commission shall cause to be prepared not later than Annual estimates,
accounts and audit
21 30th September in each year an estimate of the expenditure and income of the
22 Commission during the next succeeding year and when prepared, they shall
23 be submitted through the Minister to the President for approval.

24 (2) The Commission shall cause to be kept, proper accounts of the
25 Commission and proper records in relation thereto and when certified by the
26 Commission, the accounts shall be audited by auditors appointed by the
27 Commission from the list and in accordance with the guidelines supplied by
28 the Auditor-General for the Federation.

29 22. The Commission shall not later than three months before the Annual report to
the National
Assembly
30 end of each year, submit to the relevant committees of both chambers of the

1 National Assembly a report on the activities and the administration of the
2 Commission during the immediate preceding year and shall include such
3 reports, audited accounts of the Commission and the auditor's report on those
4 accounts.

5 PART VII – BIO-FUELS RESEARCH AGENCY

Establishment of
the Bio-fuels
Research Agency

6 23.-(1) There is hereby established a body to be known as the Bio-
7 fuels Research Agency (in this Act referred to as “the Agency”).

8 (2) The Agency shall –

9 (a) function as a directorate under the Commission

10 (b) be headed by a Director appointed by the Commission.

Functions of
the Agency

11 24. The Agency shall –

12 (a) coordinate bio-fuel crop production optimization programme;

13 (b) collaborate with the research and development efforts of –

14 (i) International Institute of Tropical Agriculture,

15 (ii) National Cereal Research Institute,

16 (iii) National Root Crops Research Institute,

17 (iv) National Institute for Oil Palm Research,

18 (v) Forestry Research Institute of Nigeria,

19 (vi) Nigerian Stored Products Research Institute,

20 (vii) Institute for Agricultural Research and Extension Services,

21 (viii) Agricultural Research Council of Nigeria,

22 (ix) National Biotechnology Development Agency,

23 (x) Sheda Science and Technology Complex,

24 (xi) National Centre for Agricultural Mechanization,

25 (xii) National Agricultural Seeds Council,

26 (xiii) Nigerian Automotive Council,

27 (xiv) Raw Materials Research and Development Council,

28 (xv) Federal Institute of Industrial Research, and

29 (xvi) other relevant agencies;

30 (c) collaborate with the Federal Ministry of –

1 (i) Agriculture, and
2 (ii) Science and Technology,
3 to provide direction for research in crop production, industry technology
4 and processes pertaining to the production of bio-fuels;

5 (d) coordinate the allocation of funds set aside for bio-fuel research
6 for mandated national research organizations.

7 **25.**-(1) There is hereby established a fund to be known as the Bio-
8 fuels Research and Development Fund into which shall be paid all monies
9 contributed by –

Bio-fuels Research
and Development
Fund

10 (a) Bio-fuels companies being 0.25 per cent of their revenue;

11 (b) the Federal Government which shall not be less than 50 per cent
12 of the total monies contributed by bio-fuels companies pursuant to
13 paragraph (a) of this section; and

14 (c) the Petroleum Technology Development Fund pursuant to
15 section 26 of this Act.

16 (2) The fund established pursuant to subsection (1) of this section
17 shall be –

18 (a) domiciled with the Central Bank of Nigeria; and

19 (b) disbursed by the Agency upon the approval of the Commission.

20 **26.**-(1) The Petroleum Technology Development Fund Act, Cap
21 355 Laws of the Federation of Nigeria (in this section referred to as the
22 “Principal Act”) is amended as set out in this section.

Amendment of
the Petroleum
Technology
Development
Fund Act

23 (2) Section 2 of the Principal Act is amended by inserting a new
24 paragraph (g) immediately after paragraph (f), that is –
25 “for the development of bio-fuels energy in Nigeria”.

26 (3) Section 3 of the Principal Act is amended by inserting a new
27 subsection (2), that is –

28 “Notwithstanding the provisions of subsection (1) of this section, 5 per cent
29 of monies in the Fund shall be transferred to the Bio-fuels Research and
30 Development Fund”.

