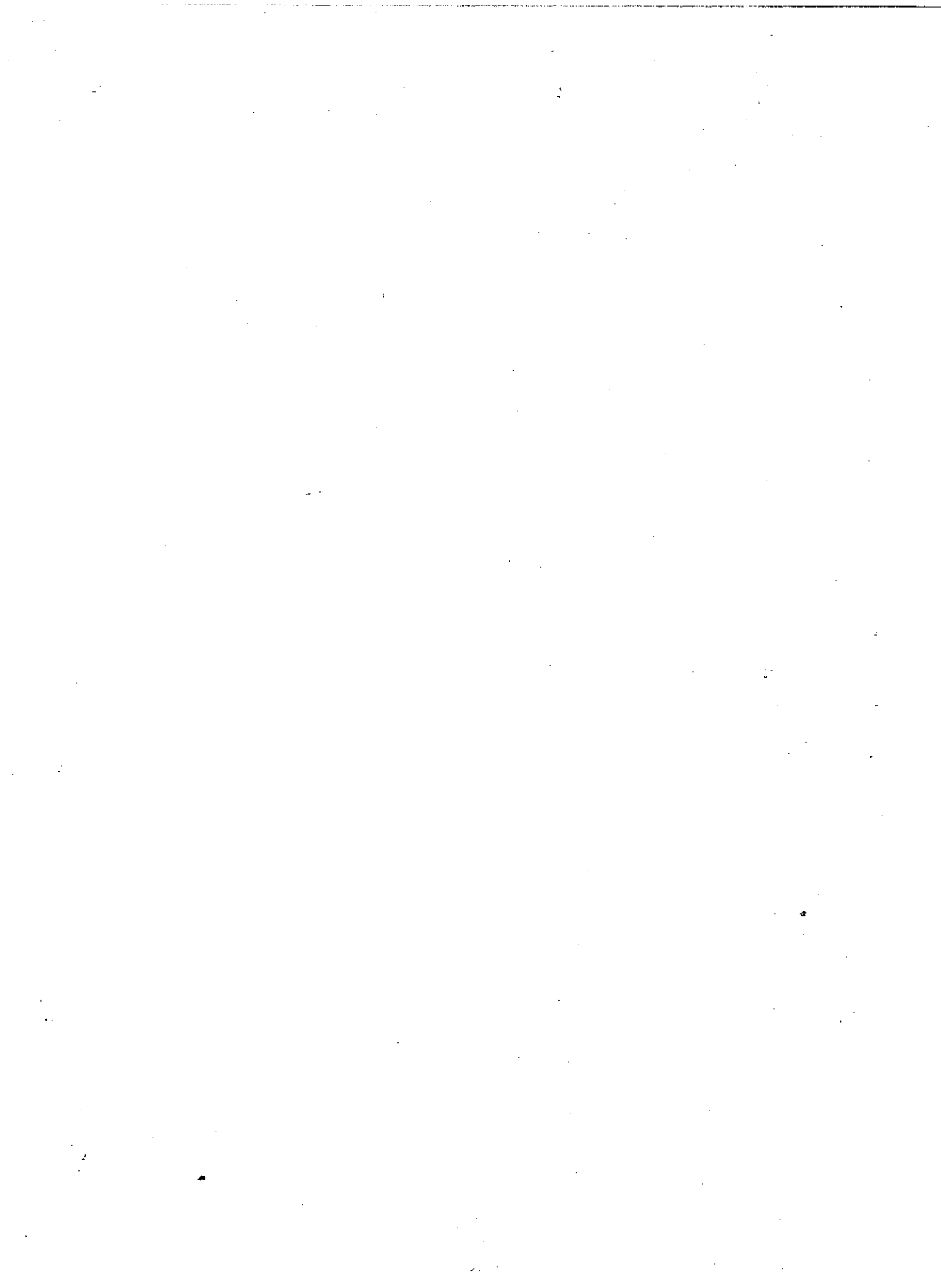


ENERGY COMMISSION OF NIGERIA ACT  
[REPEAL & RE-ENACTMENT] BILL, 2018

ARRANGEMENT OF SECTIONS

*Section*

1. Establishment of the Energy Commission of Nigeria
2. Membership of the Commission.
3. Membership of the Technical Advisory Committee
4. Proceedings of the Commission
5. Functions of the Commission
6. Commission to act under direction
7. Director-General and other staff of the Commission
8. Funds of the Commission, etc.
9. Interpretation
10. Citation



# A BILL

## FOR

AN ACT TO REPEAL ENERGY COMMISSION OF NIGERIA ACT LFN, 2004 AND TO RE-ENACTMENT THE ENERGY COMMISSION OF NIGERIA, WHICH SHALL COORDINATE SYSTEMATIC DEVELOPMENT OF THE VARIOUS ENERGY RESOURCES TO PROVIDE FOR DIVERSE ENERGY RESOURCES IN SUSTAINABLE QUANTITIES AND AT AFFORDABLE PRICES; TO PROVIDE FOR ENERGY PLANNING, INCREASED GENERATION AND CONSUMPTION OF RENEWABLE ENERGIES, CONTINGENCY ENERGY SUPPLY, ENSURE ADEQUATE INVESTMENT IN, APPROPRIATE UPKEEP AND ACCESS TO ENERGY INFRASTRUCTURE; TO PROVIDE MEASURES FOR THE FURNISHING OF CERTAIN DATA AND INFORMATION REGARDING ENERGY DEMAND, SUPPLY AND GENERATION; TO ESTABLISH AN INSTITUTION TO BE RESPONSIBLE FOR PROMOTION OF EFFICIENT GENERATION AND CONSUMPTION OF ENERGY AND ENERGY RESEARCH; AND FOR RELATED MATTERS

