

EROSION CONTROL AND PREVENTION COMMISSION BILL, 2015

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SCHEDULE

A BILL

FOR

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

Sponsored by Senator Hope Uzodinma

[] Commencement

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

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

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

Establishment of
the Commission

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

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

Head office of
the Commission

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

Establishment
and membership
of the Governing
Council

16 (2) The Council shall consist of:

17 (a) a chairman;

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

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

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

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

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

18 *Schedule*

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

Tenure of Office

22 3. The Chairman and members of the Council other than the
23 Executive Secretary shall each hold office:
24 (a) for a term of 4 years and may be re-appointed for a further term of 4
25 years and no more; and
26 (b) on such terms and conditions as may be specified in their letters of
27 appointment.

Cessation of
Membership

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

1 (a) he becomes bankrupt, suspends payment or compounds with
2 his creditors;

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

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

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

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

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

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

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

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

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

Allowances of
members

25 6. The Council shall have power to :

Powers of the
Council

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

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

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

Functions of
the Commission

- 1 in the country;
- 2 (d) enter into contracts and do such other things as may be necessary
- 3 or expedient for the discharge of its functions and ensure the efficient
- 4 performance of the functions of the Commission; and
- 5 (e) receive, disburse and account for funds of the Commission.
- 6 PART II - FUNCTIONS AND POWERS OF THE COMMISSION
- 7 7. The Commission shall:
- 8 (a) carry out an extensive survey of the extent of gully erosion in the
- 9 country;
- 10 (b) manage, control redress and prevent gully erosion in the country;
- 11 (c) formulate policies and guidelines for the prevention, control and
- 12 management of gully erosion in the country;
- 13 (d) advise on balanced and responsible use of land in the country;
- 14 (e) conceive, plan and implement in accordance with set rules and
- 15 regulations projects and programmes for gully erosion prevention, control and
- 16 management;
- 17 (f) co-ordinate and promote research activities relating to gully
- 18 erosion control, management and prevention;
- 19 (g) adopt an integrated approach addressing the physical, biological
- 20 and socio-economic aspects of the process of gully erosion;
- 21 (h) monitor the state of preparedness of all organisations or agencies
- 22 which may contribute to the control of gully erosion;
- 23 (i) integrate strategies for poverty eradication into the process with
- 24 participation of affected local communities;
- 25 (j) educate and inform the public on gully erosion prevention and
- 26 control measures.
- 27 (k) examine and implement innovative ways of promoting alternative
- 28 livelihoods including training in new skills;
- 29 (i) collate data from relevant agencies so as to enhance planning and
- 30 field operation of gully erosion prevention, management and control;

- 1 (m) cooperate with relevant inter-governmental organisations;
- 2 (n) facilitate through International cooperation the transfer of
3 technology knowledge and know how on the prevention, control and
4 management of gully erosion;
- 5 (o) ensure sound and efficient management of the resources
6 available to the Commission from the Federation Account;
- 7 (p) receive financial and technical aid from international
8 organisations and non-governmental agencies for the purpose of prevention
9 management and control of gully erosion;
- 10 (q) carry out such other functions as the President may from time to
11 time direct.
- 12 **8.-(1)** The Commission shall have power to do anything which will
13 facilitate the carrying out of its functions and in particular may:
- 14 (a) sue and be sued in its corporate name;
- 15 (b) acquire, hold, manage and alienate movable and immovable
16 property;
- 17 (c) monitor and control gully erosion in the affected areas;
- 18 (d) enter into contracts for the prevention, control and management
19 of all gully erosion problems;
- 20 (e) purchase or acquire any asset, business or property considered
21 necessary for the proper conduct of its functions;
- 22 (f) sell, let, lease or dispose of any of its property;
- 23 (g) undertake or sponsor research where necessary for the
24 performance of its functions; and
- 25 (h) train managerial, technical or other category of staff for the
26 purpose of running the affairs of the Commission;
- 27 (i) enter into partnerships, combines, relationships,
28 understandings, agreements and joint ventures for the purpose of carrying out
29 any of the functions.
- 30 (2) The powers conferred on the Commission may be exercised by

Powers of the
Commission

1 it or through any of its officers, employees, agents authorized in that behalf by
2 the Commission.

