

NIGERIAN SOLID MINERALS' COMMUNITIES DEVELOPMENT  
(ESTABLISHMENT, ETC) BILL, 2021

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# A BILL

## FOR

AN ACT TO ESTABLISH THE NIGERIAN SOLID MINERALS COMMUNITIES' DEVELOPMENT COMMISSION, AND FOR RELATED MATTERS

*Sponsored by Hon. Ossai Nicholas Ossai*

*Co-Sponsors:*

Hon. Mohammed Umaru Bago

Hon. Darlington Nwokocha

[ ] Commencement

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

### PART 1 - ESTABLISHMENT

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1.-(1) There is hereby established a body known as Nigerian Solid Minerals Communities Development Commission, hereinafter referred to as the 'Commission'; which shall be an Agency of the Federal Government of Nigeria;

Establishment

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

2.-(1) It shall have its Head office situated in the Federal Capital Territory, Abuja; and two Zonal Head Office annexes, one each in the Northern and Southern parts of Nigeria respectively, and with dedicated complexes for its operations;

Offices

(2) It shall have the authority to buy, build and maintain branch offices in all the Solid Mineral producing states of the Federation, and within the host communities.

### PART 2 - OBJECTIVES AND PURPOSE

3.-(a) To promote transparency and accountability in the solid mineral industry;

Objectives

(b) Incorporate a climate action, protection, environmentally

1 friendly and responsible operational standards for mining and refining  
2 companies;

3 (c) To enhance profitability of the solid mineral industry, ensure  
4 comprehensive development of its value chain, especially the mid-stream and  
5 value addition sector;

6 (d) To ensure social justice, equity and parity between solid minerals  
7 producing and oil producing host communities in Nigeria, for even  
8 development of both sectors;

9 (e) To identify all solid minerals' rich communities in Nigeria and  
10 protect the rights, interests, privileges, lives and livelihood of the host  
11 communities;

12 (f) To create a fund to collect at least 13% derivation of all revenues  
13 from licences, taxes etcetera accruing from sales and use of locally sourced  
14 solid minerals etcetera, for investment in host communities' human capital  
15 development, infrastructure and socio-economic development;

16 (g) To compensate host communities for the socio-economic loss of  
17 their lands, water bodies, farming livelihood resulting from mining and other  
18 extracting and refining activities of their natural resources;

19 (h) To promote and deepen peace and, attract and ensure sustainable  
20 development in solid mineral host communities;

21 (i) To encourage refining and mining companies to develop and  
22 utilize the local content and human resources of host communities in their  
23 managerial and operational activities;

24 (j) To reduce dependence on imported solid minerals in either raw or  
25 refined or processed ornamental and jewellery forms, which can be locally  
26 sourced in commercial quantities from host communities;

27 (k) To diversify the economy of Nigeria and other individual solid  
28 mineral rich States' in order to enable the solid minerals' sector become the  
29 leading foreign exchange and revenue contributor to the Gross domestic  
30 product of Nigeria; while also attracting enormous foreign direct investment;

1 (l) To endorse and monitor the implementation of Community  
2 development agreements (CDA's) signed and duly endorsed by host  
3 Communities and mining and/or refining companies, to prevent a breach of  
4 the agreement and fine the erring parties;

5 (m) To create a uniform framework applicable to all solid Minerals  
6 miners, refiners and host Communities for standardization of mining  
7 activities before, during and after exploration in a host Communities;

8 (n) To guarantee the protection of the rights, lives and livelihood of  
9 solid mineral host communities in Nigeria;

10 (o) To ensure that royalties are accurately calculated and remitted  
11 as and when due, by the miners and refining companies using the  
12 international market price and volume of end product to determine  
13 remittances;

#### 14 PART 3 - CLASSIFICATIONS

15 4. By this bill, solid minerals' shall be known and defined as:

Classification of  
Solid Minerals

16 (a) any non-oil or non-gas natural resources located above or  
17 beneath the soil, on land or in water, within a community or communities  
18 and State or States' in the territorial borders of the Federal Republic of  
19 Nigeria;

20 (b) with a minimum combined deposit reserve in all host  
21 communities having such solid minerals deposit in Nigeria above 100  
22 tonnes or its minimum estimate is worth N100,000,000 (N100 Million);

23 (c) any non-oil or non-gas natural resources with over 50 tonnes or  
24 its equivalent of N2,500,000 (N2.5 Million) daily mined or refined in  
25 Nigeria;

26 (d) but not limited to Gold, limestone, bitumen, silver, marble,  
27 gypsum, granite, tourmaline, sapphire, emerald, amethyst, ruby, coal, mica,  
28 feldspar, aluminium, copper, steel, kaolite, kaolin, tin, bronze, bismuth,  
29 gamet, topaz, baryte, columbite, aquamarine, diamond, lead, zinc, tantalite,  
30 iron ore, tantalite, laterite;

1 (e) any non-oil or non-gas natural resources found to be of high  
2 economic value located within any or several States' in the borders of Nigeria,  
3 for which a company may need a mining or exploration or reconnaissance  
4 permit or license to access, in line with the Nigerian Minerals and Mining Act,  
5 2007.