*Sponsored by Hon. Mike Etaba*

[ ] Commencement

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

PART I

- 1
- 2           1.-(1) There shall be established a body to be known as the Energy
- 3           Commission of Nigeria (in this Act referred to as "the Commission") which
- 4           shall have the functions specified in this Act.
- 5           (2) The Commission:
- 6           (a) shall be a body corporate with perpetual succession and a
- 7           common seal; and
- 8           (b) may sue or be sued in its corporate name.
- 9           (3) The Commission headquarters shall be situated in the Federal

Establishment  
of the Energy  
Commission of  
Nigeria

1 Capital Territory Abuja and zonal offices in the six geopolitical zones of the  
2 Federal Republic of Nigeria.

Establishment  
and Membership  
of the Commission

3 2. The Commission shall consist of the President, as Chairman, and in  
4 the absence of the resident, such other person as may be designated by him in  
5 that behalf to act as Chairman and the following other members, that is:

6 (a) the Ministers charged with responsibility for the following matters  
7 that, is:

8 (i) Power and Steel;

9 (ii) Petroleum Resources;

10 (iii) Science and Technology;

11 (iv) Defence;

12 (v) Agriculture and Rural Development;

13 (vi) Water Resources;

14 (vii) Foreign Affairs;

15 (viii) Finance;

16 (b) the Director-General of the Commission who shall be the  
17 Secretary of the Commission.

Membership of  
the Technical  
Advisory  
Committee

18 3.-(1) There shall be established a technical arm of the Commission to  
19 be known as the Technical Advisory Committee which shall consist of the  
20 Director-General of the Commission as chairman.

21 (2) The other members shall be professionals representing the  
22 following Ministries, Government Agencies or professional organizations,  
23 that is to say:

24 [1989 No. 19.]

25 (a) Petroleum resources;

26 (b) Power and steel;

27 (c) Science and technology;

28 (d) Agriculture and rural development;

29 (e) Water Resources;

30 (f) Finance;

- 1 (g) defence;  
2 (h) Industries;  
3 (i) Education;  
4 (j) Communication;  
5 (k) Environment;  
6 (l) Solar Energy Society of Nigeria;  
7 (m) Nigerian Mining and Geosciences Society;  
8 (n) Centres for Energy Research and Development at the Ahmadu  
9 Bello University, Zaria; Obafemi Awolowo University, Ile-Ife; Usmanu  
10 Danfodio University, Sokoto, University of Nigeria, Nsukka; and any new  
11 energy centres that may be established from time to time;  
12 (o) Nigerian Society of Engineers;  
13 (p) Nigerian Mining Corporation;  
14 (q) Nigerian Coal Corporation;  
15 (r) Power Holding Corporation of Nigeria;  
16 (s) Nigerian National Petroleum Corporation.

17 (3) The Committee may co-opt, when necessary, any suitable  
18 Nigerian whose contributions may be needed by the Committee.

19 4.-(1) The Commission shall have power to regulate its own  
20 proceedings and may make standing orders for that purpose and, subject to  
21 such standing orders, may function notwithstanding any vacancy in its  
22 membership or the absence of any member.

23 (2) The Commission shall meet at least two times in every year for  
24 the due performance of its functions under this Act.

25 (3) Nine members shall form a quorum at any meeting of the  
26 Commission.

27 *[1988 No. 32.]*

28 (4) Where upon any special occasion the Commission desires to  
29 obtain the advice of any person on any particular matter, the Commission  
30 may co-opt that person to be a member for as many meetings as may be

1 necessary and that person while so co-opted shall have all the privileges of a  
2 member except that he shall not be entitled to vote.

Tenure of office  
of the Membership

3 5. -(a) Apart from the Chairman, other members shall hold office for a  
4 term of four (4) years. Their condition of service shall be as in their various  
5 letters of appointment.

6 (b) The members may be reappointed for another term of four (4)  
7 years and no more.

Removal from  
office

8 6.-(1) A member may be removed from office by the President of the  
9 Federal Republic of Nigeria for inability to discharge the functions and duties  
10 of the office (whether arising from infirmity of mind or body or any other  
11 cause) or for misconduct.

Resignation

12 (2) A member of the Commission may resign his appointment by  
13 giving notice to the President through the Minister. He shall cease to hold office  
14 upon delivery and receipt of notice.

Allowances of  
the Members

15 7. The allowance, emoluments and benefits of members shall be as  
16 approved by the President of the Federal Republic of Nigeria:

17 (1) Any member shall, if he/she has an interest in an issue pending or  
18 about to be discussed at the meeting of the Board, disclose such interest. He  
19 shall cease thereof to sit on the board for the purpose of deliberation on the  
20 issue and shall not for the purpose be counted as part of the forum.

21 (2) The nature of the interest of such member shall be disclosed and  
22 declared at the meeting of the board and not thereafter.

23 (3) The disclosed interest shall be recorded in the minutes of the  
24 Board's meeting.

25 *Appointment of the Director-General*

Director-General  
and other staff  
of the Commission

26 8.-(1) There shall be appointed by the President, a Director-General  
27 who shall be responsible for the day-to-day running of the affairs of the  
28 Commission.

29 (2) The other staff of the Commission shall be officers in the civil  
30 service of the Federation to assist the Director-General in the administration of

1 the Commission in the headquarters and zonal offices.

2 (3) The Minister shall in consultation with the Director-General  
3 send on secondment to the Commission or its zonal offices, officers of status  
4 not less than Director who shall head the zonal offices and be responsible the  
5 day to day administration of the zonal offices and be the accounting officers.