3 PART III - APPOINTMENT OF EXECUTIVE SECRETARY AND OTHER
4 STAFF OF THE COMMISSION

Appointment and
duties of the
Executive
Secretary of the
Commission

5 9.-(1) There shall be an Executive Secretary of the Commission who
6 shall be appointed by the President.

7 (2) The Executive Secretary shall:

8 (a) be the chief executive and accounting officer of the Commission;
9 and

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

Tenure of and
office term of
remuneration of
the Executive
Secretary

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

15 (2) The Executive Secretary shall:

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

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

Executive
Secretary

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

Appointment
and duties of
Administrative
Secretary

23 12. The Council shall appoint for the Commission an Administrative
24 Secretary who shall:

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

27 (b) keep the records of transactions and correspondence of the
28 Commission; and

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

- 1 **13. The Council shall appoint for the Commission such number of** Staff of the
2 **employees as may in the opinion of the Council be expedient and necessary** Commission and
3 **for the proper and efficient performance of the Commission and pay them** their functions
4 **remuneration and allowances as it determines.** and remuneration
- 5 **14.-(1) Notwithstanding the provisions of sections 12 and 13 of** Appointment and
6 **this Act, the Council shall have power to appoint for the Commission either** Secondment from
7 **directly or on secondment from any public service in the Federation, of** Public Service
8 **employees may, in the opinion of the Council be required to assist the**
9 **Commission in the discharge of any of its function under this Act.**
- 10 (2) The person seconded under this section may elect to be
11 transferred to the service of the Commission, and all previous service he may
12 render in the public service shall count as service to the Commission for the
13 purpose of all pension subsequently payable by the Commission.
- 14 **15. Without prejudice to the provisions of sections 13 and 14 of this** Engagement of
15 **Act, the Council may engage such consultant and advisers as it may require** Consultants and
16 **for the effective discharge of the functions of the Commission.** Advisers
- 17 **16.-(1) There shall be established in the Head Office of the** The structure of
18 **Commission, the following Departments:** the Commission
- 19 (a) Administration and Finance;
20 (b) Education and Public Awareness;
21 (c) Works and Services;
22 (d) Planning, Research and Statistics;
23 (e) Monitoring and Evaluation; and
24 (f) Legal Services.
- 25 (2) The Council shall set up its own monitoring panel to monitor
26 the projects being executed by the Commission.
- 27 (3) The Council, may with the approval of the President, increase
28 the number of Departments as it may deem necessary and expedient to
29 facilitate the realization of the objectives of the Commission.

1 PART IV - FINANCIAL PROVISIONS AND AUDIT

Pensions and
Gratuity

2 17. The staff of the Commission shall be entitled to pensions,
3 gratuities and other retirement benefits as are enjoyed by persons holding
4 equivalent grade in the Civil Service of the Federation.

Provision of
Super-annuation

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

Funds of the
Commission

7 19.-(1) The Commission shall establish and maintain a fund into
8 which all moneys accruable to the Commission shall be paid and from which
9 all the activities of the Commission shall be funded.

10 (2) There shall be paid and credited to the fund:

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

13 (b) Federal Government contribution to the Fund of the Commission
14 equivalent of 100 percent of the total money due to member state of the
15 Commission from the Ecology Fund;

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

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

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

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

24 (a) the cost of administration of the Commission.

25 (b) the payment of salaries, fees, remuneration, allowances, pensions
26 and gratuities payable to the members of the Governing Council and the
27 employees of the Commission;

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

30 (d) the payment for all purchases; and

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

3 (5) The Council shall cause the accounts of the Commission to be
4 audited quarterly and shall be externally audited once every year.

5 **20.**-(1) The Commission may accept gifts of land, money or other
6 property on such terms and conditions, if any, as may be specified by the
7 person or organisation making the gift.

