

CONSTRUCTION MATERIALS STANDARDIZATION AGENCY

(ESTABLISHMENT) BILL, 2021

ARRANGEMENT OF CLAUSES

*Clause:*

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STANDARDIZATION AGENCY

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2. Establishment of Governing Board
3. Power of the Board
4. Tenure of Office
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7. Functions of the Agency
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  30. Power to make test purchases
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# A BILL

## FOR

AN ACT TO ESTABLISH THE CONSTRUCTION MATERIALS  
STANDARDIZATION AGENCY TO STANDARDIZE AND CONTROL THE USE OF  
MATERIALS FOR THE CONSTRUCTION INDUSTRY IN NIGERIA AND FOR  
RELATED MATTERS

*Sponsored by Hon. Gideon Gwani*

[ ] Commencement

ENACTED by the National Assembly of the Federal Republic of  
Nigeria:

- |    |   |  |
|----|---|--|
| 1  | PART I - ESTABLISHMENT STANDARDIZATION AGENCY                         | Establishment<br>of the Construction<br>Materials<br>Standardization<br>Agency |
| 2  | 1.-(1) There is established the Construction Materials                |  |
| 3  | Standardization Agency (in this Bill referred to as "the Agency").    |  |
| 4  | (2) The Agency:   |  |
| 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 property, whether movable or      |  |
| 9  | immovable.  |  |
| 10 | 2.-(1) There is established for the Agency a Governing Board (in      | Establishment<br>of Governing<br>Board   |
| 11 | this Bill referred to as "the Board").                                |  |
| 12 | (2) The Board shall consist of:                                       |  |
| 13 | (a) A Chairman who shall be appointed by the President on the         |  |
| 14 | recommendation of the Minister;                                       |  |
| 15 | (b) A representative of the Federal Ministry of Works and Housing;    |  |
| 16 | (c) A representative of the council for the registration of Engineers |  |
| 17 | in Nigeria;   |  |
| 18 | (d) A representative of the standard organization of Nigeria;         |  |
| 19 | (e) A representative of the Manufacturers Association of Nigeria;     |  |

1 (f) A representative of the Federal Ministry of Science and  
2 Technology;

3 (g) The Director-General of the Agency; and

4 (h) Six other Persons with graduate qualifications and practice in the  
5 construction industry in Nigeria representing each of the six geo-political  
6 zones of Nigeria.

7 (3) The representatives from the bodies and Agencies mentioned in  
8 this clause shall not be below the rank of the Directors.

Power of the  
Board

9 3.-(1) The Board shall:

10 (a) Provide the general policies and guidelines relating to the  
11 programs of the Agency;

12 (b) Manage and superintend the affairs of the Agency;

13 (c) Subject to the provisions of this Bill, make, alter or revoke rules  
14 and regulations for carrying on the functions of the Agency;

15 (d) Fix terms and conditions of service, including remuneration of the  
16 employees of the Agency; and

17 (e) Do other which in the opinion of the board are necessary to ensure  
18 the efficient performance of the functions of the Agency.

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

Tenure of Office

22 4. The Chairman and other members of the Board shall hold the  
23 office:

24 (a) For a term of four years and may be re-appointed for a further term  
25 of four years and no more;

26 (b) On terms and conditions as may be specified in their letters of  
27 appointments.

Removal from  
Office

28 5.-(1) A member of the board may be removed from office by the  
29 President where:

30 (a) He becomes bankrupt;

1 (b) He is convicted of any offence involving dishonesty or fraud;

2 (c) He becomes of unsound mind or is incapable of carrying out his  
3 duties;

4 (d) He is found guilty of a serious misconduct in relation to his  
5 duties; or

6 (e) In the case of a person possessed of professional qualification,  
7 he is disqualified or suspended, other than at his own request from practicing  
8 his profession in any part of the world by an order of a competent authority  
9 made in respect of that member.