6 9.-(1) The Commission shall consist of the following operational  
7 departments, that is:

Operational  
Departments of  
the Commission

- 8 (a) Energy Information System and Computer Services;  
9 (b) Energy Planning and Research Development;  
10 (c) Renewable and Alternative Energy Sources;  
11 (d) Human Resources, Training and Development;  
12 (d) Administration and Finance;  
13 (e) Corporate and Legal Services;  
14 (f) Procurement and Supply; and  
15 (g) such other Departments or units as may be approved by the  
16 Commission on the recommendation of the Director-General.

17 10. Subject to the provisions of this Act, the Commission shall be  
18 responsible for the strategic planning and co-ordination of national policies  
19 in the field of energy in all its ramifications and, without prejudice to the  
20 generality of the foregoing, the Commission shall:

Functions of the  
Commission

- 21 (a) serve as a centre for gathering and dissemination of information  
22 relating to national policy in the field of energy development;  
23 (b) serve as a centre for solving any inter-related technical  
24 problems that may arise in the implementation of any policy relating to the  
25 field of energy;  
26 (c) advise the Government of the Federation or a State on questions  
27 relating to such aspects of energy as the Government of the Federation or a  
28 State may, from time to time, refer to it;  
29 (d) prepare, after consultation with such agencies of government  
30 whose functions relate to the field of energy development or supply as the

1 Commission considers appropriate, periodic master plans for the balanced and  
2 coordinated development of energy in Nigeria and such plans shall include:

3 (i) recommendations for the exploitation of new sources of energy as  
4 and when considered necessary; and

5 (ii) such other recommendations to the Government of the Federation  
6 relating to its functions under this Act as the Commission may consider to be in  
7 the national interest;

8 (e) lay down guidelines on the utilization of energy types for specific  
9 purposes and in a prescribed sequence;

10 (f) inquire into and advise the Government of the Federation or of the  
11 State on the adequate funding of the energy sector including research and  
12 development, production and distribution;

13 [1988 No. 32.]

14 (g) collate, analyze and publish information relating to the field of  
15 energy from all sources, where such information is relevant to the discharge of  
16 its functions under this Act;

17 (h) monitor the performance of the energy sector in the execution of  
18 government policies on energy;

19 (i) liaise with all international organizations in energy matters such as  
20 the International Atomic Energy Agency, World Energy Conference and other  
21 similar organizations;

22 (j) promote training and manpower development in the energy sector;

23 (k) ensure uninterrupted supply of energy to the Federal Republic of  
24 Nigeria;

25 (l) promote diversity of supply of energy and its sources;

26 (m) facilitate effective management of energy demand and its  
27 conservation;

28 (n) promote energy research;

29 (o) promote appropriate standards and specifications for the



1 equipment, systems and processes used for producing, supplying and  
2 consuming energy;

3 (p) ensure collection of data and information relating to energy  
4 supply, transportation and demand;

5 (q) provide for optimal supply, transformation, transportation,  
6 storage and demand of energy that are planned, organized and implemented  
7 in accordance with a balanced consideration of security of supply,  
8 economics, consumer protection and a sustainable development;

9 (r) provide for certain safety, health and environment matters that  
10 pertain to Energy;

11 (s) facilitate energy access for improvement of the quality of life of  
12 the people of Nigeria;

13 (t) commercialize energy-related technologies;

14 (u) ensure effective planning for energy supply, transportation and  
15 consumption; and

16 (v) contribute to sustainable development of Nigeria's economy.

17 (w) carry out such other activities as are conducive to the discharge  
18 of its functions under this Act.

19 PART 2 - ENERGY SUPPLY, OPTIMISATION AND UTILISATION

20 11.-(1) The Commission shall establish mechanisms to ensure:

21 (a) provision of any data and information reasonably required for  
22 the purposes of conducting analysis required for energy planning from any  
23 person and the time period for the provision of such data and information,  
24 where such data is not already made available to any other public institution:  
25 and

26 (b) connection to any data and information management system, or  
27 any other system within the public administration, for the acquisition of  
28 energy data and information, in accordance with the Freedom of  
29 Information Act 2007 and the Bureau of Statistics Act, where such data or  
30 information is collected by that public institution.

Provision of  
data and access  
to data sources

1 (2) The Commission may, for the purpose of ensuring optimal  
2 collection of data, subject to observation of confidentiality of information in  
3 the possession of a particular entity, permit sharing of information with any  
4 other entity within and outside of the boundaries of the Federal Republic of  
5 Nigeria.

6 (3) The information provided under this Act that is not already in the  
7 public domain may only be supplied to persons outside of the ministry subject  
8 to the provisions of the Freedom of Information Act.

9 (4) The Commission must establish mechanisms to:

10 (a) collect, collate and analyze energy data and information:

11 (b) manage energy data and information; and

12 (c) avail, in a manner prescribed, energy statistics and energy  
13 information to the public.

14 (5) The Commission must annually publish an analysis:

15 (a) reviewing energy demand and supply for previous year;

16 (b) forecasting energy supply and demand for no less than 20 years;

17 and

18 (c) of plausible energy scenarios of how the future energy demand and  
19 supply landscape could look like under different demand and supply  
20 assumptions.

21 (6) The Commission must publish:

22 (a) models used for data and information analysis;

23 (b) all the assumptions that are underpinning the models  
24 contemplated in subsection (a); and

25 (c) a list of categories of information or data that have been classified  
26 as confidential and the reasons thereof.

27 **12.** The Commission may after consultation with the Minister of  
28 Trade and Industry, the Minister of Labour and the Minister of Environmental  
29 Affairs and Tourism, adopt measures not contemplated in any other legislation,

1 to minimize the negative safety, health and environmental impacts of energy  
2 carriers.