Tax deductions	1	27. All research and development expenditures including
	2	contributions made under section 24(1)(a) of this Act shall be tax deductible.
	3	PART VIII – BIO-FUEL INDUSTRY EQUITY FUND
Establishment of the Bio-fuels Industry Equity Fund	4	28. -(1) There is hereby established a fund to be known as the Bio-
	5	fuels Industry Equity Fund for the purpose of stimulating investments in the
	6	bio-fuel industry.
	7	(2) The Federal Government shall provide the sum of the equivalent
	8	of US\$50 million for the take-off of the fund.
	9	(3) The fund established pursuant to subsection (1) of this section
	10	shall be –
	11	(a) domiciled with the Central Bank of Nigeria; and
	12	(b) disbursed by participating banks upon the approval of the
	13	Commission.
Equity investment	14	29. -(1) The Commission shall administer and invest the amount in the
	15	fund established pursuant to section 28 of this Act in bio-fuels and allied
	16	projects up to a minimum of 5 per cent and maximum of 10 per cent equity
	17	contribution.
	18	(2) The Commission shall ensure that equity investments made
	19	pursuant to subsection (1) of this section shall be spread evenly across the six
	20	geo-political zones of Nigeria.
Eligibility	21	30. To be eligible for equity investment under section 29 of this Act,
	22	an enterprise shall be operated for profit and wholly owned by Nigerians.
Participating banks	23	31. -(1) The Commission may approve any bank licenced by the
	24	Central Bank of Nigeria to be participating banks in the equity investment
	25	scheme pursuant to section 29 of this Act.
	26	(2) Participating banks shall process applications for equity
	27	investments under section 29 of this Act from enterprises in accordance with
	28	the guidelines stipulated by the Commission.
Returns of project	29	32. Enterprises which benefit from the equity investment scheme
	30	under this Act, shall until the loan is fully discharged, submit a biannual returns

1 to the Commission, showing the projects the equity investment were used
2 for.

3 PART IX – INDUSTRY INCENTIVES

4 33. The provisions of the Industrial Development (Income Tax
5 Relief) Act Cap I7 LFN 2004 with respect to pioneer status shall apply to all
6 bio-fuels companies and shall continue to apply for a period of 10 years.

Application of
Cap. 17 LFN 2004

7 34. Bio-fuels companies shall be exempted from taxation,
8 withholding tax and capital gains tax as imposed under sections 78, 79, 80,
9 and 81 of the Companies Income Tax Act Cap C21 LFN 2004 with respect
10 to—

Exemption from
certain provisions
of Cap. C21
LFN 2004

11 (a) interest on foreign loans;
12 (b) dividends; and
13 (c) services rendered from outside Nigeria to bio-fuel companies
14 by foreigners.

15 35.-(1) Bio-fuels companies shall be exempted from the payment
16 of duties on the importation of necessary inputs or machineries or
17 installations used in the ordinary course of the activities.

Waivers on import
and customs
duties

18 (2) The duty-free exportation and importation of bio-fuels is
19 hereby guaranteed.

20 36. Bio-fuels companies involved in the production of bio-fuels
21 feedstock or the production of bio-fuels and or the generation of electricity
22 from biomass shall be exempted from the payment of Value Added Tax as
23 prescribed by the Value Added Tax Act Cap V1 LFN 2004 on all products
24 and services they consume.

Exemption from
Cap V1 LFN 2004

25 PART X – BIO-FUELS BLENDING AND OFF-TAKE GUARANTEES

26 37. The Nigeria National Petroleum Corporation shall—

27 (a) implement the blending requirements for bio-fuel use in the
28 Nigerian in line with the directives of the Commission from time to time;

Duties of Nigerian
National Petroleum
Corporation

29 (b) guarantee off-take of the bio-fuels produced within Nigeria as
30 the buyer of last resort;

1 (c) coordinate importation of bio-fuels in periods of shortfalls in
2 domestic production;

3 (d) support the development of bio-fuel downstream sector activities
4 which may include depot modifications, distribution asset;

5 (e) invest in bio-fuels joint ventures and import/export facilities for
6 the purpose of seeding the industry.