Classification of Solid Mineral Rich and Producing Communities (Host Communities)

6 5. By this bill, a host community shall be defined or known as:

7 (a) any community in Nigeria which has solid minerals as defined in  
8 section 7;

9 (b) any community in Nigeria which has solid minerals in commercial  
10 quantity where not less than 100 kilogram or the equivalent of N100,000 is  
11 being mined and refined weekly;

12 (c) any community with non-oil or non-gas natural resources where  
13 any mining or refining company has obtained a mining or exploration or  
14 reconnaissance permit and/or license to access, in line with the Nigerian  
15 Minerals and Mining Act, 2007;

16 (d) any community where a solid minerals mining and/or refining  
17 company has been undertaking or concluded commercial mining or refining  
18 activities for at least five years prior to the establishment of this 'Commission';

19 (e) any community where solid minerals exceeding N100,000 daily is  
20 being commercially refined;

21 (f) any community where refined and processed solid minerals used  
22 to form secondary products worth N1,000,000 weekly, and above is being  
23 refined;

Classification of Solid Minerals Mining or Refining Companies (Mining Companies)

24 6. By this Bill, a solid mineral mining and/or refining company,  
25 hereinafter referred to as 'Mining companies' shall be known or defined as:

26 (a) any company or corporation or co-operative organization  
27 registered as a corporate business entity by the Corporate Affairs Commission,  
28 which has obtained a mining or exploration or reconnaissance permit and/or  
29 license to access and undertake solid minerals' extraction from a host  
30 community, in line with the Nigerian Minerals and Mining Act, 2007;

1 (b) has used any of these licenses to previously undertake or is  
2 currently undertaking mining or refining activities in over the last five  
3 years, in a host community;

4 (c) any Corporate Affairs Commission registered company or  
5 corporation or co-operative organization which is commercially extracting  
6 or refining any solid mineral as defined in section 4, in any host community;  
7 and

8 (d) any company or corporation or co-operative organization  
9 which refines solid minerals imported or locally sourced worth N250,000  
10 and above daily, within a host community.

#### 11 PART 4 - FUNDS OF THE COMMISSION

12 7. The 'Commission' shall be funded through:

Funding the  
Commission

13 (a) 13% of all revenue accruing to the Federal Government of  
14 Nigeria from all solid mineral activities of mining and refining and sales  
15 within Nigeria and exported;

16 (b) 13% of all taxes from all solid mineral mining, exploration and  
17 refining companies using locally sourced solid minerals;

18 (c) 9.5% of all taxes from every raw imported solid mineral  
19 available in commercial quantity in Nigeria;

20 (d) 5% of the taxes from imported finished products and jewelry  
21 made with solid minerals available in commercial quantity in Nigeria but  
22 not sourced from Nigeria;

23 (e) 7.5% of export duty on all raw solid minerals to be exported  
24 from Nigeria;

25 (f) .1.5% of the annual budget of solid mineral mining and refining  
26 companies;

27 (g) Not more than 200,000 ordinary shares to host communities in  
28 the solid minerals' mining and refining parent companies, or not less than 0.1  
29 % of the shares of the local company to host Communities, with each State  
30 and host community getting the annual monetized dividends of the

1 equivalent of the percentage of its community's solid mineral contribution to  
2 the overall production capacity of the company;

3 (h) 3.5% of the profit after tax from solid mineral mining and refining  
4 companies;

5 (i) 13% of the ecological funds due to the State Governments' of every  
6 host community;

7 (j) Grants from the Federal, State, Local, foreign sovereign  
8 governments; and international and local donors;

9 (k) 1.5% of the total monthly federation account allocation due to host  
10 communities' States';

11 (l) Fines collected from host Communities and/or mining and/or  
12 refining companies who breach duly signed Community Development  
13 Agreement;

14 (m) Royalty as stipulated by the Ministry of Mines and steel  
15 development's royalty rate 2015;

16 (n) At least 2.5% of their profit after tax, annually, for every raw or  
17 refined solid Minerals mined or refined or sold in Nigeria;

Expenditure,  
Budget and  
Application of  
the Commission's  
Funds

18 8. The Commission shall apply funds accruing to it for activities  
19 aimed at achieving its objectives which shall include:

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

21 (b) the payment of salaries, fees, remunerations, emoluments,  
22 allowances, pensions, gratuities payable to its staffs, member's of its governing  
23 board, its employees, consultants and contractors of the Commission;

24 (c) the payment for all contracts, including mobilization, fluctuations,  
25 variations, legal fees, consultancy jobs, town-hall meetings, cost of contract  
26 administration; which shall be disbursed:

27 (i) 30% for first instalment and mobilization;

28 (ii) 25% for second instalment, after first valuation;

29 (iii) 35% for third instalment, after second valuation;



1 (iv) 10% for third and final instalment, only after project has been  
2 certified completed;

3 (d) the payment for all purchases of office supplies, stationeries',  
4 equipment's and electronics;

5 (e) provide educational scholarships up to post-graduate studies  
6 for indigent students for not less than five from each host community  
7 annually, especially in fields that would provide them competence and skills  
8 and capacity in operational and managerial positions in the 'Mining  
9 companies' operating in that host community;

10 (f) to undertake any other activities connected to the functions and  
11 effective discharge of the responsibilities and objectives of the  
12 'Commission' listed in section 7 (subsections 1-5), only after its annual  
13 budget has been appropriated by the National Assembly and assented to by  
14 the President, such that:

15 (i) the commission shall forward its annual financial budget for the  
16 next financial year on or before the eleventh Month of every financial year,  
17 attached with the budget performance and social impact of the ending years'  
18 budget;

19 (ii) with approval from the President, where budget approval is  
20 delayed beyond the first quarter of the financial year, the Commission shall  
21 be meet its financial obligations only to offset all contractual agreements  
22 exceeding 90% completion by contractor from its reserve account, which  
23 may attract any penalty or fine or interest above 7.5% of the contract or  
24 purchase sum;

25 (iii) the annual budget proposals to be forwarded to the National  
26 Assembly shall be listed per quarter, with contract or purchase duration and  
27 delivery dates, and well defined social and human capital and infrastructure  
28 impact goals to justify every investment and project and purchase outlined  
29 in its annual budget proposal;