3 13.-(1) The Commission in consultation with the Minister and Energy access  
by households  
4 other energy resources providers shall adopt measures that provide for the  
5 universal access to appropriate forms of energy or energy services for all the  
6 people in the Federal Republic of Nigeria at affordable prices.

7 (2) The measures contemplated in subsection (1) shall take into  
8 account:

- 9 (a) the safety, health and environmental suitability of such energy;  
10 (b) the availability of energy resources;  
11 (c) the optimization of existing energy infrastructure;  
12 (d) the need for new infrastructure;  
13 (e) the provision of information and training regarding energy and  
14 its optimal utilization;  
15 (f) the sustainability of the energy provision;  
16 (g) affordability;  
17 (h) cost-effectiveness;  
18 (i) the State's commitment to provide free basic electricity to poor  
19 households; and  
20 (j) appropriate governance procedures for government sponsored  
21 programmes as prescribed by law.

22 PART 3 - INTEGRATED ENERGY PLANNING

23 14.-(1) The Commission in consultation with the Minister shall Integrated energy  
planning  
24 develop and on an annual basis, review and publish the Integrated Energy  
25 Plan in the Gazette.

26 (2) The Integrated Energy Plan must deal with issues relating to the  
27 supply, transformation, transport, storage of and demand for energy in a way  
28 that accounts for:

- 29 (a) security of supply;  
30 (b) economically available energy resources:

- 1 (c) affordability;
- 2 (d) universal accessibility and free basic electricity;
- 3 (e) social equity;
- 4 (f) employment;
- 5 (g) the environment;
- 6 (h) international commitments;
- 7 (i) consumer protection; and
- 8 (j) contribution of energy supply to socio-economic development.

9 (3) The Integrated Energy Plan shall:

10 (a) take account of plans relating to transport, electricity, petroleum,  
11 water, trade, macro-economy energy infrastructure development, housing, air  
12 quality management, greenhouse gas mitigation within the energy sector and  
13 integrated development plans of local and provincial authorities:

14 (b) inform and be informed by plans from all supply, production and  
15 demand sectors whose plans impact on or are impacted by the Integrated  
16 Energy Plan; and

17 (c) be based on the results of the energy analysis envisaged in sections  
18 12(a) and 13(5).

19 (4) The development of the Integrated Energy Plan shall take into  
20 account:

21 (a) sustainable development;

22 (b) optimal use of indigenous and regional energy resources;

23 (c) balance between supply and demand;

24 (d) economic viability;

25 (e) environmental, health, safety and socio-economic impacts; and

26 (f) developmental requirements of the Nigerian region.

27 (5) The Integrated Energy Plan shall have a planning horizon of no  
28 less than 20 years.

29 (6) The Integrated Energy Plan shall:

30 (a) serve as a guide for energy infrastructure investments;

- 1 (b) take into account all viable energy supply options: and  
2 (c) guide the selection of the appropriate technology to meet  
3 energy demand.

4 (7) Before finalizing the Integrated Energy Plan, the Minister shall:

- 5 (a) invite public comments; and  
6 (b) duly consider such comments.

7 15.-(1) The President may give to the Commission directions of a  
8 general or special nature as to the manner in which the Commission is to  
9 exercise its powers and it shall be the duty of the Commission to give effect  
10 to any such directions.

Commission to  
act under direction

11 [1988 No. 32.]

12 (2) No policy initiated by the Commission shall be implemented  
13 without prior reference to and approval by the President.

14 16.-(1) The funds of the Commission shall consist of such sums as  
15 may, from time to time, be provided by the Federal Government and the  
16 State Governments.

Funds of the  
Commission, etc.

17 (2) The Commission shall, not later than three months to the end of  
18 the financial year or so soon thereafter as the chairman may in a proper case  
19 allow, submit to the chairman for approval its estimates of revenue and  
20 expenditure in respect of the next succeeding financial year.

21 (3) The Commission shall keep proper accounts in respect of each  
22 financial year, and proper records in relation to those accounts and shall  
23 submit same from time to time, but not less frequently than annually, for  
24 auditing by the Auditor-General for the Federation.

25 PART 4 - NIGERIAN NATIONAL ENERGY DEVELOPMENT INSTITUTE

26 17.-(1) There is hereby established for Nigeria the National Energy  
27 Development Institute which shall be a body saddled with functions in sub-  
28 section (2);

Establishment  
of Nigerian  
National Energy  
Development  
Institute

29 (2) The functions of the Nigerian National Energy Development  
30 Institute are to, in respect of:

- 1 (a) energy efficiency:
- 2 (i) undertake energy efficiency measures as directed by the Minister;
- 3 (ii) increase energy efficiency throughout the economy;
- 4 (iii) increase the gross domestic product per unit of energy consumed;
- 5 and
- 6 (iv) optimize the utilization of finite energy resources;
- 7 (b) energy research and development:
- 8 (i) direct, monitor, conduct and implement energy research and
- 9 technology development in all fields of energy, other than nuclear energy: and
- 10 (ii) promote energy research and technology innovation;
- 11 (iii) provide for:
- 12 (aa) training and development in the field of energy research and
- 13 technology development:
- 14 (bb) establishment and expansion of industries in the field of energy:
- 15 and
- 16 (cc) commercialization of energy technologies resulting from energy
- 17 research and development programmes;
- 18 (iv) register patents and intellectual property in its name resulting
- 19 from its activities:
- 20 (v) issue licences to other persons for the use of its patents and
- 21 intellectual property;
- 22 (vi) publish information concerning its objects and functions;
- 23 (vii) establish facilities for the collection and dissemination of
- 24 information in connection with research, development and innovation;
- 25 (viii) undertake any other energy technology development related
- 26 activity as directed by the Minister, with the concurrence of the Minister of
- 27 Science and Technology;
- 28 (ix) promote relevant energy research through cooperation with any
- 29 entity, institution or person equipped with the relevant skills and expertise
- 30 within and outside the Nigeria:

1 (x) make grants to educational and scientific institutions in aid of  
2 research by their staff or for the establishment of facilities for such research;

3 (xi) promote the training of research workers by granting bursaries  
4 or grants-in-aid for research;

5 (xii) undertake the investigations or research that the minister, after  
6 consultation with the Minister of Science and Technology, may assign to it;  
7 and

8 (xiii) advise the Minister and the Minister of Science and  
9 Technology on research in the field of energy technology.

