

NIGERIA RESEARCH AND INNOVATION TRUST FUND BILL, 2016

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# A BILL

## FOR

AN ACT TO ESTABLISH THE NIGERIA RESEARCH AND INNOVATION TRUST FUND CHARGED WITH THE RESPONSIBILITY FOR IMPOSING, MANAGING AND DISBURSING THE RESEARCH AND INNOVATION TAX TOWARDS ACHIEVING THE COMMERCIALISATION OF RESEARCH FINDINGS IN NIGERIA; AND FOR RELATED MATTERS

*Sponsored by Hon. Chime Oji*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of Nigeria-

- 1           1. The objectives of this Act are to- Objectives
- 2           (a) Establish a Research and Innovation Tax dedicated to the
- 3           commercialization of research findings in Nigeria;
- 4           (b) Establish the Nigeria Research and Innovation Trust Fund
- 5           which shall be responsible for imposing, managing and disbursing the
- 6           Research and Innovation Tax;
- 7           (c) Establish the Nigeria Research and Innovation Trust Fund
- 8           Board of Trustees which shall be responsible for the management of the
- 9           Nigeria Research and Innovation Trust Fund in accordance with the
- 10          provisions of this Act; and
- 11          (d) Promote the commercialization of research undertakings in
- 12          Nigeria and a knowledge-base economy for sustained national
- 13          competitiveness.
- 14          2. The provisions of this Act shall apply to the funding and Application
- 15          management of research commercialization endeavors in Nigeria.
- 16          3.-(1) As from the commencement of this Act, there shall be
- 17          charged and payable an annual research and innovation tax which shall be Imposition of  
the Research and  
Innovation Tax

1 assessed, collected and administered in accordance with the provisions of this  
2 Act.

3 (2) The tax at the rate of 1 percent shall be charged on the assessable  
4 profit of a company registered in Nigeria (in this Act referred to as "a  
5 company").

6 (3) The assessable profit of a company shall be ascertained in the  
7 manner specified in the Companies income Tax Act or the Petroleum profits  
8 Tax Act (in this Act referred to as "the Act") as the case may be.

9 (4) Without prejudice to the provision of subsection (3) of this section,  
10 section 60 of the petroleum profit tax Act shall not apply to the assessment,  
11 collection and payment of the research and innovation tax and all companies  
12 chargeable to the tax imposed under this Act.

Assessment and  
Collection of Tax

13 4.-(1) The Federal Inland Revenue Service (in this Act referred to as  
14 the Service") shall assess and collect from a company the tax impose by this  
15 Act and accordingly-

16 (a) shall, when assessing a company, for companies income tax or  
17 petroleum profit tax for an accounting period of the company, also proceed to  
18 assess the company for the tax due under this Act; and

19 (b) the provision of the Act relating to the collection of companies  
20 income tax or petroleum profit tax shall, subject to this Act, apply to the tax due  
21 under this Act.

22 (2) The tax imposed by this Act shall be due and payable within 60  
23 days after the Service has served notice of the assessment on a company.

24 (3) The Service may, for the purpose of assessment and collecting the  
25 tax imposed by this Act, devise such forms as it may deem necessary.

Establishment  
of the Nigeria  
Research and  
Innovation Trust  
Fund

26 5.-(1) There is established the Nigeria Research and Innovation Trust  
27 Fund (in this Act referred to as the Fund) charged with the responsibility of  
28 promoting and funding academic research-industry partnerships and  
29 commercialising products of research undertakings in Nigeria which shall be  
30 managed by the Board of Trustees established under section 6 of this Act.

1 (2) The Fund-

2 (a) shall be a body corporate with perpetual succession and a  
3 common seal; and

4 (b) may sue and be sued in its corporate name.

5 (3) The Service shall pay the tax collected under this Act into the  
6 Fund and shall, when doing so, submit to the Fund, in such form as the Board  
7 of Trustees shall approve, a return showing-

8 (a) the name of the company making the payment;

9 (b) the amount collected;

10 (c) the assessable profit of the company for the accounting period;

11 and

12 (d) such other information as may be required by the Fund for the  
13 proper administration of the tax.