10 (2) A member of the Board may resign his appointment by a notice  
11 in writing under his hand, addressed to the president and that member shall,  
12 on the date of the receipt of the notice by the President cease to be a member  
13 of the Board.

14 (3) Where a member of the Board ceases to hold office for any  
15 reason before the expiration of the term for which he is appointed, another  
16 person representing the same interest as that member shall be appointed to  
17 the Board for the unexpired term.

18 (4) A member of the board may be removed by the President if he is  
19 satisfied that it is not in the interest of the Agency or the interest of the public  
20 that the member continues in office.

21 6. Members of the Board shall be paid emoluments, allowances  
22 and other benefits as the President may, from time to time, approve. Emoluments

23 7. The Agency shall: Functions of the  
Agency

24 (a) Enforce compliance with laws, guidelines, policies and  
25 standards on construction materials matters;

26 (b) Coordinate and liaise with stakeholders in Nigeria on matters of  
27 construction materials standards, regulation and enforcement;

28 (c) Enforce compliance with all legislation or regulations on the  
29 importation, production, distribution, storage, sale, use of substandard or  
30 hazardous construction materials;

1 (d) Enforce through compliance monitoring of construction projects  
2 to adhere to regulations and standards set by the Agency and other relevant  
3 authorities;

4 (e) Conduct construction material audit and establish data bank for  
5 the enhancement of enforcement mechanisms;

6 (f) Create public awareness and provide education on sustainable  
7 construction industry management, promote public and private sector  
8 compliance and publish scientific data resulting from the performance of its  
9 functions.

Appointment  
of Director-  
General and  
other Staff

10 8.-(1) The Director-General of the Agency shall be appointed by the  
11 President, on the recommendation of the Minister.

12 (2) The Director-General shall:

13 (a) Be the Chief Executive and Accounting Officer of the Agency;

14 (b) Be responsible for the day-to-day administration of the Agency;

15 (c) Be a person with good working knowledge of the construction  
16 industry with qualification in mechanical or civil engineering and a minimum  
17 of 15 years postgraduate experience in the relevant discipline.

18 (3) The Agency shall appoint other staff of the Agency as it may deem  
19 necessary, to assist it in the performance of its functions.

Number of  
Department and  
their duties

20 9.-(1) The Agency shall have:

21 (a) Department of Administration and Finance;

22 (b) Department of Planning and Policy Analysis;

23 (c) Department of Inspection and Enforcement;

24 (d) Department of Quality Control and Monitoring; and

25 (e) Department of Legal Services.

26 (2) Each department shall be headed by a Director.

27 (3) The Director of the Legal Service Department shall also function  
28 as the Legal Adviser to the Agency.

29 (4) The Agency may create additional departments, units or offices in

1 any part of the Federation as may be required for the performance of its  
2 functions.

3 10.-(1) The Agency shall prescribe staff regulations relating Staff regulations  
4 generally to the conditions of service of management and other staff of the  
5 Agency which may provide for:

6 (a) The appointment, promotion and disciplinary control of all  
7 Staffs of the Agency; and

8 (b) Appeals by members of Staff against dismissal or other  
9 disciplinary measures.

10 (2) Regulations made under sub clause (1) shall be notified to all  
11 affected persons in the prescribed manner.

12 11.-(1) Service in the Agency shall be approved service for the Pensions  
13 purposes of the pensions reform Act and persons employed by the Agency  
14 shall be entitled to pensions and other retirement benefits as prescribed in  
15 that Act.

16 (2) Notwithstanding the provisions of sub clause (1), the Agency  
17 may appoint a person to any office on terms which preclude the grant of a  
18 pension or other retirement benefits in respect of that office.

19 (3) For the purpose of the pension reform Act, any power  
20 exercisable by a Minister or other authority of the Government of the  
21 Federation, other than the Power to make regulations under section (11) of  
22 this Bill, is vested in and shall be exercised by the Agency and not by any  
23 other person or authority.

24 12. A Staff of the Agency shall not be personally liable for any act Exemption from  
Liability  
25 or omission done or made by him in accordance with the terms of his  
26 engagement.

