

A BILL

FOR

AN ACT TO ESTABLISH THE SOLID MINERALS DEVELOPMENT COMMISSION
IN THE FEDERAL REPUBLIC OF NIGERIA; AND FOR RELATED MATTERS

Sponsored by Hon. Simon D. Mwakwun

[] Commencement

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

1 PART 1 - ESTABLISHMENT OF THE SOLID MINERALS DEVELOPMENT
2 COMMISSION AND THE GOVERNING BOARD

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

Establishment
of the Solid Minerals
Development
Commission

6 (2) The Commission-
7 (a) shall be a body corporate with perpetual succession and a
8 common seal and is saddled with the responsibility of the administration of
9 Mineral titles and the maintenance of the cadastral registers; and

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

11 (3) The Register includes:
12 (i) Register of Reconnaissance Permits, Exploration Licenses,
13 Mining Leases, Small Scale Mining Leases, Water Use Permits, and Quarry
14 Leases etc.

15 (4) The Commission shall have its head office in Abuja (FCT) and
16 shall establish an office in each six (6) geo-political zones of the Federation.

17 2.-(1) There is hereby established for the Commission, a
18 Governing Board (in this Bill referred to as 'the Board") which shall consist
19 of-

Establishment
of Governing
Board of the
Commission

20 (a) a Chairman;

21 (b) One person who shall be an indigene to represent each of the six

1 geo-political zones, that is-

2 (i) North Central Zone;

3 (ii) North East Zone;

4 (iii) North West Zone;

5 (iv) South East Zone;

6 (v) South South Zone; and

7 (vi) South West Zone;

8 (c) a representative of the Solid Minerals Producing Companies from
9 area nominated by the Solid Minerals producing company;

10 (d) a representative of the Federal Ministry of Finance;

11 (e) a representative of the Federal Ministry of Environment;

12 (f) a representative of the Solid Minerals Development Agency;

13 (g) the Managing Director of the Commission; and

14 (h) two executive Directors.

15 (2) The Chairman and other members of the Board Shall-

16 (a) be appointed by the President, subject to the confirmation of the
17 Senate, in consultation with the House of Representatives; and

18 (b) be person of proven integrity and ability.

19 (3) The members of the Board referred to in paragraph (d) of sub-
20 section (1) of this Bill shall be part-time members.

Schedule

21 (4) The supplementary provisions set out in the Schedule to this Bill
22 shall have effect with respect to the proceedings of the Board and the other
23 matters contained therein.

Tenure of Office

24 3. Subject to the provisions of section 4 of this Bill, a member of the
25 Board, other than an ex-officio member, shall hold office for a term of 4 years at
26 the first instance and may be re-appointed for a further term of 4 years and no
27 more.

28 (2) The member of the Board shall be paid such remuneration and
29 allowances as the Federal Government may, from time to time determine for
30 the chairman and member of statutory board generally.

1 (3) A member of the Board other than ex-officio members, may
2 resign his or her appointment by notice in writing addressed to the President.
3 Which resignation shall take effect only upon receipt and approval by the
4 President.

5 4. The office of the Chairman of the Commission shall rotate
6 amongst the six (6) geo-political zones in the following alphabetical order-

Rotation of Office
of Chairman

7 (i) North Central Zone;

8 (ii) North East Zone;

9 (iii) North West Zone;

10 (iv) South East Zone;

11 (v) South South Zone; and

12 (vi) South West Zone;

13 5.-(1) Notwithstanding the provisions of section 3 of this Bill, a
14 person shall cease to hold office as a member of the Board if-

Cessation of
Membership of
the Board

15 (b) he becomes bankrupt, suspends payment or compounds with
16 his creditors;

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

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

21 (d) is guilty of serious misconduct in relation to his duties;

22 (e) in the case of a person possessed of professional qualifications,
23 he is disqualified or suspended, other than at his own request, from
24 practising his profession in any part of the world by an order of a competent
25 authority made in respect of that member; or

26 (f) resigns his appointment by a letter addressed to the President.

27 (3) Where a vacancy occurs in the membership of the Board, it
28 shall be filled by appointment of a successor to hold office for the remainder
29 of the term of office of his predecessor, so however that the successor shall
30 represent the same interest and shall be appointed by the President subject to

1 the confirmation of the Senate in consultation with the House of
2 Representatives.

Allowances of
Members

3 6. There shall be paid to every member of the Board such allowances
4 and expenses as the Federal Government may, from time to time direct.