10 18.-(1) Subject to this Act, the Nigerian National Energy  
11 Development Institute shall be managed and controlled by a Board, which:

Composition of  
Nigerian National  
Energy  
Development  
Institute

12 (a) shall determine the Nigerian National Energy Development  
13 Institute's policies and procedures;

14 (b) shall exercise control over the performance of the Nigerian  
15 National Energy Development Institute's functions; and

16 (c) has the same powers and authority as are conferred upon the  
17 Nigerian National Energy Development Institute in terms of this Act.

18 (2) The Minister shall, after consultation with the Minister of  
19 Science and Technology, appoint as members of the Board:

20 (a) a Chairman;

21 (b) a Deputy Chairman;

22 (c) representatives from the Ministries of Solid Minerals, Energy,  
23 Trade and Investment, Industry, Transport, Science and Technology,  
24 Environment, Culture and Tourism; and

25 (d) two other suitably qualified persons.

26 (3) The Chief Executive Officer appointed in section 19, or if  
27 unavailable, an employee of the Nigerian National Energy Development  
28 Institute designated by the Chief Executive Officer, shall attend all meetings  
29 of the Board and has the right to speak, but not to vote, at such meetings.

30 (4) If the Chairman cannot perform his or her duties, the Deputy

1 Chairman shall perform such duties until the Chairman can resume his or her  
2 duties or until the Minister, after consultation with the Minister of Science and  
3 Technology, has appointed a replacement for him or her.

4 (5) The Chairman or Deputy Chairman presides at any meeting of the  
5 Board.

6 (6) A member of the Board, excluding the Chief Executive Officer,  
7 holds office for a period not exceeding four years, but may be reappointed.

8 (7) A member of the Board must vacate his or her office if he or she:

9 (a) becomes of unsound mind;

10 (b) resigns by written notification to the Minister of at least one  
11 month;

12 (c) in the case of members appointed in terms of subsection (2)(c)  
13 resigns from his or her respective department; or

14 (d) materially fails to perform any duty imposed on him or her in  
15 terms of this Act.

16 (8) The members of the Board, with the exclusion of those members  
17 who are in the full-time employment of an organ of the state, must be appointed  
18 on such conditions, including conditions relating to the payment of  
19 remuneration and allowances, as the Minister may with the concurrence of the  
20 Ministers of Finance and Science and Technology, determine.

21 (9) The members of the Board must be persons who have relevant  
22 qualifications and experience or who have special knowledge or experience in  
23 relation to one or other aspect of the Nigerian National Energy Development  
24 Institute's functions.

25 (10) Upon appointment, every member of the Board must disclose to  
26 the Minister and to the Board:

27 (a) his or her pecuniary interest in any person, firm, association or  
28 company engaged in any of the functions of the Nigerian National Energy  
29 Development Institute; and

30 (b) if his or her spouse, life partner, parent or child is in the employ of,



1 or acts as a consultant to, or has any relationship with, any person, firm,  
2 association or company engaged in any of the functions of the Nigerian  
3 National Energy Development Institute.

4 (11) If a member of the Board acquires an interest contemplated in  
5 subsection 10(a) or (b), such member must immediately, in writing, declare  
6 that fact to the Minister and Board.

7 (12) The Minister may from time to time, reserve any matter  
8 provided for in this Act, as a matter in respect of which a decision of the  
9 Board will be subject to the consent of the Minister and the Minister of  
10 Science and Technology.

11 (13) The Minister and the Minister of Finance may jointly from  
12 time to time reserve any financial matter provided for in this Act as a matter  
13 in respect of which a decision of the Board shall be subject to the consent of  
14 the Minister with the concurrence of the Minister of Finance.

15 19.-(1) The Board may establish subcommittees and may appoint  
16 any of its members to join one or more of such subcommittees, which must,  
17 subject to the instructions of the Board, perform those functions of the Board  
18 as the Board may determine.

Nigerian National  
Energy  
Development  
Institute sub-  
committees for  
specific purposes

19 (2) (a) A subcommittee contemplated in subsection (1) consists of  
20 such number of persons, including at least one Board member and any  
21 employees of the Institute, as the Board deems necessary;

22 (b) The Board may at any time dissolve or reconstitute a  
23 subcommittee.

24 (3) If a subcommittee referred to in subsection (1) consists of more  
25 than one member, the Board must designate one member as a Chairperson.

26 (4) The Institute may pay the members of a subcommittee referred  
27 to in subsection (1) who are:

28 (a) not in the full-time service of the Country;

29 (b) not employees of the Institute; and

30 (c) not members of the Board the remuneration and allowances

1 determined by the Minister, with the concurrence of the Minister of Finance.

2 (5) The Board shall not be discharged from its responsibility for any  
3 function performed in terms of this section by any sub-committee of the Board.

Meetings of  
Board of Nigerian  
National Energy  
Development  
Institute

4 **20.**-(1) The meetings of the Board must be held at such times and  
5 places as determined by the Chairman of the Board.