#### 27 PART II - FINANCIAL PROVISIONS

28 13.-(1) The Agency shall establish a fund from which shall be Fund of the  
Agency  
29 defrayed all expenditure incurred by the Agency for the purposes of this Bill.

30 (2) There shall be paid and credited to the fund of the Agency:

- 1 (a) Adequate take off grant from the Federal Government;
- 2 (b) Annual subvention and budgetary allocation from the Federal
- 3 Government;
- 4 (c) Loans and grants in aid from national, bilateral and multilateral
- 5 agencies;
- 6 (d) Counterpart funding as may be provided from time to time;
- 7 (e) All sums accruing to the Agency by way of rents, fees and other
- 8 internally generated revenues from services rendered by the Agency; and
- 9 (f) All sums accruing to the Agency by way of gifts, endowments,
- 10 bequeaths or other voluntary contributions by persons and organizations.

expenditure of  
the Agency

11 **14.** The Agency shall apply the funds at its disposal to:

- 12 (a) The cost of establishing and maintaining the Head Office of the
- 13 Agency at the Federal Capital Territory, Abuja and its offices located in other
- 14 States in Nigeria.
- 15 (b) Pay allowances and other benefits of members of the Board and of
- 16 its Committees;
- 17 (c) The cost of Compliance monitoring and enforcement activities;
- 18 (d) Pay the Salaries and entitlements of the Director-General, other
- 19 staff of the Agency;
- 20 (e) Pay the personnel, overhead, allowances, pensions, gratuities,
- 21 benefits and other administrative costs of the Agency;
- 22 (f) Pay for attendance at local and international conferences related to
- 23 its functions;
- 24 (g) Built capacity of staff of the Agency;
- 25 (h) Publicize and promote the activities of the Agency;
- 26 (i) Attend national and international scientific and professional
- 27 seminars on construction materials matters;
- 28 (j) Develop and maintain any property vested in or owned by the
- 29 Agency;
- 30 (k) Pay for services and contracts entered into by the Agency; and



1 (I) Undertake any other activity in connection with all or any of the  
2 function of the Agency.

3 15. All income derived by the Agency from the sources specified Exemption from  
4 in this clause of this Bill and all contributions to the fund shall be exempted Income Tax  
5 from income tax.

6 16. The Agency shall submit to the President through the Minister Annual Estimates  
7 not later than 30th September each year, its program of work and estimates  
8 of its income and expenditure for the following year.

9 17.-(1) The Board shall keep proper accounts of the Agency and Accounts and  
10 proper record in relation to those accounts. audits

11 (2) The account of the Agency shall be audited, not later than six  
12 months after the end of the year to which it relates, by auditors appointed by  
13 the Agency from the list and in accordance with the guidelines supplied by  
14 the Auditor-General for the Federation.

15 18. The Agency shall prepare and submit to the Federal Executive Annual report  
16 Council, through the Minister, not later than 30th June in each year, a report  
17 on the activities of the Agency during the immediate preceding year and  
18 shall include in that report, a copy of the audited accounts of the Agency for  
19 that year and the Auditor's report.

20 19. The Agency may borrow sums as it may require for the Power to borrow  
21 performance of its functions under this Bill.

22 20. The Agency may accept any gift of land, money or other Power to accept  
23 property in such terms and condition, if any, as may be specified by the gifts  
24 person or organization making the gift provided that the Agency shall not  
25 accept any gift if the conditions attached are inconsistent with the functions  
26 of the Agency and the provisions of other existing laws.

27 PART III - FUNCTIONS AND POWERS OF THE AGENCY

28 21. The Agency shall ensure that all construction materials used in Procedure for  
29 the construction industry must comply with the Nigeria Industrial quality control  
30 Standards.

Application for  
certification

1                   22.-(1) Every person who intends to use any material for the purpose  
2 of construction shall apply for certification to the Agency in a prescribed  
3 manner stating the name and particulars of the Engineer in charge of the  
4 construction.