5 PART II - FUNCTIONS AND POWERS OF THE COMMISSION, ETC.

Functions and
Powers of the
Commission

6 7.-(1) The Commission shall-

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

9 (b) conceive, plan and implement, in accordance with the set rules and
10 regulations, projects and programmes for the sustainable development of the
11 Solid Minerals Producing Area in the field of roads, education, health delivery,
12 employment, agriculture, industrialization, housing and urban development,
13 water supply, electricity, re-filling or sand-filling and exploration of minerals;

14 (c) prepare master plans and schemes designed to promote the
15 physical development of the Solid Minerals Development and the estimates of
16 the costs of implementing such master plans and schemes;

17 (d) implement all the measures approved for the development of the
18 Solid Minerals Development by the Federal Government and each of the zonal
19 Commission offices in six (6) geo-political zones;

20 (e) identify factors inhibiting the development of the Solid Minerals
21 Development and assist each six (6) geo-political zones in the formulation and
22 implementation of policies to ensure sound and efficient management of the
23 resources of the Solid Minerals Development;

24 (f) assess and report on any project being funded or carried out in the
25 Solid Minerals Producing Area by solid mineral excavation, exploitation and
26 mining companies, and any other company including non-governmental
27 organisations and ensure that funds released for such projects are properly
28 utilized;

29 (g) tackle environmental problems that arise from the mining
30 excavation and exploitation of solid minerals in the producing area and advise

1 the Federal Government the member zones on the prevention and
2 environmental devastation;

3 (h) liaise with the various solid mineral mining excavation and
4 exploitation companies on all matters of environmental problems; and

5 (i) carry out such other functions as the President may, from time to
6 time direct.

7 (2) In exercising its functions and powers under this section, the
8 Commission shall have regard to the varied and specific contributions of
9 each six (6) geo-political zones.

10 (3) The Commission shall be subject to the direction, control or
11 supervision in the performance of its functions under this Bill by the
12 President of the Federal Republic of Nigeria.

13 8. The Board shall have power to:

Powers of the
Board

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

15 (b) make rules and regulations for carrying out the functions of the
16 Commission;

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

19 (d) pay the staff of the Commission such remuneration and
20 allowances as are payable to persons of equivalent grades in the civil service
21 of the Federation;

22 (e) enter into such contracts as may be necessary or expedient for
23 the discharge of its functions and ensure the efficient performance of the
24 functions of the Commission;

25 (f) pay to persons so employed such remuneration, including
26 allowances, as the Board may determine; and

27 (g) do such other things as are necessary and expedient for the
28 efficient performance of the functions of the Commission.

29 PART III - STRUCTURE OF THE COMMISSION

30 9.-(1) There shall be established in the Head Office of the

Structure of the
Commission

1 Commission, the following Directorates:

2 (a) the Directorate of Administration, Human Resources and Man
3 power Development;

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

5 (c) the Directorate of Utilities and Infrastructural Development;

6 (d) the Directorate of Environmental Protection and Control;

7 (e) the Directorate of Finance and Supplies;

8 (f) the Directorate of Solid Minerals, Agriculture and Fisheries;

9 (g) the Directorate of Planning, Research and Statistics and
10 Management Information System;

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

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

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

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

15 (2) The Board may increase the number of Directorates as it may
16 deem necessary and expedient to facilitate the realization of the objectives of
17 the Commission.

Establishment
of the Management
Committee

18 10. There shall be for the Commission, a Management Committee
19 which shall-

20 (a) consist of a Chairman who shall be the Managing Director;

21 (b) the Directors responsible for the Directorates established under
22 section 9 of this Bill and such number of other members as may be determined
23 from time to time by the Board;

24 (c) be responsible to the Board and the Managing Director for the
25 general administration of the Commission.

Establishment
of the Solid
Minerals
Development
Advisory
Committee

26 11.-(1) There is hereby established for the Commission, a Solid
27 Mineral Development Advisory Committee (in this Bill referred to as 'the
28 Advisory Committee') which shall consist of-

29 (a) the Governors of the each zones Commission; and

30 (b) two persons as may be determined, from time to time, by the

1 President of the Federal Republic of Nigeria.

2 (2) The Advisory Committee shall be charged with the
3 responsibility of advising the Board and guiding and monitoring the
4 activities of the Commission with a view to achieving the objectives of the
5 Commission.

6 (3) The Advisory Committee may make rules regulating its own
7 proceedings.

8 PART IV - STAFF OF THE COMMISSION

9 12.-(1) There shall be for the Commission, a Managing Director,
10 and two Executive Directors who shall be appointed in accordance with the
11 relative magnitudes of mining excavation and extraction of Solid Minerals
12 of each zones of the Commission starting with the highest producers provide
13 that the Managing Director and the Chairman do not come from the same
14 zone at the same time, and shall:

Appointment
of Executive
Secretary etc.