6 (2) The Chairman, or in his or her absence the Deputy Chairman, may  
7 at any time call a special meeting of the Board, which must be held at such time  
8 and place as the Chairman or the Deputy Chairman, as the case may be, may  
9 direct.

10 (3) The quorum for a meeting of the Board is the majority of its  
11 members.

12 (4) A decision of the Board is taken by resolution of the majority of the  
13 members present at any meeting of the Board and, in the event of an equality of  
14 votes on any matter, the person presiding at the meeting in question shall have a  
15 casting vote in addition to his or her deliberative vote as a member of the Board.

16 (5) No decision taken by or act performed under the authority of the  
17 Board shall be invalid by reason only of:

18 (a) a vacancy on the Board; or

19 (b) the fact that a person who was not entitled to sit as a member of the  
20 Board, sit as a member at the time when the decision was taken or the act was  
21 authorized if the decision was taken or the act was authorized by the requisite  
22 majority of the members of the Board who were present at the time and entitled  
23 to sit as members.

Chief Executive  
Officer of Nigerian  
National Energy  
Development  
Institute

24 **21.**-(1) The Board shall appoint the Chief Executive Officer of the  
25 Nigerian National Energy Development Institute.

26 (2) The Chief Executive Officer:

27 (a) shall be responsible for and the exercise of control over the  
28 performance of the functions of the Institute; and

29 (b) shall report on the affairs of the Institute to the Board as may be  
30 required of him or her by the Board.

1 (3) If the Chief Executive Officer is absent or unable to carry out  
2 his or her duties or in the event of a vacancy, the Board may appoint an  
3 employee of the Nigerian Institute to act as Chief Executive Officer, and that  
4 employee shall, while so acting, have all the powers and perform all the  
5 duties of the Chief Executive Officer.

6 (4) The Chief Executive Officer is appointed for a period of not  
7 more than five years, but may be reappointed on the conditions, including  
8 conditions relating to the payment of remuneration and allowances, which  
9 the Board may determine in accordance with a system approved, from time  
10 to time, by the Minister, with the concurrence of the Ministers of Finance  
11 and Science and Technology.

12 (5) The Chief Executive Officer shall enter into an annual  
13 performance contract with the Board and the Board shall assess his or her  
14 performance annually.

15 (6) Any dispute between the Board and the Chief Executive Officer  
16 which cannot be amicably resolved shall be referred to arbitration in terms  
17 of the Arbitration Act.

18 22.-(1) The Chief Executive Officer of the Nigerian National  
19 Energy Development Institute may on the conditions which must be  
20 determined by the Board, appoint the employees of the Nigerian National  
21 Energy Development Institute whom it deems necessary to assist the  
22 Nigerian National Energy Development Institute in the performance of its  
23 functions.

Employees of  
the Institute and  
conditions of  
service

24 (2) The Nigerian National Energy Development Institute must pay  
25 its employees such remuneration, allowances, subsidies and other benefits  
26 as the Board may determine, in accordance with a system approved from  
27 time to time by the Minister, with the concurrence of the Minister of  
28 Finance.

29 (3) The Nigerian National Energy Development Institute may, in  
30 addition to employees referred to in subsection (1), be assisted in the

1 performance of its functions by officers and employees in the public service  
2 who have been placed at the disposal of the Nigerian National Energy  
3 Development Institute in terms of the Public Service Act.

4 (4) The Board may on such conditions as it may deem fit and for a  
5 fixed period of time, second an employee of the Nigerian National Energy  
6 Development Institute to perform a particular service for an organ of  
7 government or for the government of any other country or territory, provided  
8 that:

9 (a) such an employee's rights, privileges and benefits by virtue of his  
10 conditions of service as an employee of the Nigerian National Energy  
11 Development Institute are not adversely affected by such secondment; and

12 (b) such employee consents thereto.

Funding of  
Nigerian National  
Energy  
Development  
Institute

13 23.-(1) The funds of the Nigerian National Energy Development  
14 Institute consist of:

15 (a) money appropriated by the National Assembly;

16 (b) donations or contributions which the Nigerian National Energy  
17 Development Institute may receive from any person, body, government or  
18 administration: and

19 (c) money received from any other appropriate source.

20 (2) The Institute must utilize its funds for defraying expenses in  
21 connection with the performance of its functions.

22 (3) The Institute shall utilize its money in accordance with the  
23 statement of its estimated income and expenditure contemplated in subsection  
24 (4), as approved by the Minister.

25 (4) The Board must in each financial year, as required by the Public  
26 Finance Management Act, submit a statement of the Institute's estimated  
27 income and expenditure during the following financial year to the Minister for  
28 his or her approval.

1                   24.-(1) The Chief Executive Officer is the accounting officer  
2 charged with the responsibility of accounting for all money received and  
3 payments made by the Institute.

Accounting and  
auditing at  
Nigerian National  
Energy  
Development  
Institute

4                   (2) The accounting officer must cause such records of account to be  
5 kept as are necessary to represent fairly the state of affairs and business of  
6 the Institute and to explain the transactions and financial position of the  
7 business of the Institute.

8                   (3) The accounting and compilation of annual financial statements  
9 of the Institute shall be done in accordance with the provisions of the Public  
10 Finance Management Act.

11                   25.-(1) Subject to subsections (5) and (6), the rights in all  
12 discoveries and inventions and in all improvements in respect of processes,  
13 apparatus and machines made by:

Discoveries,  
inventions and  
improvements

14                   (a) employees of the Institute or officers and employees in the  
15 public service who have been placed at the disposal of the Energy Research  
16 and Development Division of the Institute;

17                   (b) persons assisting the Institute with any investigation or  
18 research; or

19                   (c) persons to whom contracts, including bursaries or grants-in-  
20 aid, have been granted by the Institute, vests in the Institute.