30 (iv) the budget development process shall not be complete without

1 town-hall meetings or interactions with host communities in all solid mineral  
2 rich States, who shall recommend projects in their communities to be funded in  
3 the next financial year's budget;

4 (v) proposed budget shall not exceed the preceding years' budget by  
5 75% if budget performance or social impact assessment or human capital  
6 development assessment of the preceding year is less than 60%; and not more  
7 than 125% of the preceding year at any time;

8 (vi) the Commission's annual budget proposal shall not exceed 100%  
9 of its total financial balance by the end of the third quarter of the current year;

10 (vii) the commission shall not take a loan to fund more than 10% of  
11 its annual budget, which shall not accrue an interest above 11 %;

12 (viii) the Commission shall operate a general reserve account which  
13 shall hold not more than 12.5% of its total cash balance, which may be spent  
14 only by the governing boards resolution with approval from the President;

15 (ix) the Commission shall not later than:

16 (1) the 15th of the first month in every quarter, produce a quarterly  
17 report to reflect the budget performance for the preceding quarter, and make it  
18 available to the host communities;

19 (2) the 15th of the first month every six months', beginning from the  
20 first year of its establishment, produce a half-yearly comprehensive  
21 operational and financial report to be forwarded to the President, National  
22 Assembly, Federal Ministry of Mines and solid Minerals or its succeeding  
23 Ministry, Mining and refining companies, donor agencies and sponsors;

24 (3) thirty days to the end of every financial year, produce an annual  
25 financial and operations report;

26 (4) the 1st day in the eleventh month, conduct and environmental,  
27 social, socio-economic, human capital impact assessment of its operations for  
28 that year;

29 PART 5 - THE STRUCTURE OF THE COMMISSION

30 9. The Commission shall have a governing board, which shall:

- 1 (a) be the highest decision making body of the Commission;
- 2 (b) have its members recommended by their respective host  
3 communities and States, such that every three closest "host communities"  
4 States" would recommend two persons each, leaving out the State which  
5 represented their group last, from which the President shall nominate and  
6 select at least one per "group of three closest host communities" of those  
7 recommended for appointment after their screening by the Nigerian Senate  
8 in consultation with the Federal House of Representatives;
- 9 (c) consist of a Chairman, Vice chairman who shall also be the  
10 Managing director of the Commission, a secretary who shall be a lawyer of  
11 not less than 10 years at the bar, a member each selected from a community  
12 within each three closest host community States, and not more than 15; with  
13 each slot rotated amongst all the three closest solid mineral producing States  
14 having host communities;
- 15 (d) have its chairman, vice chairman rotated amongst the Southern  
16 and Northern regions of Nigeria every tenure;
- 17 (e) hold office for one single non-renewable tenure of three years;
- 18 (f) have the representative of each group of three closest host states  
19 rotated amongst each state, and in each State, amongst the host  
20 communities;
- 21 (g) have its chairman earn a monthly salary not exceeding the pay  
22 of a permanent secretary in active Federal civil service, its vice chairman  
23 and the Managing director shall earn a monthly salary not exceeding the pay  
24 of a retired permanent secretary from the Federal civil service while the  
25 other board members shall earn a monthly salary not exceeding the salary of  
26 a director in active Federal civil service.
- 27 10. The governing board's functions and responsibilities shall  
28 include:
- 29 (1) meeting at least once every month;
- 30 (2) to regulate its the proceedings of its meetings, once they form a

1 quorum and are duly constituted;

2 (3) approving contracts that are independently worth above  
3 N50,000,000 (N50 million);

4 (4) reviewing the contributed income and revenue from mining and  
5 refining companies, to ensure that mining and refining companies make the  
6 accurate contributions annually to the Commission, on or before the second  
7 quarter of every financial year;

8 (5) reviewing the contributed income and revenue from Federal and  
9 State governments, to ensure that the relevant Ministries Departments and  
10 Agencies make the accurate contributions annually to the Commission, on or  
11 before the second quarter of every financial year;

12 (6) advising the Federal and States' Ministry of Mines and Solid  
13 Minerals on matters involving host communities and mining companies;

14 (7) ensuring co-operation and harmony between host communities  
15 and mining companies;

16 (8) ensure equity, fairness and balance in the distribution of projects to  
17 host communities during the budget development process, so that every host  
18 community State gets a minimum of the percentage of revenue its natural  
19 resources and companies operating in their host communities contributed to  
20 the overall balance of the Commissions account for the preceding year;

21 (9) supervise project sites to validate project quality and timeline, and  
22 monitor budget implementation and performance;

23 (10) approve and ensure that the black-booking/black listing of erring  
24 contractors by the Management Board follows due process and is in  
25 accordance with the provisions of this Bill;

26 (11) perform a general oversight of the activities of the management  
27 board;

28 (12) form a quorum when the chairman calls for a meeting and three  
29 quarter of the members are present;

30 (13) vet the budget proposal by the management board before it is

1 forwarded to the President for transmission to the National Assembly for  
2 appropriation;

3 (14) ensure that no member of the governing board or management  
4 board or staff of the commission is a member of the board of director's and/or  
5 major shareholder in any company being awarded or to be awarded any  
6 contract by the Commission;

7 (15) suspend an Executive director for sixty days and/ or  
8 recommend him to the President for removal on clearly established grounds  
9 with three quarter of the votes in support, in a meeting where every  
10 Governing Board member is in attendance;

11 (16) supervise adequate relocation and resettlement of mining host  
12 Communities, where mining exploration activities may be injurious to their  
13 health and general wellbeing;