Power to accept
gifts

8 (2) The Commission shall not accept any gift if the conditions
9 attached are inconsistent with the functions of the Commission under this
10 Act.

11 **21.**-(1) The Commission may, from time to time, borrow money as
12 it may require to execute or complete some special projects of the
13 Commission.

Power to borrow

14 (2) The Commission shall not, without the approval of the
15 President, borrow money which exceeds NI,000,000.00 at any one time.

16 **22.**-(1) The Council shall not later than 30th September, of each
17 year, submit to the National Assembly through the Minister an estimate of
18 the expenditure of the Commission during the next succeeding year.

Annual estimates
and expenditure

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

20 **23.** The Commission shall:

Proper account
to be kept by
Commission

21 (a) cause to be kept proper accounts and records of the transactions
22 and affairs of the Commission and ensure that all payments out of its moneys
23 are correctly made and properly authorized;

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

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

29 **24.**-(1) The Auditor-General of the Federation shall:

Audit

30 (a) inspect and audit the accounts and records of financial

1 transaction of the Commission;
 2 (b) inspect records relating to assets of the Commission; and
 3 (c) draw the attention of the Minister to any irregularity revealed and
 4 disclosed by the inspection and audit.

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

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

Annual Report

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

Power to acquire
 land Cap. 202 LFN

16 26.-(1) For the purposes of providing offices and premises necessary
 17 for the performance of its functions under this Act, the Commission may,
 18 subject to the Land Use Act:

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

20 and

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

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

25 PART V - MISCELLANEOUS PROVISIONS

Limitation of
 Suits against
 the Commission
 Cap. 379 LFN

26 27.-(1) The provisions of the Public Officers Protection Act shall
 27 apply in relation to any suit instituted against the Commission or any of the
 28 officers or employees of the Commission.

29 (2) No suit shall be commenced against a member of the Council, the
 30 Executive Secretary, officer or employee of the Commission before the

1 expiration of a period of one month after written notice of intention to
2 commence the suit shall have been served upon the Commission by the
3 intending plaintiff or his agent.

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

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

Service of
Documents

12 **29.**-(1) No execution or attachment of process shall be issued
13 against the Commission or its properties in any action or suit without the
14 consent of the Attorney-General of the Federation.

Restriction on
Execution against
Property of the
Commission

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

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

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

Indemnity of
Officers

Engagement of
Professionals
other than staff

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

Power of the
Minister to give
direction

5 **32.** The Minister may give to the Commission directives of a general
6 or special nature with respect to any of its functions.

Regulations

7 **33.** The Council may, with the approval of the Minister, make
8 Regulations for the purpose of carrying out or giving full effect to the
9 provisions of this Bill.

Interpretation

10 **34.** In this Bill unless the context otherwise requires:
11 "Chairman" means the Chairman of the Governing Council of the
12 Commission;
13 "Commission" means Erosion Control and Prevention Commission;
14 "Council" means a Governing Council of the Commission;
15 "Gully Erosion" means land degradation and destruction resulting from
16 various factors including natural causes (activities of rivers, rain, weathering)
17 and human activities creating thereby gullies, ravines, craters, landslides and
18 mudslide;
19 "Member" means a member of the Council and includes the Chairman;
20 "Minister" means the Minister in charge of matters relating to the
21 Environment;
22 "Power" includes functions and duty; and
23 "President" means the President of the Federal Republic of Nigeria.

Citation

24 **35.** This Bill may be cited as the Erosion Control and Prevention
25 Commission Bill, 2015.

1 purpose and the Executive Secretary.

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

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

10 5. The validity of any proceedings of the Council or of a Committee
11 shall not be adversely affected by:

12 (a) a vacancy in the membership of the Council or Committee;

13 (b) a defect in the appointment of a member of the Council or
14 Committee;

15 (c) reason that a person not entitled to do so took part in the
16 proceedings of the Council or Committee.

EXPLANATORY MEMORANDUM

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