

# A BILL

## FOR

AN ACT TO PROVIDE FOR THE LEGAL FRAMEWORK FOR PROMOTION OF RESEARCH, STUDY, INVESTMENT, EXPLORATION, PRODUCTION, DEVELOPMENT AND UTILISATION OF LOCALLY SOURCED BITUMEN IN NIGERIA AND FOR RELATED MATTERS

*Sponsored by Hon. Samuel Akinfolarin*

[ ] Commencement

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

1 PART I - OBJECTIVE AND APPLICATION

2 1.-(1) The objective of this Bill is to provide for an effective legal  
3 and institutional framework for the promotion of research in, study of,  
4 investment in, exploration and production of, development and utilization  
5 of locally sourced bitumen in Nigeria.

Objective and Application

6 (2) The provisions of this Bill shall apply to all parts of the Federal  
7 Republic of Nigeria.

8 PART II - ADMINISTRATION OF BITUMEN BASED ACTIVITIES IN NIGERIA

9 2.-(1) There shall be established a body to be known as the Bitumen  
10 Development Commission (in this Bill referred to as "the Commission").

Establishment of the Bitumen Development Commission of Nigeria

11 (2) The Commission-

12 (a) shall be a body corporate with perpetual succession and a  
13 common seal;

14 (b) may sue and be sued in its corporate name;

15 (c) may acquire, purchase, mortgage, hold and dispose of property  
16 whether movable or immovable; and

17 (d) shall be independent in carrying out its functions and duties  
18 under this Bill.

Functions of  
Bitumen  
Development  
Commission of  
Nigeria

- 1                   3. The Commission shall-
- 2                   (a) be solely responsible for the promotion of research, study,
- 3 investment, exploration, production, development and utilisation of locally
- 4 sourced bitumen in Nigeria;
- 5                   (b) develop policies and regulations that are intended to improve
- 6 research activities, exploration, production and utilization of Nigerian sourced
- 7 bitumen;
- 8                   (c) seek and/or provide funding for research activities and for small
- 9 scale exploration and production activities directly connected utilization of
- 10 Bitumen in Nigeria;
- 11                   (d) cooperate with all relevant agencies of government and non-
- 12 governmental organizations within and outside Nigeria, towards the
- 13 promotion and actualization of its objectives and functions; and
- 14                   (e) perform such other functions that may be assigned to it from time
- 15 to time by President of the Federal Republic of Nigeria or through any Minister
- 16 to whom the President delegates this function,

Source of funding  
for the Bitumen  
Development  
Commission of  
Nigeria

- 17                   4.-(1) The source of funding for the Commission shall consist of:
- 18                   (a) a levy of 0,005% of the profit after payment of tax of all
- 19 construction and mining companies operating directly or indirectly in Nigeria;
- 20                   (b) such money as may be appropriated to meet the objective of this
- 21 Bill by the National Assembly;
- 22                   (c) aids, grants, support and assistance from national and international
- 23 donors;
- 24                   (d) monies derived as proceed from investments undertaken by the
- 25 Commission; and
- 26                   (e) such other funds statutorily appropriated to the Commission,

Establishment  
of the Board of  
the Bitumen  
Development  
Commission  
of Nigeria

- 27                   5.-(1) There is established for the Commission a Board which shall
- 28 have overall supervision of the Commission as specified under this Bill.
- 29                   (2) The Board shall consist of-
- 30                   (a) the Chairman who shall be a person with cognate experience in

1 Bitumen exploration or production and/or utilisation;

2 (b) Six members with relevant qualifications and expertise who  
3 shall be appointed by the President to represent each of the six geo-political  
4 zones;

5 (c) a representative of the Attorney-General of the Federation;

6 (d) a representative of the Federal Ministry of Works and Housing,  
7 not below the rank of a Director;

8 (e) a representative of the Office of the Federal Ministry of  
9 Petroleum Resources not below the rank of a Director; a representative of  
10 Civil Society;

11 6. The Board shall-

Functions of the  
Board

12 (a) provide the general policy direction for the effective  
13 functioning of the Commission;

14 (b) review and approve Regulations, Guidelines, Directions and  
15 Circulars issued by the Commission;

16 (c) review and approve the strategic plans of the Commission;

17 (d) approve the appointment of the Directors of the Commission;

18 (e) receive and consider, for approval, the audited accounts of the  
19 Commission;

20 (f) do such other things which in its opinion are necessary to ensure  
21 the efficient performance of the functions of the Commission under this Bill.

22 7. The Chairman and Members of the Board shall be appointed by  
23 the President of the Federal Republic of Nigeria.

24 8. The Chairman and other members of the Board, other than ex-  
25 officio members, shall each hold office:

26 (a) for a term of four years renewable once only; and

27 (b) on such terms and conditions as may be specified in the letter of  
28 Appointment.

29 9. Notwithstanding the provisions of this section, the Chairman  
30 and any Member of the Board shall cease to hold if-