14 11. A member of the governing Board shall:

15 (1) possess a minimum academic qualification of Senior secondary  
16 school leavers certificate;

17 (2) lose his membership on the Board if a company he is a major  
18 shareholder or a director in, is awarded a contract by the Commission;

19 (3) resign and lose his membership on the Board if he is found to be  
20 physically or mentally unfit to perform the duties of his office;

21 (4) lose his membership if he forwards his resignation letter to the  
22 President;

23 (5) lose his membership, if he is removed by the President for in-  
24 subordination or gross misconduct;

25 (6) lose his membership if he is indicted for any crime in the anti-  
26 corruption clause, or is indicted for any corrupt practice by a duly  
27 constituted board, or at any time he is a defendant or an accused person being  
28 prosecuted for any corruption or criminal case in any competent court of  
29 law;

30 (7) lose his membership if he is declared bankrupt;

Memberships of  
the Governing  
Board

1 (8) lose his membership on the Board if he accepts any gift from any  
2 contractor worth over N50,000 (fifty thousand Naira);

3 (9) lose his membership if he is unable to attend the meeting of the  
4 Board for one quarter in a row or one third of the Board's meetings in a year;

5 (10) lose his membership if he is discovered to be a member of any  
6 secret cult society or organization, proscribed organization, terrorist  
7 organization and/or sponsor of any of these;

8 (11) be replaced by a nominee from his State to complete his tenure; if  
9 he resigns or is removed;

10 (12) not be entitled to pension but a severance package not more than  
11 the severance package of a director in the Federal civil service for other  
12 members, and not more than a permanent secretary for the chairman and the  
13 vice chairman;

14 (13) receive a severance package equivalent to the percentage of time  
15 served on the board if he resigns and doesn't complete the three year tenure;

16 (14) receive no severance package if he loses his membership of the  
17 Board because he is sacked or indicted or prosecuted;

18 (15) receive no severance package if he serves on the board for less  
19 than one year;

The Management  
Board

20 12. The Commission shall have a Management board, hereinafter  
21 referred to as 'Management which shall:

22 (1) comprise of a Managing Director who shall be the Vice-chairman  
23 of the Governing Board, two Executive Directors with one each from the North  
24 and South respectively and seconded from a mining and refining company, and  
25 eight Directors;

26 (2) have its Executive Director heading the zonal head-office annexes  
27 in the North and South respectively, such that there is an Executive Director for  
28 the North and another Executive Director for the South;

29 (3) have at least one Executive director and at least three of the  
30 Directors as a female;

1 (4) have its Vice-chairman and Managing director responsible for  
2 the daily administration of the Commission;

3 (5) have its Executive directors have a single non renewable tenure  
4 of three years, after they are appointed by the President, upon  
5 recommendations by the traditional rulers of host communities in the North  
6 and South respectively;

7 (6) have no managing director, executive director in acting  
8 capacity beyond three months;

9 (7) have its Executive director lose his position and severance  
10 package if he is found to have contravened the anti-corruption clause;

11 (8) have another company from the same group of three closest  
12 host community States replacing a removed Executive director;

13 (9) rotate the position of the Executive director amongst host  
14 community State in each region respectively;

15 (10) have an Executive director suspended for sixty days according  
16 to section 9 subsection 14, and by so recommended for removal to the  
17 President, or be removed by the President for gross misconduct or  
18 corruption or insubordination, or be recommended for removal by his  
19 company or council of traditional rulers from host communities in his  
20 region;

21 (11) have its Executive directors receive a salary and severance  
22 package not more than that of a retired director in the Federal civil service,  
23 whose office is not pensionable;

24 (12) have these directorates:

25 (a) Directorate of Administration, planning and human resources;

26 (b) Directorate of Operations, policy research and statistics;

27 (c) Directorate of Legal services;

28 (d) Directorate of public communications, mining companies and  
29 inter-government and host communities relations;

30 (e) Directorate of engineering, projects, geo-graphical and

- 1 management information systems;
- 2 (f) Directorate of Agriculture, commerce and industrial development;
- 3 (g) Directorate of budget, finance and supply;
- 4 (12) Have its directors receive a salary not more than the deputy
- 5 director in active civil service, who are eligible for pension according to the
- 6 Federal civil service rules and pension Act;
- 7 (13) have the functions and responsibilities to:
- 8 (a) formulate policies, social and human and environmental impact
- 9 assessment guidelines/metrics, identify and propose projects to be
- 10 implemented by the Commission in host communities;
- 11 (b) propose a national budget for the Commission in consultation with
- 12 the Governing Board, and forward to the President for transmission to the
- 13 National Assembly for appropriation;
- 14 (c) cause Nigeria to be surveyed in collaboration with the Ministry of
- 15 Mines and Solid Minerals in order to identify solid minerals' and the solid
- 16 mineral rich communities, ascertain their natural resource reserve quantity and
- 17 quality, estimate the economic value of these solid minerals, their daily
- 18 production average/quota, and the amount payable by the governments and
- 19 Mining companies;
- 20 (d) promote the general transparency and accountability of the solid
- 21 mineral sectors;
- 22 (e) solicit and attract donors to contribute to the fund of the
- 23 Commission;
- 24 (f) approve and award contracts less than N50,000,000 (Fifty Million
- 25 Naira);
- 26 (g) rate contractors performance and maintain a white, yellow and
- 27 black book to record their performance and determine their suitability for
- 28 projects by the Commission;
- 29 (h) blacklist erring contractors and consultants after final approval
- 30 from the Board;