14 (4) The Fund shall, before disbursement of the amount in the fund,  
15 set aside in each year, an amount not exceeding 10 percent of the total  
16 monies accruing to the Fund in the preceding year which shall be applied-

17 (a) for the cost of administration and management of the Fund;

18 (b) for the maintenance of any property acquired by or vested in the  
19 Fund and generally to pay for service rendered to the Fund;

20 (c) for project monitoring;

21 (d) to meet all the needs of the Fund necessary for the due  
22 administration and implementation of the purpose of this Act.

23 6.-(1) There is established for the Fund, a Board of Trustees (in this  
24 Act referred to as *the Board of Trustees*”).

Establishment of  
the Board of  
Trustees

25 (2) The Board of Trustees shall consist of-

26 (a) a non-executive chairman who shall-

27 (i) be a person recommended by the Organised Private Sector of  
28 Nigeria to the Minister with a good knowledge in finance and administrative  
29 matters;

30 (ii) have qualifications and experience as are required to perform

1 the functions of that office under this Act.

2 (b) A representative each of the following Federal Ministries, who  
3 shall not be below the rank of a Director-

4 (i) Education;

5 (ii) Trade and Investment;

6 (iii) Science and Technology;

7 (iv) Finance; and

8 (v) Agriculture.

9 (c) 6 representatives from the public research institutions and  
10 universities in Nigeria;

11 (d) 3 representatives from private research institutions and  
12 universities in Nigeria;

13 (e) 6 representatives representing the organized private sector;

14 (f) A representative of the National Competitiveness Council of  
15 Nigeria;

16 (g) The Executive Secretary, who shall be the secretary to the Board  
17 of Trustees.

18 (3) The membership of the Board of Trustees shall reflect the six geo-  
19 political zones of the Federation.

20 (4) The members of the Board of Trustees shall-

21 (a) be persons with considerable experience to represent the business,  
22 financial and education sectors;

23 (b) be appointed by the President on the recommendation of the  
24 Minister;

25 (c) other than the ex-officio members, each hold office for a term of 4  
26 years in the first instance and may be eligible for re-appointment for a further  
27 term of 4 years and no more;

28 (d) be paid such remuneration and allowances as the President may,  
29 from time to time, determine.

30 (5) The Board of Trustees shall meet for the conduct of its ordinary

1 meetings 4 times in a calendar year.

2 (6) Notwithstanding subsection (4) of this section, the Board of  
3 Trustees may meet to conduct such other business as exigency demands.

4 (7) The supplementary provisions contained in the Schedule to this  
5 Act shall have effect with respect to the proceedings of the Board of  
6 Trustees.

7 7.-(1) A member of the Board of Trustees shall cease to hold office  
8 if he/she-

Cessation of  
Membership

- 9 (a) becomes of unsound mind;  
10 (b) becomes bankrupt or makes a compromise with his creditors;  
11 (c) is convicted of a felony or any offence involving dishonesty, or  
12 of financial misappropriation;  
13 (d) is guilty of serious misconduct in relation to his duties; or  
14 (e) dies.

15 (2) A member of the Board of Trustees may be removed from office  
16 by the president if he is satisfied that it is not in the interest of the Fund or  
17 public that the member should continue in that office.

18 (3) A member of the Board of Trustees, other than an ex-officio,  
19 may resign his appointment by a notice in writing under his hand, addressed  
20 to the president.

21 (4) Where a vacancy occurs in the membership of the Board of  
22 Trustees, it shall be filled by the appointment of a successor to hold office for  
23 the remainder of the term of office of his predecessor, so that the successor  
24 shall represent the same interest and shall be appointed by the president.

25 8. The Board of Trustees shall-

Functions of the  
Board of Trustees

26 (a) monitor and ensure collection of the research and innovation  
27 tax by the Service and ensure transfer of same to the Fund;

28 (b) manage and disburse the tax imposed by this Act;

29 (c) liaise with the appropriate ministries or bodies responsible for  
30 collection or safe keeping of the tax;

1 (d) develop and issue from time to time, the parameters for funding  
2 research industry collaborative projects and other projects of the Fund which  
3 shall include economic viability and local industry input;

4 (e) receive requests and approve admissible projects after due  
5 consideration;

6 (f) ensure disbursement of funds to various research institutions in  
7 Nigeria in line with the purposes of this Act;

8 (g) monitor and evaluate execution of the projects;

9 (h) invest funds in appropriate and safe securities;

10 (i) update the Federal Government on its activities and progress  
11 through annual and audited reports;

12 (j) review progress and suggest improvement within the provisions of  
13 this Act;

14 (k) do such other things as are necessary or incidental to the objects of  
15 the Fund under this Act or as may be assigned by the Federal Government;

16 (l) ensure the Fund consistently earns revenue from the licensing of  
17 the innovation developed from its funding activities;

18 (m) generally regulate the administration, application and  
19 disbursement of monies from the Fund under this Act.