21                   (2) The Institute may make the discoveries, inventions and  
22 improvements referred to in subsection (1) available for use in the public  
23 interest subject to the conditions and the payment of fees or royalties that the  
24 Institute may determine.

25                   (3) In respect of the rights in any discovery, invention or  
26 improvement that are contemplated in subsection (1) the Institute may  
27 award to the person responsible for the discovery, invention or improvement  
28 such bonus as it deems fit, or make provision for financial participation by  
29 him or her in the profit derived from such discovery, invention or  
30 improvement to such extent as the Minister may determine with the

1 concurrence of the Minister of Finance.

2 (4) The Institute may apply for a patent in respect of any discovery,  
3 invention or improvement contemplated in subsection (1), and shall for the  
4 purposes of the Patents Act, be regarded as the assignee of the discoverer or  
5 inventor in question.

6 (5) Unless it is otherwise agreed, the rights in a discovery, invention or  
7 improvement made by the Institute in the course of an investigation for or on  
8 behalf of another person, government or administration shall vest with the  
9 Institute.

10 (6) The provisions of this section shall not apply in respect of a  
11 discovery or an invention or improvement referred to in subsection (1) which,  
12 in the opinion of the Minister, was made by the person concerned other than:

13 (a) in the course of his or her employment as an employee of the  
14 Institute;

15 (b) during the performance of functions in respect of which he or she  
16 has been placed at the disposal of the Institute:

17 (c) in the course of any investigation or research while assisting the  
18 Institute; or

19 (d) in the course of any research in respect of which he or she receives  
20 a bursary or grant-in-aid from the Institute, which is not connected with such  
21 employment, functions, investigation or research.

22 PART 5 - SECURITY OF SUPPLY

23 26.-(1) The Minister may, in a prescribed manner, for the purposes of  
24 ensuring security of supply, direct any state-owned entity to acquire, maintain,  
25 monitor and manage national strategic energy feedstock's and carriers.

26 (2) The nominated government-owned entity must perform the  
27 functions contemplated in subsection (1) in accordance with the relevant  
28 published security of supply strategies or policies.

29 (3) The strategies or policies contemplated in subsection (2) may  
30 contain but not be limited to:

Acquisition and  
maintenance of  
national strategic  
energy feedstock's  
and carriers

1 (a) the minimum level of energy carrier or energy feedstock for the  
2 production of an energy carrier:

3 (b) the conditions under which:

4 (i) the strategic energy feedstock's and carriers may be built; and

5 (ii) withdrawals may be made from such strategic energy  
6 feedstock's and carriers;

7 (c) cost and benefit analysis;

8 (d) funding mechanism for such energy feedstock or carrier: and

9 (e) obligations to be imposed, on producers of energy feedstock's,  
10 to supply to the nominated state-owned entity the requisite energy  
11 feedstock, in a manner prescribed by regulation.

12 (4) Before finalizing the strategy or policy, the Minister shall:

13 (a) invite public comments on such strategy or policy; and

14 (b) duly consider such comments.

15 27. The Minister may, for the purposes of ensuring security of  
16 supply, direct any government-owned entity, in a prescribed manner, to: Investment in and  
maintenance of  
Energy  
Infrastructure

17 (a) undertake security of supply measures;

18 (b) provide for adequate investment in energy infrastructure;

19 (c) invest in critical energy infrastructure; and

20 (d) ensure upkeep of all critical energy infrastructure.

21 PART 6 - GENERAL PROVISIONS

22 28.-(1) The Minister may, after consultation with Ministers whose Regulations  
23 areas of responsibility will be affected by the proposed regulations, without  
24 derogating from his or her general regulatory powers, by notice in the  
25 Gazette make regulations regarding:

26 (a) the publication of energy statistics or information;

27 (b) the type, manner and form of energy data and information that  
28 shall be provided by any person;

29 (c) the form and manner of the link between the energy database

- 1 and information system to any other system within the public administration;
- 2 (d) minimum contributions to national energy supply from renewable  
3 energy sources;
- 4 (e) the nature of the sources that may be used for renewable energy  
5 contributions to the national energy supply;
- 6 (f) measures and incentives designed to promote the production,  
7 consumption, investment, research and development of renewable energy;
- 8 (g) minimum levels of energy efficiency in each sector of the  
9 economy;
- 10 (h) steps and procedures necessary for the application of energy  
11 efficiency technologies and procedures;
- 12 (i) labelling for energy efficiency purposes of household appliances,  
13 devices and motor vehicles;
- 14 (j) prohibition of the manufacture, or importation or sale of electrical  
15 and electronic products and fuel burning appliances for reasons of poor energy  
16 efficiency;
- 17 (k) standards and specifications for energy carriers;
- 18 (l) energy efficiency standards for specific technologies, processes,  
19 appliances, devices, motor vehicles and buildings;
- 20 (m) holding of strategic energy feedstock's and carriers, including  
21 financing mechanisms for such stocks;
- 22 (n) energy conservation measures to be used during energy shortage,  
23 which may include but not limited to the amount of energy to be saved, the  
24 duration for such measures and penalties associated with non-compliance to  
25 such measures;
- 26 (o) measures to ensure adequate provision of energy-related  
27 infrastructure;
- 28 (p) measures to ensure operating reliability of all key energy  
29 infrastructure, to the minimum standards as may be determined by the  
30 Minister;



1 (q) measures to promote security of supply through access to  
2 common infrastructure by any party, where not provided for under any other  
3 legislation;

4 (r) the prohibition of disposal methods of certain fuels or post-  
5 combustion residues:

6 (5) the safe, healthy and sustainable use of energy, standards and  
7 specifications, not elsewhere legislated or regulated, for:

8 (i) the composition, colouring, labelling and form of energy  
9 carriers;

10 (ii) low-smoke fuels;

11 (iii) the prohibition of the sale or combustion of polluting fuels;

12 (iv) cooking, heating, lighting and other energy consuming  
13 household appliances;

14 (v) transport of energy carriers;

15 (vi) the storage and packaging of energy carriers; and

16 (vii) any other energy-consuming appliance in all sectors of the  
17 economy.