5                   (2) The Agency may charge such fee as it thinks appropriate for any  
6 certificate issued under this section.

Powers of the  
Director-General  
in relation to  
substandard  
materials

7                   23.-(1) The Director-General may upon being satisfied that the  
8 quality of any construction material is substandard and hazardous to life,  
9 property and unfit for construction purposes, may:

10                   (a) Seize and detain such materials for such a time as may be  
11 reasonable, but not exceeding 90 days without a court order, for the satisfaction  
12 of, and compliance with this Bill;

13                   (b) Prohibit any person from selling or offering for sale the suspicious  
14 materials;

15                   (c) Apply to court for an order of forfeiture of such materials;

16                   (d) Seal up the premises where such materials are to be used; or

17                   (e) Direct the person to rectify the deficiency in the case of a  
18 substandard misdescribed or hazardous materials subject to such conditions as  
19 may be imposed.

20                   (2) The court may order that any material seized which is hazardous or  
21 injurious to life shall be destroyed or disposed of in such a manner as it thinks  
22 fit;

23                   (3) The agency may order the destruction of materials detained under  
24 this clause if:

25                   (a) Testing indicates that the material does not meet the relevant  
26 Nigerian Industrial Standard;

27                   (b) It is reasonably necessary to destroy the materials because they are  
28 dangerous to human life and property;

29                   (c) The owner of the materials pay the cost of the destruction of the

1 materials including the cost of transporting and storing the materials before  
2 destruction; and

3 (d) At least 14 days notice of the order is given to the owner of the  
4 materials by a written notice or by publishing a written notice in the Gazette.

5 24. A person who obstruct an officer of the Agency in the  
6 performance of his duties commits an offence and is liable on conviction to a  
7 fine of at least N200,000 for an individual or to imprisonment for a term of at  
8 least one year or both and an additional fine of N20,000 for each day the  
9 offence subsist and in the case of a body corporate, it shall be liable to a fine  
10 of N2,000,000, on conviction and an additional fine of N200,000 for every  
11 day the subsist.

Offences and  
penalties

12 25.-(1) An officer of the Agency may, in the course of his duty, at  
13 any reasonable time and on production of his certificate of designation if it  
14 so required:

Power to enter  
premises

15 (a) Enter and search with a warrant issued by a court, any premises  
16 which he reasonably believes carries out activities or stores materials which  
17 contravene the provisions of this Bill;

18 (b) Open and examine any container or package which he  
19 reasonably believe may contain anything to which this Bill or its regulation  
20 apply or which may help in his investigations;

21 (c) Seize and detain for such time as may be necessary for the  
22 purpose of this Bill, any materials by means of or in relation to which he  
23 reasonably believes any provision of this Bill or the regulation has been  
24 contravened; and

25 (d) Obtain an order of the court to suspend activities, seal and close  
26 down premises.

27 (2) A written receipt shall be given to any material seized under  
28 subsection (1) and the reason for such seizure shall be stated on such receipt.

29 (3) A material seized under this Bill shall be kept or stored in such a  
30 place as the officer of the Agency may direct and shall be returned to the

1 owner or the person from whom it was seized if the material upon analysis or  
2 examination is found to conform to the requirements of this Bill or regulations  
3 made under it.

4 PART IV- MISCELLANEOUS PROVISIONS

Commencement  
of Legal proceedings

5 26.-(1) A suit shall not be commenced against the Agency before the  
6 expiration of a period of one month, after writing notice of intention to  
7 commence the suit shall have been served on the Agency by the intending  
8 plaintiff or his agent and the notice shall clearly state the:

9 (a) Cause of action;

10 (b) Particulars of the claim;

11 (c) Name and place of abode of the intending plaintiff; and

12 (d) Relief which he claims.