Commercial
terms for take-off
guarantees

7 **38.** The Nigerian National Petroleum Corporation shall guarantee the
8 off-take of bio-fuels produced in Nigeria at negotiated price and contractual
9 terms that –

10 (a) prices shall be based on hybrid formula combining market-based
11 and fair return or cash cost pricing;

12 (b) NNPC shall take 100 per cent of volume offered by supplier upon
13 agreed price;

14 (c) off-take period shall be 10 years from project commissioning for
15 new projects;

16 (d) contracts shall include a take-or-pay clause at agreed price
17 conditions;

18 (e) bio-fuel product is to be delivered at certified NNPC depot which
19 has the capacity to receive bio-fuels after proper notification to NNPC;

20 (f) delivered bio-fuel product must meet specification set by
21 Standards Organization of Nigeria;

22 (g) bio-fuel product quality must to be assessed by NNPC before
23 delivery at depot in order to be accepted.

24 **PART XI – DUTIES OF MINISTRIES, DEPARTMENT AND AGENCIES**

Ministry of
Petroleum
Resources

25 **39.** In respect of all bio-fuels intended for use in automotive,
26 commercial and domestic fuel consumption, the Ministry of Petroleum
27 Resources shall exercise regulatory control over all processes involved in the
28 blending, distribution and retail of bio-fuel products and/or its derivatives as
29 follows –

30 (a) implement policy guidelines and procedures regulating the

1 distribution and use of bio-fuels for automotive, commercial and domestic
2 consumption;

3 (b) monitor and ensure strict adherence to approved bio-fuel
4 products' specification;

5 (c) monitor and approve all bio-fuel product importations;

6 (d) monitor and approve all concepts, designs, construction and
7 operations for modification of existing facilities for bio-fuel storage,
8 transportation and retail; and

9 (e) certify and approve all retail outlets intended for bio-fuel sales.

10 **40.** The Federal Ministry of Finance shall –

Federal Ministry
of Finance

11 (a) ensure that fiscal incentives are put in place to ensure the
12 sustained growth and development of the industry; and

13 (b) monitor the production and importation programme of bio-
14 fuels through the Federal Inland Revenue Service and the Nigeria Customs
15 Service.

16 **41.** The Federal Ministry of Agriculture shall –

Federal Ministry
of Agriculture

17 (a) have direct responsibility for developing a monitoring
18 framework for the administration of out-grower schemes;

19 (b) have responsibility for coordinating, in conjunction with the
20 Agency, the activities of agricultural research institutes in the country for the
21 development of improved feedstock seed varieties and modern farming
22 practices;

23 (c) facilitate cooperation between host communities and bio-fuel
24 companies operating in Nigeria;

25 (d) support land acquisition and utilization strategies by bio-fuel
26 companies;

27 (e) coordinate and empower target state agriculture ministries to
28 adequately support bio-fuel companies in their operations as may be
29 required; and

30 (f) formulate and implement appropriate policy guidelines,

1 regulatory and incentive regimes in the agricultural sector to support the bio-
2 fuel industry.

Federal Ministry
of Industry

3 **42.** The Federal Ministry of Industry shall implement manufacturing
4 policy guidelines, and incentive regimes relating to the provisions of this Act
5 and other related legislations which support the development and
6 sustainability of the Nigerian bio-fuel industry.

Federal Ministry
of Environment

7 **43.** The Federal Ministry of Environment shall –

8 (a) establish environmental policy guidelines to guide the activities of
9 stakeholders in the Nigerian bio-fuel industry;

10 (b) support qualification of bio-fuel industry projects under the Clean
11 Development Mechanism (CDM);

12 (c) prescribe effluent levels permissible within the bio-fuels industry;

13 and

14 (d) prescribe standards for the conduct of environmental impact
15 assessment of bio-fuel projects.

Federal Ministry
of Commerce

16 **44.** The Federal Ministry of Commerce shall –

17 (a) engage domestic financial and commercial sectors of the economy
18 in stimulating growth of the bio-fuel industry in Nigeria;

19 (b) implement relevant commercial policy guidelines, regulatory and
20 incentive regimes relating to this Act and other related legislations which
21 support the development and sustainability of the Nigeria bio-fuel industry;

22 and

23 (c) coordinate the activities of all commerce and export-related
24 agencies to support the development of the Nigerian bio-fuels industry.

Federal Ministry
of Science and
Technology

25 **45.** The Federal Ministry of Science and Technology shall –

26 (a) coordinate the engagement of appropriate technology in the
27 development of the Nigeria bio-fuels technology;

28 (b) facilitate bio-fuel technology transfer; and

29 (c) have responsibility for coordinating with the Agency the activities
30 of relevant research institutes for development of appropriate technologies.