20 9.-(1) The Board of Trustees shall administer the tax imposed by this  
21 Act and disburse the amount in the Fund to research projects in both public and  
22 private organizations, specifically for the purpose of funding:

23 (a) research efforts with commercial feasibility;

24 (b) early stage innovations;

25 (c) a national knowledge transfer office offering free or subsidized  
26 patent processing services;

27 (d) public-private research collaborations;

28 (e) research databases;

29 (f) research-industry business summits;

30 (g) innovation prizes.



1 (h) industry focused transnational doctoral training centres  
2 established in Nigerian universities in partnership with world-class research  
3 institutions;

4 (i) any other need which, in the opinion of the Board of Trustees, is  
5 critical and essential for the development of a knowledge-based economy in  
6 Nigeria.

7 (2) The Board of Trustees shall administer, manage and disburse  
8 the tax imposed by this Act on the basis of-

9 (a) local industry participation as a pre-condition for funding;

10 (b) funding of all public and private tertiary educational and  
11 research institutions;

12 (c) merit-based interventions and with consideration for balance  
13 among the 6 geo-political zones of the Federation;

14 (d) equality among the states of the Federation in the case of  
15 regular intervention;

16 (e) adequate consideration for capacity to earn royalties for the  
17 Fund in the event of business profitability;

18 (f) the consideration that income earned from such royalties should  
19 be pegged to the invested amount or slightly above;

20 (g) focus on partnerships with research organizations with  
21 consideration to ensure that such organizations earn revenue from the  
22 exploitation of research findings.

23 (4) The Board of Trustees shall have power to give due  
24 consideration to the peculiarities of each geo-political zone in the  
25 disbursement and management of the tax imposed by this Act between the  
26 various recipients.

27 10.-(1) There shall be for the Fund an Executive Secretary who  
28 shall-

29 (a) be appointed by the president on the recommendation of the  
30 Minister from the pool of nominees of the Organised Private Sector;

Appointment of  
the Executive  
Secretary and other  
staff of the Fund

- 1 (b) be the Chief Executive and Accounting officer of the Fund;
- 2 (c) be a person with relevant management background with good
- 3 knowledge and cognate academic and financial management experience;
- 4 (d) have qualifications and experience as are appropriate for a person
- 5 required to perform the functions of that office under this Act; and
- 6 (e) hold officer for a period of 4 years in the first instance and may be
- 7 eligible for re-appointment for another term of 4 years only and on such terms
- 8 and conditions as to emoluments, and conditions of service as may be specified
- 9 in his letter of appointment.

10 (2) The Executive Secretary shall, subject to the general direction of

11 the Board of Trustees, be responsible for-

- 12 (a) the day -to -day administration of the Fund;
- 13 (b) keeping the books and proper records of the proceedings of the
- 14 Board of Trustees;
- 15 (c) the administration of the secretariat of the Board of Trustees; and
- 16 (d) the general direction and control of all other employees of the
- 17 Fund.

18 (3) The Board of Trustees shall have power to-

- 19 (a) employ either directly or on transfer or secondment from any
- 20 private organization, civil or public service in the Federation such number of
- 21 employees as may, in the opinion of the Board, be required to assist the Board
- 22 of Trustees and the Executive Secretary in the discharge of their functions
- 23 under this Act; and

- 24 (b) pay to persons so employed such remuneration (including
- 25 allowances) as the Board of Trustees may, with the approval of the National
- 26 Salaries, Incomes and Wages Commission, determine.