- 1 (i) tackle ecological and environmental challenges in host  
2 communities;
- 3 (j) protect the overall interest of the host communities;
- 4 (k) hold town-hall meetings at least annually in each of the Host  
5 community States';
- 6 (l) ensure the full compliance with the Community development  
7 agreements (CDA) by the parties involved;
- 8 (m) ensure proper representation on the board of local and parent  
9 mining and refining companies by host communities;
- 10 (n) draft a climate action environment protection plan in line with  
11 the United Nations Sustainable Development Goal three (SDG 3), and  
12 enforce compliance with the climate action plan by host communities and  
13 mining companies;
- 14 (o) ensure prompt and proper remittance of payments due to the  
15 Commission by the mining and refining companies;
- 16 (p) pay the salaries of staffs, employees and members of the  
17 Governing Board and Management board;
- 18 (q) set up committee in consultation with the Board to carry out  
19 functions and pay such committees and its members sitting and/or  
20 operational allowance on behalf of the Commission, but with the findings  
21 and decisions of such committees to be ratified by the Board before it can be  
22 enforced;
- 23 (r) pay pensions and other emoluments and severance packages to  
24 members of the Board, Management and staffs of the Commission;
- 25 (s) endorse Community Development Agreements between  
26 mining host Communities and mining and/or refining companies;
- 27 (t) monitor the implementation of Community Development  
28 Agreements and approve fines and/or sanctions against erring host  
29 Communities and/or mining and/or refining companies.

The Advisory  
Council

1                   13. The Commission shall have an advisory Council, herein after  
2 referred to as the 'Council' which shall:

3                   (a) comprise of four governors each from host community States in  
4 the North and South respectively, who shall have a single non-renewable  
5 tenure of two years, and;

6                   (b) six traditional rulers each from Host communities in the North and  
7 South respectively, alternate to the States' represented by the State governors in  
8 the Council, who shall have a single non-renewable tenure of two years, and;

9                   (c) two representatives from the Federal Ministry of Finance, not less  
10 than the position of director, who shall have a single non-renewable tenure of  
11 two years;

12                   (d) one representative from the Nigerian the Nigerian Customs  
13 Service, not lower than the rank of an Assistant Comptroller-General, who  
14 shall have a single non-renewable tenure of two years;

15                   (e) the Minister of Mines and Solid Minerals, who shall be the  
16 permanent chairman of the Council;

17                   (f) two other representatives from the Federal Ministry of Mines and  
18 Solid Mineral not lower than the position of Director, who shall have a single  
19 non-renewable tenure of two years;

20                   (g) three Managing Directors each of Mining and refining companies  
21 from the North and south respectively, who shall have a single non-renewable  
22 tenure of two years;

23                   (h) one representative each from every host community States'  
24 Ministry of Solid Mineral;

25                   (i) meet at least once every quarter;

26                   (j) make rules for its sittings, meetings and deliberations;

27                   (k) advise and make recommendations to the President, Ministry of  
28 Solid Minerals, mining and refining companies and the Commission;

29                   (l) work with relevant bodies, agencies, Non-governmental  
30 organizations, donor agencies, foreign and sovereign governments and set up

1 committees as it may deem fit, to be funded by the supervising Ministry,  
2 Federal Ministry of Mines and Solid Minerals;

3 (m) organize high level panel discussions, solid-mineral  
4 investment fairs and exhibitions to attract investment to the Solid Minerals  
5 sector;

6 (n) not have the powers to hire or fire any member of staff,  
7 employee, member of the Board or Management of the Commission;

#### 8 PART 6 - THE ROLES AND FUNCTIONS

9 14. The Managing Director of the Commission, who shall also be  
10 the Vice-Chairman, shall be responsible for:

The Roles and  
Functions of the  
Vice-Chairman  
and Managing  
Director

11 (a) the daily administration of the Commission's activities;

12 (b) keeping the updated books, records, financial transactions of  
13 the Commission;

14 (c) administration of the head office secretariat of the Commission;

15 (d) supervising the Northern and Southern head office annexes, its  
16 operations and their respective Executive directors;

17 (e) posting and assigning duties to the directors;

18 (f) general direction and control of all employees of the  
19 Commission;

20 15. The Executive directors of the Commission shall be  
21 responsible for:

The Roles and  
Functions of the  
Executive Directors

22 (a) the daily administration of the operations in his zone;

23 (b) carrying out and enforcing compliance of policies and  
24 administrative instructions from the Managing Director;

25 (c) oversight of all operations, projects and the Commission's work  
26 in his zone;

27 (d) sending comprehensive monthly reports to the Managing  
28 Director;

29 (e) co-ordinating the activities of all staffs and contractors and  
30 consultants within his zone, to ensure that they work in tandem with the

1 goals and principles of the commission;  
2 (f) monitoring and ensuring prompt and accurate remittances of  
3 mining companies in his zone, to the Commissions account;

4 (g) representing the Managing Director and protecting the interest of  
5 the Commission in his zone, as directed by the Managing Director.