15 (a) have such qualification and experience as are appropriate for a
16 person required to perform the functions of that office under this Bill;

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

19 (c) be appointed by the President of the Federal Republic of
20 Nigeria and confirmed by the Senate in consultation with the House of
21 Representatives;

22 (d) hold office on such terms and conditions' as to emolument,
23 conditions of service as may be specified in his letter of appointment and
24 subject to the provision of section 3 of this Bill.

25 (2) The Managing Director shall, subject to the general direction of
26 the Board, be responsible:

27 (a) for the day to day administration of the Commission;

28 (b) for keeping the books and proper records of the proceedings of
29 the Board; and

30 (c) For-

1 (i) the administration of the secretariat of the Board; and
2 (ii) the general direction and control of all other employees of the
3 Commission.

4 (3) The Board shall have power to-

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

9 (b) pay to persons so employed such remuneration (including
10 allowances) as the Board may, after consultation with the Federal Civil Service
11 Commission may determine.

Service in the
Commission to
be pensionable

12 13.-(1) Service in the Commission shall be approved service for the
13 purposes of the Pensions Act.

14 (2) The officers and other persons employed in the Commission shall
15 be entitled to pensions, gratuities and other retirement benefits as are enjoyed
16 by persons holding equivalent grades in the civil service of the Federation.

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

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

25 PART V - FINANCIAL PROVISIONS

Fund of the
Commission

26 14.-(1) The Commission shall establish and maintain a fund from
27 which shall be defrayed all expenditure incurred by the Commission.

28 (2) There shall be paid and credited to the fund established pursuant to
29 sub-clause (1) of this Bill-

30 (a) from the Federal Government, the equivalent of 15 per cent of the

1 total monthly statutory allocations due to member States of the Commission
2 from the Federation Account;

3 (b) 3 per cent of the total annual budget of any Solid Minerals
4 Producing Company operating in that area;

5 (c) 3 percent of the total annual budget of any Solid mineral
6 extracting mining company operating in the Solid Minerals Producing area;

7 (d) 50 per cent of monies due to member States of the Commission
8 from the Ecological Fund;

9 (e) such monies as may from time to time, be granted or lent to or
10 deposited with the Commission by the Federal or a State Government, any
11 other body or institution whether local or foreign;

12 (f) all monies raised for the purposes of the Commission by way of
13 gifts, loan, grants-in-aid, testamentary disposition or otherwise; and

14 (g) proceeds from all other assets that may, from time to time,
15 accrue to the Commission.

16 (3) The fund shall be managed in accordance with the rules made
17 by the Board, and without prejudice to the generality of the power to make
18 rules under this sub-clause, the rules shall in particular contain provisions-

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

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

24 15. The Commission shall apply the proceeds of the fund
25 established pursuant to clause 14 of this Bill to-

Expenditure of
the Commission

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

27 (b) the payment of salaries, fees, remuneration, allowances,
28 pensions and gratuities payable to the members of the Board specified in
29 clause 6 of this Bill or any committee of the Board and the employees of the
30 Commission;

1 (c) the payment for all contracts, including mobilization, fluctuations,
2 variations, legal fees and cost on contract administration;

3 (d) the payment for all purchases; and

4 (e) undertaking such other activities as are connected with all or any
5 of the functions of the Commission under this Bill.

Gifts to the
Commission

6 16.-(1) The Commission may accept gifts of land, money or other
7 property on such terms and conditions, if any, as may be specified by the person
8 or organization making the gift.

9 (2) The Commission shall not accept any gift if the conditions
10 attached by the person or organization making the gift are inconsistent with the
11 functions of the Commission under this Bill.

Power to borrow
money

12 17. The Commission may, with the consent of the President of the
13 Federal Republic of Nigeria, borrow, on such terms and conditions as the
14 Commission may determine, such sums of money as the Commission may
15 require in the exercise of its functions under this Bill.

Annual Estimates
and Expenditure

16 18.-(1) The Board shall, not later than 30th September in each year,
17 submit to the President of the Federal Republic of Nigeria, an estimate of the
18 expenditure and income of the Commission during the next succeeding year.

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

Quarterly
Report

24 19. The Commission shall, at the end of every quarter in each year,
25 submit Quarterly Report to the President of the Federal Republic of Nigeria, a
26 report on the activities and administration of the Commission.

Annual Report

27 20.-(1) The Board shall prepare and submit to the President of the
28 Federal Republic of Nigeria, not later than 30th June in each year, a report in
29 such form as the President of the Federal Republic of Nigeria, may direct, on
30 the activities of the Commission during the immediately preceding year, and

1 shall include in the report a copy of the audited accounts of the Commission
2 for that year and the auditor's report thereon;

3 (2) The President of the Federal Republic of Nigeria shall, upon
4 receipt of the report referred to in sub-clause (1) of this clause, cause a copy
5 of the report and the audited accounts of the Commission and the auditor's
6 report there on to be submitted to each House of the National Assembly.