27 **11.-(1)** The Executive Secretary may be suspended or removed from

28 office by the Senate if he:

- 29 (a) has demonstrated inability to effectively perform the duties of his
- 30 office;

1 (b) is guilty of serious misconduct in relation to his duties as  
2 Executive Secretary;

3 (c) in the case of person possessed of professional qualifications, is  
4 disqualified or suspended from practicing his profession by order of a  
5 competent authority.

6 (2) Where the Executive Secretary is unable to perform the  
7 functions of his office due to temporary incapacity which is likely to be  
8 prolonged, the President may, on the recommendation of the Minister,  
9 appoint a substitute to act as the Executive Secretary.

10 12.-(1) Service in the Fund shall be approved service for purposes Pension  
11 of pension.

12 (2) Employees of the Fund shall be entitled to pension, gratuity and  
13 other retirement benefits as are enjoyed by persons holding equivalent  
14 grades in the Civil Service of the Federation.

15 (3) Notwithstanding in subsection (1) or (2) of this section, nothing  
16 in this Act shall prevent the appointment of a person to any office on terms  
17 which preclude the grant of pension and gratuity in respect of that office.

18 (4) For the purposes of the application of the provisions of the  
19 pension Reform Act, any power exercisable by a Minister or other authority  
20 of the Government of the Federation, other than the power to make give  
21 directives under section 24 thereof, is vested in and shall be exercisable by  
22 the Board of Trustees.

23 13.-(1) The Fund shall not later than three months to the end of a Statement of  
24 financial year, prepare and present to the Minister for approval a statement of estimated income  
25 estimated income and expenditure for the following financial year. and expenditure

26 14.-(1) The Fund shall keep proper books and other records of Proper books  
27 account in respect of all receipts and expenditures in accordance with and records of  
28 acceptable principles of accounting. accounts

29 (2) The accounts of the Fund shall be audited by Auditors to be  
30 appointed annually by the Fund from among the list of auditors and in

1 accordance with guidelines prepared by the Auditor-General for the  
2 Federation.

3 (3) Auditors appointed pursuant to subsection (2) of this section shall  
4 have access to all accounts and other records relating to such accounts which  
5 are kept by the Fund or its agents and shall have the power to require from any  
6 member of the Board of Trustees or employee or agent of the Fund such  
7 information and explanation as in the auditor's opinion are necessary for the  
8 purpose of the audit.

9 (4) Any member of the Board of Trustees, employee or agent of the  
10 Fund who fails without reasonable cause to comply with a request or  
11 instruction of an auditor pursuant to subsection (4) of this section commits an  
12 offence and liable on conviction to a fine not less than N250,000.

Audit and Accounts

13 15.-(1) The Fund shall, within three months after the end of each  
14 financial year, furnish the National Assembly with:

15 (a) a copy of the audited accounts of the Fund prepared by a reputable  
16 external auditing firm;

17 (b) a copy of the general report and full report of the external auditor;  
18 and

19 (c) an annual report detailing:

20 (i) the state of affairs of the Fund for the financial year;

21 (ii) opportunities and constraints impacting upon the Board's  
22 performance and the actions proposed for addressing them.

Exemptions/  
Discretions

23 16.-(1) The provisions of any enactment relating to the taxation of  
24 companies or trust funds shall not apply to the Fund.

Offence

25 17.-(1) A person who contravenes or fails to comply with provisions  
26 of this Act is guilty of an offence under this Act.

27 (2) Subject to the provisions of subsection (3) of this section-

28 (a) If a tax due under section 3 of this Act is not paid within the time  
29 specified in that section, the Service shall serve on the company, a demand note  
30 for the unpaid tax plus a sum which is equal to 5 percent of the tax; and

1 (b) If a sum demand under paragraph (a) of this subsection is not  
2 paid within 2 months of the demand, the company is guilty of an offence  
3 under this Act; and

4 (3) Notwithstanding any other provision in this Act, it shall be the  
5 duty and responsibility of every company liable to pay research and  
6 innovation tax to ensure that its annual returns are filed with the service for  
7 the purpose of assessment of the research and innovation tax.

8 (4) Where an offence under this Act is committed by a body  
9 corporate or firm or other association of individuals-

10 (a) every director, manager, secretary or other similar officer of the  
11 body corporate;

12 (b) every partner or officer of the firm;

13 (c) every person concerned in the management of the affairs of the  
14 association; or

15 (d) every person who was purporting to act in the capacity is  
16 severally guilty of the offence and liable to be proceeded against and  
17 punished for the offence in like manner as if he had himself committed the  
18 offence, unless he proves that the act or omission constituting the offence  
19 took place without his knowledge, consent or connivance.

