

A BILL

FOR

AN ACT TO ESTABLISH THE SOLID MINERALS PRODUCING AREA DEVELOPMENT COMMISSION IN THE FEDERAL REPUBLIC OF NIGERIA TO ADDRESS THE ENVIRONMENTAL DEVASTATION AND FOR OTHER CONNECTED MATTERS

Sponsored by Senator T. Y. Kaura

[] Commencement

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

1 PART I - ESTABLISHMENT, ETC. THE SOLID MINERALS PRODUCING
2 AREA DEVELOPMENT COMMISSION AND GOVERNING BOARD

3 1.-(1) There is hereby established a body to be known as the Solid
4 Minerals Producing Area Development Commission (in this Act referred to
5 as "the Commission").

Establishment of
the Solid Minerals
Producing Area
Development
Commission

6 (2) The Commission:

7 (a) shall be a body corporate with perpetual succession and a
8 common seal;

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

10 (3) The Commission shall have its head office in Adamawa State
11 and shall establish an office in each member State of the Commission.

12 2.-(1) There is hereby established for the Commission a Governing
13 Board (in this Act referred to as "the Board"), which shall consist of:

Establishment of
Government
Council of the
Commission

14 (a) a chairman;

15 (b) one person who shall be an indigene to represent each the
16 following member States, that is:

17 (i) Adamawa;

18 (ii) Plateau;

19 (iii) Kaduna;

20 (iv) Benue;

- 1 (v) Jigawa;
- 2 (vi) Bauchi;
- 3 (vii) Benue;
- 4 (viii) Cross River;
- 5 (ix) Kogi;
- 6 (ix) Yobe and Zamfara States;
- 7 (x) any other Solid Minerals Producing State.
- 8 (c) two persons to represent Non-Solid Minerals Producing States;
- 9 (d) a representative of the Solid Minerals Producing Companies from
- 10 area nominated by the solid minerals producing company;
- 11 (e) a representative of the Federal Ministry of Finance;
- 12 (j) a representative of the Federal Ministry of Environment;
- 13 (g) a representative of the Solid Minerals Development Agency;
- 14 (h) the Managing Director of the Commission; and
- 15 (i) two Executive Directors;
- 16 (2) The Chairman and other members of the Board shall:
- 17 (a) be appointed by the President, Commander-in-Chief Forces,
- 18 subject to the confirmation of the Senate;
- 19 (b) be persons of proven integrity and ability.
- 20 (3) The members of the Board referred to in paragraph (d) of
- 21 subsection (i) of this Section shall be part-time members.
- 22 (4) The supplementary provision set out in the schedule to this Act
- 23 shall have effect with respect to the proceedings of the Board and the other
- 24 matters contained therein.
- 25 **3.-(1)** Subject to the provisions of section 4 of this Act a member of
- 26 the Board, other than an ex-officio member, shall hold office for a term of 4
- 27 years at the first instance and may be reappointed for a further term of 4 years
- 28 and no more.
- 29 (2) The member of the Board shall be paid such remunerations and
- 30 allowances as the Federal Government may, from time to time, determine for

Tenure of office

1 the chairman and members of statutory board generally.

2 (3) A member of the Board other than ex-officio members, may
3 resign his appointment by notice, in writing under his hand addressed to the
4 President Commander-in-Chief of the Armed Forces.

5 4. The office of the Chairman of the Commission shall rotate
6 among the member states of the Commission in the following alphabetical
7 sequence of:

Rotation of Office
of Chairman of
the Commission

8 (a) Adamawa;

9 (b) Bauchi;

10 (c) Borno;

11 (d) Cross River;

12 (e) Jigawa;

13 (j) Kogi;

14 (g) Kaduna;

15 (h) Benue;

16 (i) Plateau;

17 (j) Yobe and Zamfara States; and

18 (k) any other Solid Mineral Producing State.

19 5.-(1) Notwithstanding the provisions of section 3 of this Act, a
20 person shall cease to hold office as a member of the Board if:

Cessation of
Membership of
the Board

21 (a) he becomes bankrupt, suspends payment or compounds with
22 his creditors;

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

25 (c) he becomes of unsound mind, or incapable of carrying out his
26 duties;

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

28 (e) in the case of a person possessed of professional qualification,
29 he is disqualified or suspended, other than at his own request, from
30 practicing his profession in any part of the world by an order of a competent

1 authority made in respect of that member; or

2 (h) he resigns his appointment by a letter addressed to the President,
3 Commander-in-Chief of the Armed Forces.

