

DONOR AGENCIES REGULATORY COMMISSION

(ESTABLISHMENT) BILL, 2021

ARRANGEMENT OF SECTIONS

1. The Establishment of the Donor Agencies Regulatory Commission, etc.
2. Establishment of the Governing Board for the Commission
3. Tenure of Office
4. Cessation of Membership
5. Disclosure of interest
6. Emolument etc. of Members
7. Powers of the Commission.
8. Functions of the Commission
9. Director-General of the Commission.
10. Other staff of the Commission
11. Pensions Act 2004
12. Funds of the Commission
13. Expenditure of the Commission
14. Annual Estimates and Accounts
15. Annual Reports
16. Power to accept gifts
17. Limitation of suits against the Commission, etc. Cap 379 LFN
18. Directives by the President, etc.
19. Power to Make Regulations
20. Secrecy
21. Interpretation
22. Short title

A BILL

FOR

AN ACT TO ESTABLISH THE DONOR AGENCIES REGULATORY COMMISSION
AND FOR RELATED MATTERS

Sponsored by Hon. Unyime Idem

[] Commencement

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

1 1.-(1) There is established a Commission to be known as the Donor
2 Agencies Regulatory Commission (in this Bill referred to as "the
3 Commission").

Establishment of
Donor Agencies
Regulatory
Commission

4 (2) The Commission-

5 (a) Shall be a body corporate with perpetual succession and a
6 common seal;

7 (b) May sue and be sued in its corporate name; and

8 (c) May acquire, hold or dispose of any movable or immovable
9 property for the purpose of its functions under this Bill.

10 (3) The headquarters of the Commission shall be located in the
11 Federal Capital Territory, Abuja.

12 2.-(1) There shall be established for the Commission a Governing
13 Council (hereinafter referred to as "the Council") which shall be responsible
14 for running the affairs of the Commission.

Establishment
of the Governing
Council

15 (2) The Governing Council shall consist of-

16 (a) A part-time Chairman;

17 (b) the Attorney-General of the Federation;

18 (c) the Minister of Finance;

19 (d) the Secretary to the Government of the Federation;

20 (e) the Governor of the Central Bank of Nigeria;

21 (f) one person each -from the six geopolitical zones of Nigeria who

1 shall each have cognate experience and expertise in law, business
2 administration, engineering, economics or public administration and two of
3 whom shall be women; and

4 (g) the Director-General of the Commission.

5 (3) The Chairman and members of the Council other than ex-officio
6 member shall be:

7 (a) appointed by the President subject to confirmation by the Senate;

8 (b) persons of proven integrity, and ability; and

9 (c) part-time members.

10 (3) The Chairman and members of the Commission, other than ex-
11 officio members, shall be appointed by the President subject to confirmation by
12 the Senate.

13 (4) The supplementary provisions set out in the Schedule to this Bill
14 shall have effect with respect to the proceedings of the Council and the other
15 matters mentioned therein.

Tenure of office

16 3. The Chairman and other members of the Commission, other than
17 ex-officio members shall each hold office-

18 (a) for a term of 4 years in the first instance and may be re-appointed
19 for a further term of 4 years; and

20 (b) on such terms and conditions as may be specified in his letter of
21 appointment.

Cessation of
Membership

22 4.-(1) Notwithstanding the provisions of Section 2 of this Bill, a
23 member of the Council shall cease to hold office as a member of the Council if-

24 (a) he resigns his appointment as a member of the Council by notice,
25 under his hand, addressed to the President;

26 (b) he becomes of unsound mind;

27 (c) he becomes bankrupt or makes a compromise with his creditors;

28 (d) he is convicted of a felony or of any offence involving dishonesty
29 or corruption,

30 (e) he becomes incapable of carrying out the functions of his office

1 either arising from an infirmity of mind or body; or

2 (f) the President is satisfied that it is not in the interest of the
3 Commission or in the interest of the public for the person to continue in
4 office and the President removes him from office.

5 (2) Where a vacancy occurs in the membership of the Board, it
6 shall be filled by the appointment of a successor to hold office for the
7 remainder of the term of office of his predecessor, so however that the
8 successor shall represent the same interest as his predecessor.