20 **18.-(1)** Except as otherwise provided in this Act, a person guilty of Penalty  
21 an offence under this Act shall, on conviction, be liable-

22 (a) For a first offence, to imprisonment for a term of 6 months or to  
23 a fine of up to N1,000,000.00 or both; and

24 (b) for a second and subsequent offence to imprisonment for a term  
25 of 12 months or to a fine of up to N2,000,000.00 or both.

26 (2) The institution of proceedings or imposition of a penalty under  
27 this Act shall not relieve a company from liability to pay to the Service a tax  
28 which is or may become due under this Act.

29 (3) Notwithstanding subsection (1) (a) and (b) of this section,  
30 where any company or corporate body liable to file a research and

1 innovation tax under this Act fails in any year to file such return, the Service, if  
2 it is of the opinion that such a company or corporate body is liable to pay  
3 research and innovation tax, may, according to the best of its judgment,  
4 determine the amount of assessable profit of such company and make an  
5 assessment of research and innovation tax in accordance with the provisions of  
6 this Act.

Jurisdiction

7 19. The Federal High Court shall have jurisdiction to try offender  
8 under this Act.

Limitation of  
suits against the  
Fund

9 20.-(1) Subject to the provisions of this Act, the provisions of the  
10 Public Officers Protection Act shall apply in relation to any suit instituted  
11 against any officer or employee of the Fund.

12 (2) Notwithstanding anything contained in any other law or  
13 enactment, no suit against any member of the Board of Trustees, the Executive  
14 Secretary or any other officer or employee of the Fund for any act done in  
15 pursuance or execution of the Act or any other law or enactment, or of any  
16 public duty or authority or in respect of any alleged neglect or default in the  
17 execution of this Act or such law or enactment, duty or authority, shall lie or be  
18 instituted in any court unless-

19 (a) It is commenced within 3 months next after the act, neglect or  
20 default complained of; or

21 (b) In the case of a continuation of damage or injury, within 6 months  
22 next after the ceasing thereof.

23 (3) No suit shall be commenced against a member of the Board of  
24 Trustees, the Trustees, the Executive Secretary, officer or employee of the Fund  
25 before the expiration of a period of one month after written notice of intention  
26 to commence the suit shall have been served upon the Fund by the intending  
27 plaintiff or his agent.

28 (4) The notice referred to in subsection (3) of this section shall clearly  
29 and explicitly state the cause of action, the particulars of the claim, the name  
30 and place of abode of the intending plaintiff and the relief which he claims.

1           21. A notice, summons or other document required or authorized   Service of  
2           to be served upon the Fund under the provisions of this Act or any other law   Documents  
3           or enactment may be served by delivering it to the Executive Secretary or by  
4           sending it by registered post and addressed to the Executive Secretary at the  
5           principal office of the Fund.

6           22.-(1) In any action or suit against the Fund, no execution or   Restriction on,  
7           attachment of process in the nature thereof shall be issued against the Fund.   execution against  
8           property of the  
9           Fund

8           (2) Any sum of money which may, by the judgment of any court, be  
9           awarded against the Fund shall, subject to any direction given by the court  
10          where notice of appeal of the said judgment has been given, be paid from the  
11          general reserve fund of the Fund.

12          23. A member of the Board of Trustees, the Executive Secretary,   Indemnity of  
13          any officer or employee of the Fund shall be indemnified out of the assets of   Officers  
14          the Fund against any proceeding, whether civil or criminal, in which  
15          judgment is given in his favour, or in which he is acquitted, if any such  
16          proceeding is brought against him in his capacity as a member of the Board  
17          of Trustees, the Executive Secretary, officer or employee of the Fund.