Responsibilities  
of Mining and  
Refining Companies

6 16. Mining companies operating within host communities shall:

7 (a) enter into a CDA with the host communities, as defined in the  
8 Nigerian Minerals Mining Act 2007, not later than the second quarter after they  
9 commence operations, not without due consultations with the host community  
10 in not less than one town-hall meeting, or be fined between N5,000,000 and  
11 N10,000,000 per quarter from the third quarter the CDA is unsigned, collected  
12 by the Commission and payable to the affected host community; while it loses  
13 its mining or exploration rights or license after eighteen months of not signing a  
14 CDA;

15 (b) pay an estimated amount of not less than 50% of their tax of five  
16 years to the commission, if the mining company has operated within a  
17 community for up to ten years before the establishment of this Commission  
18 where they had no CDA with such host communities for up to five years whilst  
19 they mined and refined solid minerals in their communities;

20 (c) give all communities not more than 200,000 ordinary shares in its  
21 parent companies if the host communities where they operate are more than  
22 three, and/or the volume of annual solid mineral extraction is over  
23 N100,000,000 (one hundred Million Naira); and pay dividends on these shares  
24 to the Commission annually;

25 (d) pay the Commission 1.5% of its annual budget;

26 (e) pay the commission 3.5% of its annual profit after tax;

27 (f) invest a minimum 45% of its corporate social responsibility budget  
28 in the host communities;

29 (g) build a standard multi-purpose hall or community recreation  
30 centre in the host community, and;

1 (h) build and equip a standard primary health care centre with a  
2 minimum of 25 bed-space for the host community, where a Mining  
3 company earns between N500,000,000 (five hundred Million) to  
4 N1,000,000,000 (One Billion Naira) as revenue annually from mining  
5 and/or refining activities in that community;

6 (i) build both a standard multi-purpose hall and a recreation centre  
7 for the host community if there are more than two Mining companies  
8 operating in a community, or where one Mining company mining and/or  
9 refining the solid minerals of a host community earns more than one Billion  
10 Naira in revenue annually;

11 (j) appoint the traditional ruler or his representative of the host  
12 community as a director and board member in the local company operating  
13 in the host community, and ensure the full payment of all entitlements and  
14 benefits and privileges due to all directors are paid as and when due;

15 (k) appoint an indigene as the plant manager and/or the deputy  
16 Managing director of the Mining company operating in the host community;

17 (l) protect the interest and safety of the host community, its people  
18 and environment at all times;

19 (m) deal with the government recognised traditional ruler or his  
20 nominated representatives, in whose absence the Mining companies shall  
21 deal with the community elders council recognized as members of the  
22 traditional rulers cabinet chiefs, during all CDA negotiations;

23 (n) organize town-hall meetings at least twice annually with the  
24 host communities;

25 (o) discontinue or suspend all mining and refining activities in host  
26 communities where communal feuds, violence or hostilities between host  
27 community and mining companies occur and continue beyond sixty days  
28 which causes the death of at least one human life, due to the presence and  
29 operations of mining companies.

1

## PART 7 - LOCAL CONTENT

Local Content  
and priority to  
indigenes of  
Host Communities

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17. The Commission and all mining and refining companies  
operating within any/every host community shall:

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(a) ensure to sponsor the sufficient development and equipping with  
the relevant skills and academic qualifications of indigenes for technical and  
managerial appointment and employment in the mining companies and  
Commission;

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(b) offer at least 40% of all development, consultancy, supply,  
construction projects and contracts to competent indigenous firms, who have  
not been blacklisted in the last zero to five years;

11

12

(c) offer at least 40% of all available jobs, including top management  
positions to competent indigenes of host communities;

13

14

(d) ensure that at least one indigene or 20% of all those to be trained on  
new technology in the Mining company is amongst the trainees;

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16

(e) hold town-hall meetings annually with the host community;

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(f) adequately compensate the host community, land owners, family  
for any injury, loss of life and property and economic livelihood, occasioned by  
mining and refining activities;

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(g) maintain an active community relations desk and department and  
office, to fast track conflict management and resolution between the host  
community and Mining companies and/or Commission;

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(h) promote projects and programs that would ensure human capital  
development and agro- allied industrialization within host communities;

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(i) invest in the mid-stream industry in terms of human capital and  
technology, to ensure that indigenous youths can successfully operate small  
and medium scale enterprises in the mid-stream industry, which can produce  
high quality refined products of international quality;

28

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(j) promote skill acquisition and training activities targeted at  
indigenous youths of host communities, to make them the engine room of the  
mid-stream sector;

1 (k) organize annual boot-camps for skill acquisition trainings in  
2 the upstream, mid-stream and down-stream industry for the respective solid  
3 minerals found in each host community;

4 (1) host safety enlightenment programs regularly to inform host  
5 communities of any and every health hazard associated with the solid-  
6 minerals in their communities and how best to manage any dangerous  
7 occurrence;

#### 8 PART 8 - CONTRACTOR'S ETHICS

9 18. Every contractor, supplier, consultant and project executor for  
10 the Commission shall subscribe and be signed to contractors' strict ethics  
11 and rules at the commencement of any bidding or land contract award  
12 process, which terms shall include:

The Commission's  
Contractors' Ethics

13 (1) the Bureau of Public Enterprise's (BPE's) guidelines, and shall  
14 not earn a profit exceeding 20% from any of the Commissions' project;

15 (2) resist offering any employee or staff or member of the Board  
16 and Management from the positions of assistant director above, and the  
17 positions below assistant director the sum of N50,000 and N10,000  
18 respectively, in cash and kind, else such company shall be blacklisted from  
19 the Commission and the bribe or kickback giver and taker shall be  
20 prosecuted along with the company they represent;

21 (3) complete execution of jobs not more than sixty days after the  
22 project due date, and demobilize from project site not later than ninety days  
23 after project due date, to avoid a monthly fine of 1 % of project contract fees;

24 (4) avoiding the use of substandard materials or any material lower  
25 than the specified standard in the contract award papers, or be blacklisted  
26 and be fined 10% of contract sum;

27 (5) that no company shall be awarded to handle more than ten  
28 projects in any three year period or more than four projects of the  
29 Commission annually;

30 (6) the Commission shall maintain a White-book to register

1 contractors whose company and/or directors:

2 (a) have no professional complaint or query from the commission for  
3 three years in a row or six projects in a row;