4 (3) Where a vacancy occurs in the membership of the Board, it shall
5 be filled by the appointment of a successor to hold office for the remainder of
6 the term of office of his predecessor, so however, that the successor shall
7 represent the same interest and shall be appointed by the President,
8 Commander-in-Chief of Armed Forces subject to the confirmation of the
9 Senate.

Allowances

10 6. There shall be paid to every member of the council such allowances
11 and expenses as Federal Government may, from time to time, direct.

12 PART II - FUNCTION AND POWERS OF THE COMMISSION, ETC.

Functions and
Powers of the
Commission

13 7.-(1) The Commission shall:

14 (a) formulate policies and guidelines for the development of the Solid
15 Minerals Producing Area;

16 (b) conceive, plan and implement, in accordance with set rules and
17 regulations, projects and programmes for the sustainable development of the
18 Solid Minerals Producing Area in the field of Roads, Education, Health
19 Delivery Service, Employment, Industrialization, Agriculture, Housing,
20 Urban Development, Water Supply, Electricity, Re- Filling or Sand-Filling of
21 the already devastated environment as a result of excavation and exploitation
22 of minerals;

23 (c) prepare master plans and schemes designed to promote the
24 physical development of the Solid Minerals Producing Area and the estimate of
25 the cost of implementing such master plans and schemes;

26 (d) implement all the measures approved for the development of the
27 Solid Minerals Producing Areas by the Federal Government and the member
28 states of the Commission;

29 (e) identify factors inhibiting the development of the Solid Minerals
30 Producing Areas and assist the member states in the formulation and

1 implementation of policies to ensure sound and efficient management of the
2 resources of the solid minerals producing areas;

3 (f) assess and report on any project being funded or carried out in
4 the Solid Minerals producing Area by solid mineral excavation, exploitation
5 and mining companies and any other company including non-governmental
6 organisations and ensure that funds released for such projects are properly
7 utilized;

8 (g) tackle environmental problems that arise from the mining,
9 excavation and exploitation of solid minerals in the producing areas and
10 advise the Federal Government and the member states on the prevention and
11 control environmental devastation;

12 (h) liaise with the various solid minerals mining, excavation and
13 exploitation companies on all matters of environmental problems;

14 (i) execute such other works and perform such other functions
15 which, in the opinion of the commission, are required for the sustainable
16 development of the Solid Minerals Producing Areas and its people; and

17 (j) carry out such other functions as the President may, from time to
18 time, direct.

19 (2) In exercising its functions and powers under this section, the
20 Commission shall have regard to the varied and specific contributions of
21 each member state of the Commission.

22 **8. The Board shall have power to:**

Powers of the
Board

23 (a) manage and supervise affairs of the Commission;

24 (b) make rules and regulations for carrying out the functions of the
25 Commission;

26 (c) enter and inspect premises, projects and such places as may be
27 necessary for the purposes of carrying out its functions under this Act;

28 (d) pay the staff of the Commission such remuneration and
29 allowances as appropriate;

30 (e) enter into such contracts as may be necessary or expedient for

1 the discharge of its functions and ensure the efficient performance of the
2 functions of the Commission;

3 (f) do such other things as are necessary and expedient for the efficient
4 performances of the functions of the Commission.

5 **PART III - STRUCTURE OF THE COMMISSION**

Establishment
of Directorates

6 **9.-(1)** There shall be established in the Head Office of the
7 Commission, the following Directorates:

8 (a) the Directorate of Administration, Human Resources and man
9 power Development;

10 (b) the Directorate of Community and Rural Development;

11 (c) the Directorate of Utilities, Infrastructural Development;

12 (d) the Directorate of Environmental Protection and control;

13 (e) the Directorate of Finance and Supplies;

14 (f) the Directorate of Agriculture and Rural Development,

15 (g) the Directorate of Planning, Research, Statistics and Management

16 Information system;

17 (h) the Directorate of Legal Services and Corporate Affairs;

18 (i) the Directorate of Education, Health and Social Services;

19 (j) the Directorate of Commercial and Industrial Development; and

20 (k) the Directorate of Projects Monitoring and Supervision.

21 (2) The Board may increase the number of Directorates as it may
22 deem necessary.

Establishment of
the Management
Committee

23 **10.** There shall be for the Commission a management Committee
24 which shall:

25 (a) consist of a Chairman who shall be the Managing Director, the
26 Executive Directors, the Directors responsible for the Directorates under
27 section 9 of this Act and such number of other members as may be determined
28 from time to time;

29 (b) be responsible to the Board and the Managing Director for the
30 general administration of the Commission.