9 5. A member of the Council who is directly or indirectly interested
10 in a transaction with the Commission or a transaction which the commission
11 is required by this Bill to approve, shall disclose the interest at a meeting of
12 the Council.

Disclosure of
interest

13 6. The Chairman and members of the Commission other than ex-
14 officio members shall be paid such emoluments, allowances and benefits as
15 may be recommended by the Revenue Mobilization Allocation and Fiscal
16 Commission.

Emoluments etc.
of Members

17 7. The Commission shall have Powers to:

Powers of the
Commission

18 (a) provide the general policy guidelines relating to the functions
19 of the Commission;

20 (b) manage and superintend the policies of the Commission;

21 (c) subject to the provisions of this Bill, make, alter and revoke
22 rules and regulations for carrying on the functions of the Commission;

23 (d) determine the terms and conditions of service of the employees
24 of the Commission;

25 (e) fix the remuneration, allowances and benefits of the staff and
26 employees of the Commission in consultation with the National Salaries,
27 Income and Wages Commission; and

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

Functions of
the Commission

8. The Functions of the Commission shall be:

(a) To determine whether an organization is entitled to be regarded as a donor agency;

(b) Shall take institutional reform processes needed to work with the organizational constraints of donor agencies;

(c) To ensure that such funds and resources as generated are used for the purpose with which it was intended and not wasted by inadvertent administrative errors or mistakes;

(d) Complementary long-term, flexible and "hand-on" aid modalities and instruments have been required to address institutional blockages;

(e) ensure efficient execution of any agreement or memorandum of understanding entered into between agencies, government and international partners;

(f) ensure compliance with the provisions of this Bill;

(g) perform such other duties as may be directed by the President, from time to time, and as are necessary or expedient to ensure the efficient performance of the functions of the Commission under this Bill.

Director-General
of the Commission

9.-(1) There shall be for the Commission, a Director-General who shall-

(a) be appointed by the President subject to confirmation by the Senate;

(b) be the chief executive and accounting officer of the Commission;

(c) be responsible for the execution of the policy and day-to-day administration of the Commission, and

(d) be a member and the secretary to the Commission.

(2) The Director-General shall hold office-

(a) for a term of 4 years in the first instance and may be reappointed for a further term of 4 years; and

(b) on such terms and conditions as may be specified in his letter of appointment.

(3) Notwithstanding the provisions of Subsection (2) of this section, the Director-General may-

(a) resign his appointment by a notice in writing under his hand, addressed to the President through the Council; or

(b) be removed by the President for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct or corruption.

10. The Commission may, subject to the approval of the Council, appoint such other staff as it may deem necessary and expedient, from time to time:

Other Staff of
the Commission

(a) for the proper and efficient performance of the functions of the Commission; and

(b) on such terms and conditions as may be determined; from time to time by the Council.

11.-(1) The Commission shall be approved for the purpose of the Pensions Act, and accordingly, officers and employees of the Commission shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Act.

Pension for the
Staff

(2) Without prejudice to the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms and conditions, which preclude the grant of pension, gratuity or other retirement benefits in respect of that office.

(3) For the purposes of the application of the provisions of the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government, other than the power to make regulations, under Section 23 thereof, is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.

12. The Commission shall establish and maintain a Fund to which shall be paid-

Funds for the
Commission

(a) grants from the Federal Government;

1 (b) gifts, loans, grant-in-aid from national, bilateral and multilateral
2 organizations and agencies;

3 (c) rents, fees and other internally generated revenues from the
4 services provided by the Commission; and

5 (d) all other sums accruing to the Commission, from time to time.

Expenditure of
the Commission

6 13. The Commission may, from time to time, apply the proceeds of
7 the Funds for the Commission, established under Section 12 of this Act-

8 (a) to the cost of administration of the Commission;

9 (b) to the payment of the emoluments, allowances and benefits of
10 members of the Council and for reimbursing members of the Council or of any
11 committee set up by the Board and for such expenses as may be expressly
12 authorized by the Council;

13 (c) to the payment of the salaries, fees or other remuneration or
14 allowances, gratuities and pensions, and other benefits payable to the staff and
15 other employees of the Commission, so however that no payment of any kind
16 under this paragraph (except such as may be expressly authorized by the
17 Council) shall be made to any person who is in receipt of emolument from the
18 Government of the Federation or of a State;

19 (d) for the development and maintenance of any property vested in or
20 owned by the Commission;

21 (e) for maintaining general financial reserves subject to general or
22 specific directives that may be given in that behalf by the President in
23 accordance with the provisions of this Act; and

24 (f) for and in connection with all or any of its functions under this Act.