4 (b) and staffs do not offer or give bribes and/or kickbacks to any staff  
5 member or employee or Board member and/or Management staff of the  
6 Commission;

7 (c) presents a detailed quarterly project report to the Commission for  
8 ongoing projects it is handling on behalf of the Commission;

9 (d) completes its projects not later than thirty days after project's due  
10 completion date;

11 (e) records zero casualty and excellent safety record on the  
12 Commissions' project sites for three years in a row or six projects in a row;

13 (f) has not been yellow-booked in the last thirty months or blacklisted  
14 in the last six years;

15 (g) has not made a profit after tax above 20% from any of the  
16 Commissions project in the last three years or six projects in a row; and

17 (h) such that a company that is white-booked shall be given a  
18 Category A status, and be awarded ongoing projects reversed and re-awarded  
19 from recently blacklisted companies or other companies ejected from the  
20 Commission's project sites, and may under such circumstances be allowed to  
21 handle more than four projects but not more than six projects annually and  
22 more than ten projects but not more than fifteen projects in three years.

23 (7) a yellow-book which the Commission shall maintain to reflect and  
24 record performance of consultants and contractor companies who:

25 (a) execute projects with substandard materials or of lower quality  
26 industry and project specification standards and refuse to rectify same within  
27 thirty days shall be ejected from site, and shall also be fined 5% of the project  
28 cost deducted from their next payment;

29 (b) pay site workers below the project wage approved estimate, and  
30 after two warnings refuse to comply and pay the difference within thirty days,



1 and shall also be fined 0.75% of the contract sum deducted from its next  
2 payment;

3 (c) fail to complete project after sixty days of the project  
4 completion due date and clear out from site after ninety days of project  
5 completion due date, and shall also be fined 1 % of the contract sum;

6 (d) make a net profit after tax deductions of more than 20% from  
7 any of the Commission's project it executed;

8 (e) refuses to mobilize to site within thirty days after receiving  
9 mobilization fees and first instalment of project sum, and shall also be fined  
10 2.5% of the contract sum deducted from their next payment for every thirty  
11 days;

12 (f) is unable to meet its obligations to its creditors for two quarters  
13 in a row, or its directors is declared bankrupt;

14 (g) if yellow-booked shall not be awarded more than two projects  
15 in a year; and if yellow-booked twice in twelve months, shall not be awarded  
16 more than one project in a year; and if yellow-booked thrice in twenty-four  
17 months or four projects in a row, shall be blacklisted;

18 (h) after yellow-booking, such company shall remain in the  
19 yellow-book for twenty four months after the last yellow-book offence,  
20 before its records may be expunged from the yellow-book.

21 (8) a black-book which the Commission shall maintain to reflect  
22 and record performance of consultants and contractors, whose companies  
23 shall be blacklisted from the Commission if:

24 (a) it is yellow-booked thrice in twenty-four months or four  
25 projects in a row;

26 (b) it absconds from any of the Commission's project site or  
27 discontinues work duly awarded by the Commission beyond thirty days,  
28 without permission from the Commission;

29 (c) it or any of its directors is/are indicted or convicted of  
30 corruption;

1 (d) its staffs or agents give any gift over N50,000 and over N10,000 to  
2 any official of the Commission from assistant director and above or below the  
3 position of assistant director, respectively;

4 (e) it is found to have given bribe or kickbacks on any project,  
5 including those not belonging to the Commission;

6 (f) its director is found to be a member of staff, employee, director  
7 members of the governing Board of the Commission;

8 (g) it falsifies any of its records, accounts, documents used in bidding  
9 for any of the Commission's contracts;

10 (h) if it uses substandard materials on any of the Commission's project  
11 more than thrice;

12 (i) it contravenes any of the guidelines and ethical standards of section  
13 8 (subsection a-g),

14 such company shall be removed from any and all of its project sites being  
15 handled for the Commission, then prosecuted, and its projects re-awarded to  
16 white-booked companies or any other non-yellow-booked qualified company  
17 within the next thirty days;

18 (j) after been black-listed, it shall not be re-admitted into the  
19 Commission's list of eligible contractors for another six years, and upon re-  
20 admission, shall be placed on probation as a company with one yellow-book  
21 offence, and until after twenty four months of re-admission without any  
22 offence shall it be able to bid and be awarded not more than four projects in a  
23 year and not more than 10 projects in three years.

24 PART 9 - MISCELLANEOUS

Limitations of  
suit against the  
Commission

25 19.-(1) the Commission shall have the powers to investigate, sue,  
26 prosecute whoever contravenes any provision of this Bill or any other law or  
27 Act of the Federal Republic of Nigeria as it may apply to the Commission, and  
28 may also be sued;

29 (2) no member of staff, employee, director or member of the  
30 Management board or Governing Board may be sued as an individual for

1 performing his lawful duties and responsibilities on behalf of the  
2 Commission in pursuant to the achievement of the goals, objectives and  
3 purpose of the commission, except he is accused of felony, corruption or any  
4 other criminal offense in the process;

5 20. A court notice, summons or other document required or  
6 authorized to be served upon the Commission under the provisions of this  
7 Bill or any other law or enactment, may be served by addressing and  
8 delivering it to the Managing Director/ Vice chairman of the Commission,  
9 or by sending it to the registered post and head-office of the Commission;

Service of  
Documents

10 21.-(1) in any legal suit arising against the Commission, an  
11 execution or attachment of a legal process in the nature thereof may be  
12 issued against the Commission as directed by a competent court;

Restriction on  
execution against  
the property of the  
Commission

13 (2) any sum of money which may be judgement of any cost  
14 awarded against the Commission, where appeal has been exhausted in  
15 futility to overturn such judgements, shall be paid from the general reserve  
16 account of the Commission;

17 22.-(1) the fixing of the seal of the Commission shall be  
18 authenticated by the signatures of the Vice chairman/Managing Director or  
19 any of the Executive Director assigned to exercise this authority on his  
20 behalf in their respective zones; and/or the Chairman or any other member  
21 of the Governing Board specifically authorized by the board or its Chairman  
22 to act for this purpose.