1 (ii) the general direction and control of all other employees of the
2 chairman.

3 (3) The Board shall have to:

4 (a) employ either directly or on secondment from any civil or public
5 service, in the Federation or a State such number of employees as may, in the
6 opinion of the Board, be required to assist the Board in the discharge of any of
7 its functions under this Act; and

8 (b) pay to persons so employed such remuneration (including
9 allowances) as the Board may determine).

Service in the
Commission to
be pensionable

10 **13.**-(1) Service in the Commission shall be approved service for the
11 purposes of the Pension Act.

12 (2) The officers and other persons employed in the commission shall
13 be entitled to pensions, gratuities and other retirement benefits as are enjoyed
14 by persons holding equivalent grades as appropriate.

15 (3) Nothing in subsections (1) and (2) of this Section shall prevent the
16 appointment of a person to any office on terms which preclude the grant of
17 pension and gratuity in respect of that office.

18 (4) For the purposes of the application of the provisions of the
19 pensions Act, any power exercisable there under by the Minister or other
20 authority of the Government of the Federation, other than the power to make
21 regulations under section 23 thereof, is hereby vested in and shall be
22 exercisable by the commission, and not by any other person or authority.

23 **PART V - FINANCIAL PROVISIONS**

Fund of the
Commission

24 **14.**-(1) The Commission shall establish and maintain a fund from
25 which shall be defrayed all expenditure incurred by the Commission.

26 (2) There shall be paid and credited to the fund established pursuant to
27 subsection (1) of this section:

28 (a) from the Federal Government, the equivalent of 15 percent of the
29 total monthly statutory allocations due to the member States of the
30 Commission from the Federation Account; this being the contribution of the

1 Federal Government to the Commission;

2 (b) 3 percent of the total annual budget of any Solid Mineral
3 Producing Companies operating in that area;

4 (c) 50 percent of monies due to member States of the Commission
5 from the Ecological Fund;

6 (d) such monies as may from time to time, be granted or lent to or
7 deposited with the Commission by the Federal or a state Government, any
8 other body or institution whether local or foreign;

9 (e) all moneys raised for the purposes of the Commission by way of
10 gifts, loan, grants-in-aid, testamentary disposition or otherwise; and

11 (f) proceeds from all other assets that may, from time to time,
12 accrue to the Commission.

13 (3) The Fund shall be managed in accordance with the rules made
14 by the Board, and without prejudice to the general of the power to make rules
15 under this subsection, the rules shall in particular contain provisions:

16 (a) specifying the manner in which the assets or the fund of the
17 Commission are to be held, and regulating the making of payments into and
18 out of the fund; and

19 (b) requiring the keeping of proper accounts and records for the
20 purpose of the fund in such form as may be specified in the rules.

21 **15.** The Commission shall apply the proceeds of the fund
22 established pursuant to section 14 of this Act to:

Expenditure of
the Commission

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

24 (b) the payment of salaries, fees, remuneration, allowances,
25 pensions and gratuities payable to the members of the Board specified in
26 section 6 of this Act or any Committee of the Board and the employees of the
27 Commission;

28 (c) the payment for all contracts, including mobilization,
29 fluctuations, 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 any
2 of the functions of the Commission under this Act.

Gifts to the
Commission

3 16.-(1) The Commission may accept gifts of land, money or other
4 property on such terms and conditions; it may be specified by the person or
5 organisation making the gift.

6 (2) The Commission shall not accept any gift if the conditions
7 attached by the person or organisation making the gift are inconsistent with the
8 functions of the Commission under this Act.

Power to borrow
money

9 17. The Commission may, with the consent of the President,
10 Commander-in-Chief of the Armed Forces, borrow, on such terms and
11 conditions as the Commission may require in the exercise of its functions under
12 this Act.

Annual Estimates
and Expenditure

13 18.-(1) The Board shall, not later than 30th September in each year,
14 submit to the President, Commander-in-Chief of the Armed Forces an estimate
15 of the expenditure and income of the Commission during the next succeeding
16 year.

17 (2) The Board shall cause to be kept proper accounts of the
18 Commission in respect of each year and proper records in relation thereto and
19 shall cause the accounts to be audited not later than 6 months after the end of
20 each year by auditors appointed from the list in accordance with the guidelines
21 supplied by the Auditor-General for the Federation.

Quarterly Report

22 19. The Commission shall, at the end of every quarter in each year,
23 submit to the President Commander-in-Chief of the Armed Forces a report on
24 the activities and administration of the Commission.