1	46. The Federal Ministry of Power and Steel shall –	Federal Ministry of Power and Steel
2	(a) coordinate the integration of co-generated power by bio-fuel	
3	plants into the National grid; and	
4	(b) provide modalities for Power Purchase Agreements between	
5	Bio-fuel plants and power off-takers.	
6	PART XII – LEGAL PROCEEDINGS	
7	47. Subject to the provisions of this Act, the provisions of the	Limitation of suits
8	Public Officers Protection Act Cap P41 LFN 2004 shall apply in relation to	
9	any suit instituted against any officer or employee of the Commission.	
10	48. A notice, summons or other document required or authorised	Service of documents
11	to be served upon the Commission under the provisions of this Act or any	
12	other law or enactment may be served by delivering it to the Director-	
13	General or by sending it by registered post and addressed to the Director-	
14	General.	
15	49. -(1) In any action or suit against the Commission, no execution	Restriction of execution against property of the Commission
16	or attachment of process in the nature thereof shall be issued against the	
17	Commission.	
18	(2) Any sum of money which may by judgment of any court be	
19	awarded against the Commission shall, subject to any direction given by the	
20	court where notice of appeal of the said judgment has been given, be paid	
21	from the general reserve fund of the Commission.	
22	50. A member of the Board, the Director-General, any officer or	Indemnity of officers
23	employee of the Commission shall be indemnified out of the assets of the	
24	Commission against any proceeding, whether civil or criminal, in which	
25	judgment is given in his favour, or in which he is acquitted, if any such	
26	proceeding is brought against him in his capacity as a member of the Board,	
27	the Director-General, officer or employee of the Commission.	
28	PART XIII – MISCELLANEOUS PROVISIONS	
29	51. A member of the Board or the Director-General or any other	Secrecy
30	officer or employee of the Commission shall –	

1 (a) not, for his personal gain, making use of any information which
2 has come to his knowledge in the exercise of his power or is obtained by him in
3 the ordinary course of his duty as a member of the Board or as the Director-
4 General, officer or employee of the Commission;

5 (b) treat as confidential any information which has come to his
6 knowledge in the exercise of his powers or is obtained by him in the
7 performance of his duties under this Act; and

8 (c) not disclose any information referred to under paragraph (a) of this
9 subsection, except when required to do so by a court or in such other
10 circumstances as may be prescribed by the Board, from time to time.

Directives by
the President

11 **52.** The President may give to the Commission or the Director-
12 General such directives of a general nature or relating generally to matters of
13 policy with regard to the exercise of its functions as he may consider necessary
14 and the Commission or the Director-General shall comply with the directive or
15 cause them to be complied with.

Regulations

16 **53.** The Minister may upon recommendation by the Commission,
17 make such regulations as in its opinion are necessary or expedient for giving
18 full effect to the provisions of this Act and the due administration of its
19 provisions.

Compliance with
Cap N62 LFN
2004

20 **54.** In compliance with the National Office on Technology
21 Acquisition and Promotion Act Cap N62 LFN 2004, bio-fuel companies shall
22 liaise with and report to the National Office on Technology Acquisition and
23 Promotion.

24 **PART XIV – INTERPRETATION AND SHORT TITLE**

Interpretation

25 **55.** In this Act—
26 “Agency” means the Bio-fuels Research Agency established under section 23
27 of this Act;
28 “Board” means the Governing Board established for the Commission under
29 section 7 of this Act;
30 “bio-diesel” means fatty acid methyl ester or mono-alkyl esters derived from

1 vegetable oil or animal fats for use in diesel engines, according to quality
2 specifications stipulated by Standards Organization of Nigeria and Ministry
3 of Petroleum Resources;

4 “bio-fuels” means fuel ethanol and bio-diesel and other fuels made from
5 biomass and primarily used for automotive, thermal and power generation,
6 according to quality specifications stipulated by the Standards Organization
7 of Nigeria and Ministry of Petroleum Resources;

8 “bio-fuel feedstock” include cassava, sugarcane, oil palm, jatropha,
9 cellulose-based materials and any other crop as may be approved by the
10 Commission;