7 PART VI - MISCELLANEOUS

8 21.-(1) There is hereby established for the Commission a
9 Monitoring Committee which shall consist of such number of persons as the
10 President of the Federal Republic of Nigeria, may deem fit to appoint from
11 the public or Civil Service of the Federation.

Establishment
of Monitoring
Committee

12 (2) The Monitoring Committee shall-

13 (a) monitor the management of the funds of the Commission and
14 the implementation of the projects of the Commission; and

15 (b) have access to the books of account and other records of the
16 Commission at all times, and submit periodical reports to the President
17 Federal Republic of Nigeria.

18 22.-(1) For the purposes of providing offices and premises
19 necessary for the performance of its functions under this Bill, the
20 Commission may, subject to the Land Use Act-

Offices and
Premises of the
Commission

21 (a) purchase or take on lease any interest in land, or other property;
22 and

23 (b) Construct offices and premises and equip and maintain same.

24 (2) The Commission may, subject to the Land Use Act, sell or lease
25 out any office or premises held by it, which office or premises is no longer
26 required for the performance of its functions under this Bill.

27 23. Subject to the provisions of this Bill, the President of the
28 Federal Republic of Nigeria, may give to the Commission directives of a
29 general nature or relating generally to matters of policy with regard to the
30 performance by the Commission of its functions and it shall be the duty of

Directives by
the President

1 the Commission to comply with the directives.

Public Officer
Protection Act,
Cap. P41 LFN,
2004

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

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

12 (a) it is commenced within three months next after the act, neglect or
13 default complained of; or

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

Service of Notices,
Summons and
other Documents

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

Restriction on
execution of
Judgement Debts

21 26.-(1) In any action or suit against the Commission, no execution or
22 attachment of process in the nature thereof shall be issued against the
23 Commission.

24 (2) Any sum of money which may by the judgment of any court be
25 awarded against the Commission shall, subject to any direction given by the
26 court where notice of appeal of the said judgment has been given, be paid from
27 the general reserve fund of the Commission.

Indemnity of
Officers

28 27. A member of the Board, the Managing Director, any other officer
29 or employee of the Commission shall be indemnified out of the assets of the
30 Commission against any proceeding, whether civil or criminal, in which

1 judgment is given in his favour, or in which he is acquitted, if any such
 2 proceeding is brought against him in his capacity as a member of the Board,
 3 the Managing Director, officer or employee of the Commission.

4 28. The Commission may, with the approval of the President of the
 5 Federal Republic of Nigeria, make regulations, generally for the purposes of
 6 giving full effect to this Bill.

Regulations

7 29. In this Bill-

Interpretation

8 "Chairman" means the Chairman of the Board;

9 "Commission" means the Solid Minerals Development Commission
 10 established by clause 1 of this Bill;

11 "Board" means the governing Board established for the Commission under
 12 clause 2 (1) of this Bill;

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

15 "Minerals" means any substance whether or in solid, liquid or gaseous form
 16 occurring in or on the earth, formed by or subjected to geological
 17 processes including occurrences or deposits of rocks, coal, coal bed gases,
 18 bituminous shales, tar sands, any substances that may be extracted from
 19 coal, shale or tar sands, mineral water, and mineral components in tailings,
 20 and with water pile but with the exclusion of Petroleum and waters without
 21 mineral content.

22 30. This Bill may be cited as the Solid Minerals Development
 23 Commission (Establishment, etc.) Bill, 2019.

Short title

24 SCHEDULE 1

25 Section 2(4)

26 SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD, ETC.

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

30 (2) The quorum of the Board shall be the Chairman or the person

1 presiding at the meeting, Managing Director or one Executive Director and one
2 third other members of the Board. The quorum of any committee of the
3 Commission shall be as determined by the Board.

4 2.-(1) The Board shall meet whenever it is summoned by the
5 Chairman and if the Chairman is required to do so by notice given to him by not
6 less than 4 other members, he shall summon a meeting of the Board to be held
7 within 14 days from the date on which the notice is given.

8 (2) At any meeting of the Board, the Chairman shall preside but if he is
9 absent, the members present at the meeting shall appoint one of their members
10 to preside at the meeting.

11 3.-(1) The Board may appoint one or more committees to carry out on
12 behalf of the Board, such functions as the Board may determine.

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

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

18 *Miscellaneous*

19 4.-(1) The fixing of the seal of the Commission shall be authenticated
20 by the signatures of the Chairman or any other member of the Board generally
21 or specifically authorized by the Board to act for the purpose and the Managing
22 Director.

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

26 5. The validity of any proceedings of the Board or of a committee
27 shall not be adversely affected by-

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

29 (b) a defect in the appointment of a member of the Board or
30 committee; or

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

EXPLANATORY MEMORANDUM

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