Annual Report

25 20. The Board shall prepare and submit to the President, Commander-
26 in-Chief of the Armed Forces, not later than 30th June in each year, a report in
27 such form as the President, Commander-in-Chief of the Armed Forces, may
28 direct on the activities of the Commission during the immediately preceding
29 year, and shall include in the report a copy of the audited accounts of the
30 Commission for that year and the auditor's report thereon.

Limitation of suits against Commission. Cap. 379 LFN

1 **24.**-(1) Subject to the provisions of this Act, the provisions of the
2 Public Officers Protection Act shall apply in relation to any suit instituted
3 against any Officer or employee of the Commission.

4 (2) Notwithstanding anything contained in any other law or
5 enactment, no suit shall lie against any member of the Board, the Managing
6 Director or any other officer or employee of the Commission for any act done
7 in pursuance or execution of this Act or any other law or enactment, or of any
8 alleged neglect or default in the execution of this Act or such law or enactment,
9 duty or authority, shall lie or be instituted in any court unless:

10 (a) it is commenced within three months next after the Act, neglect or
11 default complained of; or

12 (b) in the case of a continuation of damage or injury, within six
13 months next after the leasing thereof.

Service of Documents

14 **25.** A notice, summons or other document required or authorised to be
15 served upon the Commission under the provisions of this Act or any other law
16 or enactment may be served by delivering it to the Managing Director or by
17 sending it by registered post and addressed to the Managing Director at the
18 principal office of the Commission.

Restriction on Execution against property of the Commission

19 **26.**-(1) In any action or suit against the Commission, no execution or
20 attachment of process against the Commission unless not less than three
21 months notice of the intention to execute or attachment has been given to the
22 Commission.

23 (2) Any sum of money which by the judgment of any court has been
24 awarded against the Commission shall be subject to any direction given by the
25 court, where no notice of appeal against the judgment has been given be paid
26 from the fund of the Commission.

Indemnity of Officers

27 **27.** A member of the Board, the Managing Director, any officer or
28 employee of the Commission shall be indemnified out of the assets of the
29 Commission against any proceeding, whether civil or criminal, in which
30 judgment is given in this favour or in which he is acquitted, if any such

1 proceeding is brought against him in his capacity as a member of the Board,
2 the Managing Director, officers or employee of the Commission.

3 **28.** The Commission may, with the approval of the President, Regulations
4 Commander-in-Chief of the Armed Forces, make regulations, generally for
5 the purposes of giving full effect to this Act.

6 **29.** In this Act, unless the context otherwise requires: Interpretation

7 "Chairman" means the Chairman of the Board;

8 "Commission" means the Solid Minerals Producing Area Development
9 Commission established by section 1 of this Act;

10 "Board" means the Governing Board established for the Commission under
11 section 2 (1) of this Act;

12 "Member" means a member of the Board and includes the Chairman,
13 Managing Director and Executive Directors;

14 "Member States" include Adamawa, Bauchi, Borno, Cross River, Kogi,
15 Kaduna, Katsina, Plateau, Kano, Jigawa, Yobe and Zamfara States and any
16 other Solid Mineral Producing State.

17 **30.** This Act may be cited as the Solid Minerals Producing Area Citation
18 Development Commission (Establishment etc.) Bill, 2015.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29

SCHEDULE

Section 2(4)

SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD ETC.

Proceedings of the Board.

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

(2) The Board shall meet whenever it is summoned by chairman is required to do so by notice given to him by not less than 4 other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

2.-(1) the Board may appoint one or more Committees to carry out, on behalf of the Board such functions as the Board may determine.

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

(3) A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

Miscellaneous

3.-(1) The fixing of the seat of the Committee shall be authenticated by the signature of the Chairman and the Secretary to the Board.

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

(3) The validity of any proceedings of the Board or of a Committee shall not be adversely affected by:

- (a) a vacancy in the membership of the Board or Committee;
- (b) a defect in the appointment of a member of the Board or Committee;

1 (c) reason that a person not entitled to do so took part in the
2 proceedings of the Board or Committee.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Solid Minerals Producing Area Development Commission in the Federal Republic of Nigeria to be charged with the responsibility of Managing and administering for effectiveness, the sums received from the allocation of the Federation account for tackling environmental problem which arise from the Mining, Excavation, Extraction of Minerals in the Solid Mineral Producing Areas.

Faint, illegible text, possibly bleed-through from the reverse side of the page. The text is too light to transcribe accurately.