11 “biomass” means agriculturally produced raw materials which are available
12 on a renewable or recurring basis, including trees, crops, plant fibre,
13 cellulose based material, industrial wastes and the biodegradable
14 component of municipal solid waste;

15 “Commission” means the Bio-fuels Energy Regulatory Commission
16 established under section 6 of this Act;

17 “fuel ethanol” means hydrous or anhydrous bio-ethanol suitably denatured
18 for use as motor fuel, according to quality specifications stipulated by
19 Standards Organization of Nigeria and Ministry of Petroleum Resources;

20 “out-grower scheme” means an arrangement between farmers in farming
21 communities and bio-fuel mill owners and/or companies for the purpose of
22 feedstock production or cultivation;

23 “ServCos” means agricultural service companies independently managed
24 and set up for the purposes of providing support to farmers through
25 outgrower schemes;

26 “Minister” means the Minister charged with the responsibility of energy and
27 petroleum resources;

28 “President” means the President of the Federal Republic of Nigeria;

29 **56.** This Bill may be cited as the Bio-fuels Energy Policy Bill, Citation
30 2015.

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SCHEDULE

FIRST SCHEDULE

Section 7(3)

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD

Proceeding of the Board

1. Subject to this Act and section 27 of the Interpretation Act (which provides for the statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its procedures or that of any of its committees.

2. At every meeting of the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their members to preside at the meeting.

3. The quorum at the meeting of the Board shall consist of the Chairman or, in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule, and 3 other members or 50 per cent of the membership of the Board.

4. The Board shall for the purposes of this Act, meet not less than three times in each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so, by notice given to him by not less than 4 other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

5. Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it thinks fit, but a person who is a member by virtue of this sub-paragraph shall not be entitled to vote at any meeting of the Board, and shall not count towards a quorum.

Committees

6.-(1) Subject to its standing orders, the Board may appoint such number of standing and *ad hoc* committees as it thinks fit to consider and report

1 on any matter with which the Fund is concerned.

2 (2) A committee appointed under this paragraph shall –

3 (a) consist of such number of persons (not necessarily members of
4 the Board as may be determined by the Board), and a person, other than a
5 member of the Board, shall hold office on the committee in accordance with
6 the terms of his appointment; and

7 (b) be presided over by a member of the Board.

8 (3) The quorum of any committee set up by the Board shall be as
9 may be determined by the Board.

10 (4) A decision of a committee of the Board shall be of no effect until
11 it is confirmed by the Board.

12 *Miscellaneous*

13 7. The fixing of the seal of the Fund shall be authenticated by the
14 signature of the Chairman, the Director-General or any other person
15 generally or specifically authorised by the Board to act for that purpose.

16 8. Any contract or instrument which, if made by a person not being
17 a body corporate, would not be required to be under seal may be made or
18 executed on behalf of the Fund by the Director-General or by any other
19 person generally or specially authorised by the Board to act for the purpose.

20 9. Any document purporting to be a contract, instrument or other
21 document duly signed or sealed on behalf of the Fund shall be received in
22 evidence and shall, unless the contrary is proved, be presumed without
23 further proof to have been so signed or sealed.

24 10. The validity of any proceedings of the Board or of any of its
25 committees shall not be affected by –

26 (a) any vacancy in the membership of the Board or committee; or

27 (b) any defect in the appointment of a member the Board or
28 committee; or

29 (c) reason that any person not entitled to do so took part in the
30 proceedings of the Board or committee.

1 11. A member of a committee who has a personal interest in any
2 contract or agreement entered into or proposed to be considered by the
3 committee shall forthwith disclose his interest to the committee and shall not
4 vote on any question relating to the contract or agreement.

5 12. A member of the Board shall be personally liable for any act or
6 omission done or made in good faith while engaged on the business of the
7 Commission.

EXPLANATORY MEMORANDUM

This Bill seeks to provide for the bio-fuels energy development policy, the establishment of the Bio-fuels Energy Regulatory Commission and as well the Bio-fuel Research and Development Agency for the purpose of developing and utilizing bio-fuels for automotive and other uses in Nigeria. It also seeks to amend the Petroleum Technology Development Fund Act to ensure that certain percentage of monies in the PTDF is transferred to the Bio-fuels Research and Development Fund.