Annual Estimate
and Account

25 14.-(1) The Commission shall, not later than 30th September in each
26 year, submit to the President an estimate of its expenditure and income
27 (including payments to the Commission Fund) for the next succeeding year.

28 (2) The Commission shall keep proper accounts in respect of each
29 year and proper records in relation to those accounts and shall cause its
30 accounts to be audited within six months after the end of each year by auditors

1 appointed from the lists and in accordance with the guidelines supplied by
2 the Auditor General of the Federation.

3 15.-(1) The Commission shall prepare and submit to the President
4 not later than 30th June in each year a report in such form as the President
5 may direct on the activities of the Commission during the immediate
6 preceding year, and shall include in the report a copy of the audited accounts
7 of the Commission for that year and of the Auditor's report thereon.

Annual Report

8 The Auditor General of the Federation shall lay a copy of the report and the
9 Auditor's report thereon before the National Assembly so soon after the
10 receipt thereof.

11 16.-(1) The Commission may accept gift of land, money or other
12 property on such terms and conditions, deemed lawful Power to accept gifts.

Power to accept
gifts

13 (2) The Commission shall not accept any gift if the conditions
14 attached by the person or organization making the gift are inconsistent with
15 the functions of the Commission under this Act.

16 17. Subject to the provisions of this Act, the provisions of the
17 Public Officers Protection Act shall apply in relation to any suit instituted
18 against any member or officer or employee of the Commission.

Limitation of
suits against the
Commission etc.
Cap 379 LFN, 1990

19 A notice, summons or other document required or authorized to be served on
20 the Commission under the provisions of this Act or any other law or
21 enactment may be served by delivering it to the Director-General or by
22 sending it by registered post addressed to the Director-General at the
23 principal office of the Commission.

24 (1) In any action or suit against the Commission, no execution or
25 attachment of processes in the nature thereof shall be issued against the
26 Commission unless not less than three months' notice of the intention to
27 execute or attach has been given to the Commission.

28 (2) Any sum of money which by the judgment of any court has been
29 awarded against the Commission shall, subject to any direction given by the
30 court, where no notice of appeal against the judgment has been given, be

1 paid from the Fund of the Commission.

2 (3) A member of the Council, the Director-General or any officer or
3 employee of the Commission shall be indemnified out of the assets of the
4 Commission against any liability incurred by him in defending any
5 proceeding, whether civil or criminal, if the proceeding is brought against him
6 in his capacity as a member, Director-General, officer or other employee of the
7 Commission.

Directives by
the President

8 18. The President may give to the Commission such directives of a
9 general nature or relating directives to matters of policy with regards to the
10 exercise of its or his functions under this Act as he (President) may consider
11 necessary, and it shall be the duty of the Commission to comply with the
12 directives or cause them to be complied with.

Powers to make
Regulations

13 19.-(1) The Commission may, with the approval of the President,
14 make such regulations as in its opinion are necessary or expedient for giving
15 full effect to the provisions of this Act and for the due administration of its
16 provisions.

17 (2) Without prejudice to the generality of subsection (1) of this
18 section, the Council may issue guidelines to give full effect to the provisions of
19 this Act.

Secrecy

20 20.-(1) A member of the Council, the Director-General or any other
21 officer or employee shall-

22 (a) not, for his personal gain, make use of any information which has
23 come to his knowledge in the exercise of his powers or is obtained by him in the
24 ordinary course of his duty as a member of the Council or as the Director-
25 General, officer or employee of the Commission;

26 (b) treat as confidential any information which has come to his
27 knowledge in the exercise of his powers or is obtained by him in the
28 performance of his duties under this Act;

29 (c) not disclose any information referred to under paragraph (b) of this
30 subsection, except as required by law.