- 1 (a) he resigns his appointment as a member of the Board by notice,  
2 under his hand, addressed to the President;
- 3 (b) he becomes of unsound mind;
- 4 (c) he becomes bankrupt or makes a compromise with his creditors;
- 5 (d) he is convicted of a felony or any offence involving dishonesty or  
6 corruption;
- 7 (e) he becomes incapable of carrying on the functions of his office  
8 either arising from an infirmity of mind or body;
- 9 (f) the President is satisfied that it is not in the interest of the  
10 Commission or in the interest of the public for the person to continue in office  
11 and the President removes him from office;
- 12 (g) he has been found guilty of contravening the Code of Conduct  
13 Bureau and Tribunal Act; or gross misconduct in relation to his duties;
- 14 (h) in the case of a person possessing a professional qualification, he  
15 is disqualified by a competent authority; or
- 16 (i) in the case of a person who becomes a Member by virtue of the  
17 office he occupies, he ceases to hold such office.
- 18 10.-(1) The President shall, on the recommendation of the Minister of  
19 Mines and Steel, appoint the Executive Secretary for the Commission.
- 20 (2) The Executive Secretary shall:
- 21 (a) be a person of unquestionable character and integrity; and
- 22 (b) have qualifications and experience as are appropriate for a person  
23 required to perform the functions of that office under this Bill; and
- 24 (3) The Executive Secretary shall hold office:
- 25 (a) for a term of three years in the first instance and may be eligible for  
26 re-appointment for another term of three years and no more; and
- 27 (b) on such other terms and conditions as may be specified in his letter  
28 of appointment.
- 29 (4) The Executive Secretary:
- 30 (a) is the Chief Executive and Accounting Officer of the Commission;

1 (b) is responsible for the administration of the Commission;  
2 (c) is to be the Secretary to the Board;  
3 (d) shall keep proper records of the proceedings of the Board;  
4 (e) shall be in charge of the general direction and control of all other  
5 employees of the Commission; and

6 (f) discharge such other duties as may be directed by the Board.

7 (5) The Executive Secretary may be removed from office by the  
8 President where any circumstances arise which in the opinion of the  
9 President makes the Executive Secretary no longer capable of discharging  
10 the duties and responsibilities of his office

11 (6) The Board may appoint such other staff as may, in the opinion  
12 of the Board, be necessary to assist the Commission in performing its  
13 functions under this Bill.

14 (7) The terms and conditions of service (including terms and  
15 conditions as to the remuneration, payment of allowances and other  
16 benefits) of person employed shall be determined by the Board in  
17 consultation with the National Salaries, Income and Wages Commission.

18 (8) The Board may appoint, either on transfer or secondment from  
19 any Public Service of the Federation, such number of employees required  
20 for the effective discharge of the duties of Commission under this Bill.

21 (9) Service in the Commission shall be for the duration of the  
22 Commission and employees of the Commission, in respect of their services,  
23 are entitled to other retirement benefits and severance allowances as may be  
24 determined by the National Revenue, Mobilisation, Allocation and Fiscal  
25 Commission.

26 PART III - GENERAL PROVISIONS RELATING TO THE BITUMEN

27 DEVELOPMENT COMMISSION OF NIGERIA

28 11. The Commission shall set up, operate and manage research  
29 centers of excellence in Federal Universities in at least each of the six  
30 geopolitical zones of Nigeria;

1           12. No person shall without the prior written approval of the  
2 Commission commence exploration mining, production of Bitumen in  
3 Nigeria.

4           13. The approval of the Commission shall be distinct from licence(s)  
5 issued under the Minerals and Mines Act 2007 or any other relevant legislation.

6           14. The Commission shall when it considers appropriate direct all  
7 companies licenced under the Minerals and Mines Act 2007 or any other  
8 relevant legislation and/or under the Petroleum Act to commence research and  
9 development into the exploration, production and utilization of Bitumen in  
10 locations within which their licences cover and ensure that the output of their  
11 research and development is transformed into productive output.

12           15. The Federal Inland Revenue Service (in this Bill referred to as "the  
13 Service") shall assess and collect from all companies the levy imposed under  
14 this Bill.

15           16. The Service shall while assessing companies for either company  
16 income tax or petroleum profit tax for an accounting period of the company,  
17 also proceed to assess the company for the levy payable under this Bill.

18           17. The provision of the Companies Income Tax Act and the  
19 Petroleum Profit Tax Act relating to the collection of companies income tax or  
20 petroleum profit tax shall subject to this Bill, apply to the levy payable under  
21 this Bill.

22           18. The levy imposed under this Bill shall be payable within 60 days  
23 after the Service has served notice of assessment on a company.

24           19. The Service may, for the purpose of assessment and collecting the  
25 levy imposed by this Bill, devise such forms as it may deem necessary.

26           20. Notwithstanding any other provision in this Bill, it shall be the  
27 duty and responsibility of every company liable to pay the levy to ensure that its  
28 annual returns are filed with the Service for the purpose of assessing the levy  
29 payable by the company under this Bill.

30           21. The Service shall pay the tax collected under this Act into the

1 account of the Commission and shall, when doing so, submit to the  
2 Commission, in such form as the Board shall approve, a return showing:

- 3 (a) the name of the company making the payment;  
4 (b) the amount collected;  
5 (c) the assessable profit of the company for the accounting period;

6 and

- 7 (d) such other information as may be required by the Commission.

8 22. Any person that contravenes any provision of this Bill other  
9 than the provision relating to the collection and administration of the levy,  
10 shall be liable to an administrative fine of N1,000,000.00 for each month  
11 that the default occurs or persists.

12 23. Any persons that contravenes any provision of this Bill in  
13 relation to the collection and administration of the levy shall be deemed to  
14 have contravened the provision of the Federal Inland Revenue  
15 (Establishment) Act 2007.

16 24. In this Bill unless, the context otherwise requires -

Interpretation

17 "Bitumen means as defined in the Minerals and Mines Act 2007 or any other  
18 similar legislation;

19 "Commission" means the Bitumen Development Commission of Nigeria;

20 "Nigeria" means the Federal Republic of Nigeria;

21 "Service" means the Federal Inland Revenue Service.

22 25. This Bill may be cited as the Bitumen Development Commission of Nigeria (Establishment) Bill, 2021. Short title

#### EXPLANATORY MEMORANDUM

*(This Memorandum does not form part of this Bill but is intended  
to explain its purport)*

This Bill seeks to provide for the legal framework for promotion of research, study, investment, exploration, production, development and utilisation of locally sourced bitumen in Nigeria.