The authority and  
seal of the  
Commission

23 23. Any member of the Advisory Council, Governing Board,  
24 Management Board, any other employee or staff of the Commission or  
25 contractor or individual shall be investigated and recommended for  
26 prosecution or prosecuted if found to have:

Anti-Corruption  
Clause

27 (1) solicited bribe or kickback from any contractor or any person,  
28 in a bid to enable such a company or person access the benefits and  
29 opportunities available in the Commission;

30 (2) unduly used privileged position to influence a contract or

- 1 employment or benefits to an unqualified company or person;
- 2 (3) benefitted from any bribe or kickback from any contractor or job
- 3 applicant;
- 4 (4) abused his position to deliberately and wrongfully deny a
- 5 deserving applicant or contractor a rightful offer or contract;
- 6 (5) misappropriated or diverted or converted the Commission's funds
- 7 and/or assets to private use;
- 8 (6) vire funds without the express authorization of the Governing
- 9 Board;
- 10 (7) authorize contracts above its specified limit;
- 11 (8) offers, pays bribe or kickback to any member of the Commission's
- 12 employ;
- 13 (9) solicits to induce financially or in kind any member of the
- 14 Commission's employ, in order to obtain privileges exclusive to the
- 15 Commission's staffs and employ or be awarded a contract or employment;
- 16 (10) offers or pays in cash or in kind any member of staff or employ of
- 17 the Commission from the rank of assistant director above and below the rank of
- 18 assistant director the sum of N50,000 above or N10,000 above respectively;
- 19 (11) receives the sum of N50,000 and above or N10,000 as an assistant
- 20 director above or below the position of an assistant director respectively, from
- 21 any person or company seeking opportunities from the Commission;
- 22 (12) any such member of staff or employ of the Commission found
- 23 guilty of Section 21 subsection 1-11 shall have his employment or appointment
- 24 terminated, lose his pension, gratuity, emoluments and severance package and
- 25 every other benefits accruing to their office; and shall barred from holding
- 26 public office either appointed or elected for a period not less than 4 years after
- 27 his conviction;
- 28 (13) any company refuses to complete any project it has been paid for;
- 29 or a staff, employee or contractor of the Commission absconds with or steals
- 30 the funds or/and assets of the Commission.

1                   24. The Commission, with the approval of the President, may      Regulation  
2                   make regulations generally for the purpose of giving full effect to this Bill.

3                   25.-(a) The 'Commission' is the Nigerian Solid Minerals'      Interpretation  
4                   Communities Development Commission (NISOMICODEC), which is  
5                   being established by this Bill;

6                   (b) The 'Advisory Council' is the non-administrative body  
7                   receiving no established remuneration to advise the President etcetera on  
8                   issues that affect the solid mineral's sector;

9                   (c) The 'Governing Board' is the highest administrative decision  
10                  making body of the Commission, appointed by the President, which has not  
11                  more than 15 members drawn from a group of three closest host community  
12                  states that supervises the Management board;

13                  (d) The 'Management Board' is the administrative engine room of  
14                  the Commission headed by the Vice chairman and Managing director of the  
15                  Commission;

16                  (e) An 'indigene' is a person residing and earning a living within  
17                  and/or belonging to the host community by birth, marriage; .

18                  (f) 'Host community' is a solid mineral rich and producing  
19                  community;

20                  (g) 'Head-office annexes' shall be the head-office of the  
21                  Commission located outside the Federal Capital Territory in a host  
22                  community State in the Northern and Southern zones of Nigeria  
23                  respectively, to co-ordinate the operations of the Commission in each of the  
24                  zones;

25                  (h) 'Community development agreement' refers to the  
26                  commitments and covenants agreed upon by and binding on the host  
27                  community and the Mining and refining companies, to be fulfilled by both  
28                  parties;

29                  (i) 'Managing Director/Vice chairman' refers to the administrative  
30                  head of the Commission;

1 (j) 'white-book' is the register that contains a list of contractors with  
2 excellent performance records over a period of at least three years in a row;

3 (k) 'yellow-book' is a register maintained by the Commission  
4 containing a list of erring contractors and consultants who have not been  
5 blacklisted;

6 (l) 'black-book' is a register maintained by the Commission  
7 containing the list of all blacklisted contractors, who shall not be awarded any  
8 contract for a minimum period of six years;

9 (m) 'host community state' is any State of the Federal republic of  
10 Nigeria where commercial mining activities is being undertaken by any  
11 licensed mining and/or refining company;

12 (n) 'group of three closest host community states' is a set of host  
13 community states which may share boundaries or are found to be  
14 geographically closest to each other than any other three host community  
15 states;

16 (o) 'President' refers to the President and Commander-in-Chief of the  
17 Armed Forces of the Federal Republic of Nigeria.

Citation

18 26. This Bill may be cited as the Nigerian Solid Minerals'  
19 Communities Development Commission (Establishment, etc) Bill, 2021.

#### EXPLANATORY MEMORANDUM

This Bill seeks to establish a Commission that will comprehensively develop a responsible operational standards for the solid minerals sector in Nigeria by encouraging the mining and other extracting and refining activities of solid minerals resources with a view to diversify the economy and utilize the local content and human resources of host communities.