1 (2) Any person who contravenes the provisions of subsection (1) of
2 this section commits an offence and shall on conviction be liable to a fine of
3 not less than N50,000 or imprisonment for a term not exceeding 2 years or to
4 both fine and imprisonment.

5 **21. In this Act- Interpretation**

Interpretation

6 "Council" means the Governing Council of the Commission established
7 under Section 2 of this Act;

8 "Chairman" means the Chairman of the Governing Council of the
9 Commission appointed under Section 2 of this Act;

10 "Commission" means the Infrastructure Concession Regulatory
11 Commission established under Section 1 of this Act;

12 "Director-General" means the Director-General of the Commission
13 appointed under Section 2 of this Act;

14 "Member" means a member of the Governing Council of the Commission
15 and includes the Chairman;

16 "President" means the President of the Federal Republic of Nigeria;

17 Ex-officio" means the Attorney -General of the Federation, Minister of
18 Finance, Secretary to the Government of the Federation and Governor of
19 Central Bank of Nigeria.

20 **22. This Bill may be cited as the Donor Agencies Regulatory** Short title
21 Commission (Establishment) Bill, 2021.

1 SCHEDULE

2 PROCEEDINGS

3 PROCEEDINGS OF THE COUNCIL SUPPLEMENTARY PROVISIONS

4 RELATING TO THE COMMISSION

5 1. Subject to this Act and Section 27 of the Interpretation Act, the
6 Council shall have power to regulate its proceedings and may make standing
7 orders with respect to the holding of its meetings, and those of its committees,
8 notices to be given, the keeping of minutes of its proceedings, the custody and
9 production for inspection of such minutes and such other matters as the
10 Commission may, from time to time, determine.

11 2.-(i) There shall be at least four ordinary meetings of the Council in
12 every calendar year and subject thereto, the Council shall meet whenever it is
13 convened by the Chairman, and if the Chairman is requested to do so by notice
14 given to him by not less than 3 other members, he shall convene a meeting of
15 the Council to be held within 14 days from the date on which the notice was
16 given;

17 (ii) Every meeting of the Council shall be presided over by the
18 Chairman and if the Chairman is unable to attend a particular meeting, the
19 members present at the meeting shall elect one of their members present to
20 preside at the meeting.

21 3. The quorum of any meeting of the Council shall consist of the
22 Chairman (or in an appropriate case, the person presiding at the meeting
23 pursuant to paragraph 2 of this Schedule) and four other members.

24 4. The Council shall meet for the conduct of its business at such
25 places and on such days as the Chairman may appoint.

26 5. A question put before the Council at a meeting shall be decided by
27 consensus and where this is not possible, by a majority of the votes of the
28 members present and voting

29 6. The Chairman shall, in the case of an equality of votes, have a
30 casting vote in addition to his deliberative vote.

7. Where the Council seeks the advice of any person on a particular matter, the Council may invite that person to attend for such periods as it thinks fit, but a person who is invited by virtue of this paragraph shall not be entitled to vote at any meeting of the Council and shall not count towards the quorum.

Committees

8. The Council may appoint one or more committees to carry out on behalf of the Council such of its functions as the Council may determine and report on any matter with which the Board is concerned.

9. A committee appointed under paragraph 8 of this Schedule shall be presided over by a member of the Council and consist of such number of persons (not necessarily all members of the Council) as may be determined by the Board, and a person other than a member of the Council shall hold office on the committee in accordance with the terms of his appointment.

10. A decision of a committee of the Council shall be of no effect until it is confirmed by the Board.

11. The fixing of the seal of the Commission shall be authenticated by the signature of the Chairman and the Director-General or the Director-General and such other person authorized by the Council to act for that purpose.

12. The validity of any proceedings of the Council or its committees shall not be affected by:

(a) any vacancy in the membership of the Council or its committee;

(b) reason that a person not entitled to do so took part in the proceeding; or

(c) any defect in the appointment of a member.

13. Any member of the Council or committee thereof who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or any committee thereof-

- 1 (a) shall forthwith disclose his interest to the Councilor Committee;
2 and
3 (b) shall not vote on any question relating to the contract or
4 arrangement.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Donor Agencies Regulatory Commission for coordinated regulation of donor agencies for the purpose of strengthening their capacity to promote transparency and development in the country.