13 (2) The notice or other documents required or authorized to be served  
14 on the Agency under the provisions of this Bill or any other enactment or law  
15 may be served by:

16 (a) Delivering it to the office of the Director-General; or

17 (b) Sending it by registered post addressed to the Director-General at  
18 the head office of the Agency.

19 (3) Subject to the provision of section 174 of the constitution of the  
20 Federal Republic of Nigeria 1999, (which relate to the power of the Attorney-  
21 General of the Federation to institute, continue or discontinue criminal  
22 proceeding against any person in a court of law) any officer of the Agency may,  
23 with the consent of the Attorney-General of the Federation, conduct criminal  
24 proceedings in respect of offences under this Bill or regulations made under it.

25 (4) In a judicial proceeding for an offence under this Bill or any  
26 regulation made under it, the provisions of the Criminal Procedure Act or  
27 depending on the venue, the Criminal Procedure Code shall, with such  
28 modification as the circumstance may require apply in respect of such matter to  
29 the same extent as they apply to the trial of offences generally.



1 (ii) Replace the defective materials, or

2 (iii) Refund to a person to whom the material was supplied the price of  
3 the material (whether by the supplier or by another person), within the period  
4 specified in the order.

5 (2) Where an order made under this clause is still in force, a supplier of  
6 a material to which the order relates, fails to comply with the requirements or  
7 direction in the order, he commits an offence.

Power to make  
rules

8 32.-(1) The Board may make rules consistent with this Bill, for the  
9 general and efficient performance of the functions of the Agency.

10 (2) Rules shall not be made by the Board without the prior approval by  
11 the Minister and the rules shall be published in the Federal Government  
12 Gazette.

Interpretation

13 33. In this Bill:

14 "Agency" means the Construction Materials Standardization Agency  
15 established in clause 1 of this Bill;

16 "Board" means the Governing Board established for the Agency in clause 2 of  
17 this Bill;

18 "Minister" means the Minister in charge of Industries;

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

20 "Court" means the Federal or State High Court;

21 "Chairman" means the Chairman of the Board established in clause of this Bill;

22 "Director-General" means the Director-General of the Construction Materials  
23 Standardization Agency;

24 "Functions" includes powers;

Citation

25 34. This Bill may be cited as the Construction Materials  
26 Standardization Agency (Establishment) Bill, 2021.

## SCHEDULE

## Clause 3{2}

*Proceedings of the Board*

1.-(1) Subject to the provision of this Bill 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 quorum of the Board shall be the Chairman or the person presiding at the meeting and five other members of the Board including the Director-General, and the quorum of any committee of the board shall be as determined by the Board.

2.-(1) The board shall meet whenever it is summoned by the Chairman and if the Chairman is required to do so by notice given to him by not less than eight 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) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at any meeting shall appoint one of them to preside at the meeting.

(3) Where the Board desires to obtain the advice of any person on a particular matter, the Board may co-opt him to the Board for such period as it deem fit, but a person who is in attendance by virtue of this subparagraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

3.-(1) The Board may establish one or more committees to carry out, on behalf of the Board, such functions as the Board may determine.

(2) A committee established 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 rectified by the Board.

1           4.-(1) The fixing of the Seal of the Agency shall be authenticated by  
2 the signature of the Chairman, the Director-General or any person generally or  
3 specifically authorized by the Board to act for that purpose.

4           (2) A contract or instrument which, if made or executed by a person  
5 not being a body corporate, would not be required to be under seal may be made  
6 or executed on behalf of the Agency by the Director-general or any person  
7 generally or specifically authorized by the Board to act for that purpose.

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

11           (4) The validity of any proceedings of the Board or of a committee  
12 shall not be adversely affected by:

13           (a) A vacancy in the membership of the Board or committee;

14           (b) A defect in the appointment of a member of the Board or  
15 Committee; or

16           (c) Reason that a person not entitled to do so took part in the  
17 proceedings of the Board or Committee.

#### EXPLANATORY MEMORANDUM

This Bill seeks to establish the construction materials standardization agency to standardize and control the use materials for construction industry in Nigeria.