18 (t) any other matter that mayor has to be prescribed, determined or  
19 provided for by regulation in terms of this Act.

20 (2) Before promulgating regulations, the Minister must:

21 (a) invite public comments on such regulations; and

22 (b) duly consider such comments.

23 29.-(1) A person who contravenes or fails to comply with any  
24 provision of this Act, shall be guilty of an offence and be liable on conviction  
25 to:

Offences and  
penalties

26 (a) a fine not exceeding two million naira;

27 (b) imprisonment for a period not exceeding five years; or

28 (c) both such fine and such imprisonment.

29 (2) The Minister may, by a notice in the Gazette, amend the amount  
30 referred to in subsection (1) in order to counter the effect of inflation.

Repeal of the  
ECN Act, LFN,  
2004

1                   **30.** The Energy Commission of Nigeria Act LFN, 2004 is hereby  
2 repealed.

Interpretation

3                   **31.** In this Act, unless the context otherwise requires:  
4 "Commission" means the Energy Commission of Nigeria established under  
5 section 1 (1) of this Act;  
6 "chairman" means the chairman of the Commission;  
7 "member" means any member of the Commission including the chairman.  
8 "Board" means the Board of the Nigerian National Energy Development  
9 Institute established under this Act;  
10 "Ministry" means the Ministry of Energy;  
11 "energy carrier" means a substance or system that moves or carries energy in a  
12 usable form from one place to another;  
13 "energy data" means energy-related statistics, facts, figures, information and  
14 records of the energy industry and all other economic sectors;  
15 "energy efficiency" means economical and efficient production and utilization  
16 of an energy carrier or resource;  
17 "energy feedstock's" means any substance used or that can be used as a raw  
18 material in an industrial process producing energy;  
19 "energy infrastructure" means public and privately owned physical structures  
20 which are used for the production, transformation, conversion, transportation  
21 or distribution of energy carriers;  
22 "energy-related sectors" means all sectors which are impacted by or have an  
23 impact on the energy sector;  
24 "energy resource" means non-value added material or mineral that can be used  
25 to produce energy or be converted to an energy carrier;  
26 "free basic electricity" means a limited free amount of electricity supply  
27 deemed necessary to support basic energy services of a typical poor household  
28 as determined from time to time;  
29 "greenhouse gases" mean gases present in the atmosphere, which reduce the  
30 loss of heat into space and thereby contributing to an increase in global

1 temperatures through a process known as the greenhouse effect;  
2 "Integrated Energy Plan" means the national energy plan approved by  
3 Cabinet and published in the Gazette by the Minister;  
4 "Minister" means the Minister of Energy;  
5 "prescribed" means prescribed by regulation;  
6 "Freedom of Information Act" means the Freedom of Information Act;  
7 "Public Finance Management Act" means the Public Finance Management  
8 Act;  
9 "regulation" means any regulation made in terms of this Act;  
10 "renewable energy" means energy generated from natural non-depleting  
11 resources including solar energy, wind energy, biomass energy, biological  
12 waste energy, hydro energy, geothermal energy and ocean and tidal energy;  
13 and  
14 "this Act" includes regulations made in terms of this Act.

15 **32.** This Bill may be cited as the Energy Commission of Nigeria Citation  
16 Act (Repeal & Re-Enactment) Bill, 2018.

#### EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Energy Commission of Nigeria Act LFN, 2004 and to re-enact the Energy Commission of Nigeria Act, 2015 which shall ensure that diverse energy resources are available, in sustainable quantities and at affordable prices, to the Nigerian economy in support of economic growth taking into account environmental management requirements and interactions amongst economic sectors; to provide for energy planning, increased generation and consumption of renewable energies, contingency energy supply, holding of strategic energy feedstock's and carriers, adequate investment in, appropriate upkeep and access to energy infrastructure; to provide measures for the furnishing of certain data and information regarding energy demand, supply and generation; to establish an institution to be responsible for promotion of efficient generation and consumption of

- 1 energy and energy research; and to provide for all matters connected therewith.
- 2 Among other things, the Bill shall:
- 3 (a) ensure uninterrupted supply of energy to the Federal Republic of
- 4 Nigeria;
- 5 (b) promote diversity of supply of energy and its sources;
- 6 (c) facilitate effective management of energy demand and its
- 7 conservation;
- 8 (d) promote energy research;
- 9 (e) promote appropriate standards and specifications for the
- 10 equipment, systems and processes used for producing, supplying and
- 11 consuming energy;
- 12 (f) ensure collection of data and information relating to energy supply,
- 13 transportation and demand;
- 14 (g) provide for optimal supply, transformation, transportation,
- 15 storage and demand of energy that are planned, organized and implemented in
- 16 accordance with a balanced consideration of security of supply, economics,
- 17 consumer protection and a sustainable development;
- 18 (h) provide for certain safety, health and environment matters that
- 19 pertain to energy:
- 20 (i) facilitate energy access for improvement of the quality of life of the
- 21 people of Nigeria;
- 22 (j) commercialize energy-related technologies;
- 23 (k) ensure effective planning for energy supply, transportation and
- 24 consumption: and'
- 25 (l) contribute to sustainable development of Nigeria's economy.