18          24. The Minister may, on the recommendation of the Board of   Power of the  
19          Trustees and subject to the approval of the president, make regulations   Minister to give  
20          generally for the purposes of this Act and the due administration thereof.   directives

21          25.-(1) in this Act-   Interpretation

22          "Act" means the Companies Income tax and the petroleum profit tax;

23          "Board of Trustees" means the Board of Trustees established under section 6  
24          of this Act;

25          "Company" means a company registered in Nigeria;

26          "Fund" means the Nigeria Research and Innovation Trust Fund established  
27          under section 5 of this Act;

28          "Minister" means the Minister charged with responsibility for matters  
29          relating to Science and Technology in Nigeria;

30          "The Service" means the Federal Inland Revenue Service established under

1 the Federal Inland Revenue Service (Established) Act, 2007;  
2 "Educational Institution" means a public or private university;  
3 "Research Institution" means a public or private research institution;  
4 "Senate" means the Senate of the Federal Republic of Nigeria.

5 (2) Where no provision is made in this Act for a matter relating to the  
6 assessment and collection of the tax imposed by this Act, the provisions of the  
7 Acts relating to the assessment and collection of companies income tax or  
8 petroleum profit tax, as the case may be, shall apply mutatis mutandis to that  
9 matter.

Short Title

10 26. This Act may be cited as the Nigeria Research and Innovation  
11 Trust Fund (Establishment, Etc.) Bill, 2016.

12 SCHEDULE

13 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD OF TRUSTEES

14 1.-(1) Subject to this Act and section 27 of the Interpretation Act, the  
15 Board of Trustees may make standing orders regulating its proceedings or  
16 those of any of its committee.

17 (2) The quorum of the Board of Trustees shall be 8 members and the  
18 quorum of any committee of the Board of Trustees shall be determined by the  
19 Board of Trustees.

20 2.-(1) The Board of Trustees shall meet not less than 4 times in each  
21 year and subject thereto, the Board of Trustees shall meet whenever it is  
22 summoned by the Chairman, and if the Chairman is required to do so by notice  
23 given to him by not less than 5 other members, he shall summon a meeting of  
24 the Board of Trustees to be held within 14 days from the date on which the  
25 notice is given.

26 (2) At any meeting of the Board of Trustees, the Chairman shall  
27 preside but if he is absent, the members present at the meeting shall appoint one  
28 of them to preside at that meeting.

29 (3) Where the Board of Trustees desires to obtain the advice of any  
30 person on a particular matter, the Board of Trustees may co-opt him to the



1 Board of Trustees for such period. as it thinks fit; but a person who is in  
2 attendance by virtue of this sub-paragraph shall not entitled to vote at any  
3 meeting of the Board and shall not count towards a quorum.

4 3.-(1) The Board of Trustees may appoint one or more committees  
5 to carry out, on behalf of Board of Trustees, such of its function as the Board  
6 of Trustees may determine.

7 (2) A committee appointed under this paragraph shall consist of  
8 such member of persons (not necessarily members of the Board of Trustees)  
9 as may be determined by the Board of Trustees; and a person other than a  
10 member of the Board of Trustees shall hold office on the committee in  
11 accordance with the terms of his appointment.

12 (3) A decision of a committee of the Board of Trustees shall be of no  
13 effect until it is confirmed by the Board of Trustees.

14 4.-(1) The fixing of the seal of the Fund shall be authenticated by  
15 the signature of the Chairman and any other person authorized generally or  
16 specially to act for purpose by the Board of Trustees.

17 (2) Any contract or instrument which, if made or executed by a  
18 person not being a body corporate, would not be required to be under seal  
19 may be made or executed on behalf of the Fund by the Executive Secretary  
20 or any person generally or specially authorized to act for that purpose by the  
21 Board of Trustees.

22 (3) Any document purporting to be a document duly executed  
23 under the seal of the Fund shall be received in evidence and shall, unless and  
24 until the contrary is proved, be presumed to be so executed.

25 5. The validity of any proceeding of the Board of Trustees or of a  
26 committee thereof shall not be adversely affected by any vacancy in the  
27 membership of the Board of Trustees or committee, or by any defect in the  
28 appointment of a member of the Board of Trustees or a committee, or by  
29 reason that a person not entitled to do so took part in the proceedings of the  
30 Board of Trustees or committee.

## EXPLANATORY MEMORANDUM

This Act establishes the Nigeria Research and Innovation Trust Fund charged with the responsibility for imposing, managing and disbursing the Research and Innovation Tax towards achieving the commercialisation of research findings in Nigeria.