

A BILL

FOR

AN ACT TO PROVIDE A POLICY FRAMEWORK FOR THE DEVELOPMENT OF
BIO-FUELS ENERGY IN NIGERIA; ESTABLISH THE BIO-FUELS ENERGY
REGULATORY COMMISSION; ESTABLISH THE BIO-FUELS RESEARCH
AGENCY; AND FOR RELATED MATTERS, 2019

Sponsored by Hon. Beni Lar

[] Commencement

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

1 1.-(1) There is hereby established a Body to be known as Bio-fuels
2 Energy Regulatory Commission (in this Bill referred to as "the Bio-Fuel;
3 Energy Regulatory Commission").

Establishment
of a policy
framework for
the development
of Bio-Fuels Energy
in Nigeria

4 (2) the commission shall be a body corporate with perpetual
5 succession and common seal and may:

6 (a) sue and be sued in its corporate name;

7 (b) Hold and acquire property whether moveable or immovable.

PART 1 - GENERAL PROVISIONS

9 2.-(1) The Primary Objective of this Bill is to firmly establish a
10 thriving fuel ethanol industry utilizing agricultural products as a means of
11 improving the quality of automotive fossil-based fuels in Nigeria and all
12 matters related thereto and without detracting from the generality of the
13 foregoing specifically to:

Objectives

14 (a) Promote job creation, rural and agricultural development and
15 technology acquisition and transfer;

16 (b) Provide a framework which is capable of attracting foreign
17 investment in the bio- fuels industry;

18 (c) Streamline the roles of the various tiers of government in order
19 to ensure an orderly development of the bio-fuels industry in Nigeria; and

1 (d) Involve the oil and gas industry in a more purposeful development
2 of other sectors of the nation's economy.

3 (2). This Bill applies to the refining of petroleum products in whole or
4 in part within the territory of Nigeria.

5 PART II - POLICY ENVIRONMENT

Policy
Environment

6 3.-(1) The blending of bio-fuels as a component of fossil-based fuels
7 in the country as required for all automotive is hereby guaranteed.

8 (b) The proportion of bio-fuels in the blend pursuant to subsection (1)
9 of this section shall be determined by the Commission from time to time.

10 (2) (a) as from the commencement of this Bill, no person shall carry
11 on business of bio-fuel manufacturing fuel and ethanol and/or bio-diesel unless
12 he is duly registered and licenced by the Minister;

13 (b) the licence granted by the Minister under Sub-Section (1) of this
14 section shall include the permit for the company to add a capability of co-
15 generate electric power.

16 (3) For the purposes of this Bill, investment in the bio-fuel industry
17 shall be treated as an agro-allied activity and shall benefit from the incentives
18 put in place to foster the development of the agro-allied industry, in addition to
19 other incentives under this Bill.

20 PART III - ESTABLISHMENT ETC. OF THE ENERGY DEVELOPMENT FUND

21 AND THE BOARD

Establishment
etc. of the Energy
Development
Fund and the
Board

22 4.-(1) There is hereby established for the commission, a Governing
23 Board (in this Bill referred to as "the Board").

24 (2) the Board shall consist of the:

25 (a) Minister who shall be the chairman;

26 (b) representative of the:

27 (i) Federal Ministry of Agriculture,

28 (ii) Federal Ministry of Commerce,

29 (iii) Federal Ministry of Industry,

30 (iv) Federal Ministry of Finance,

- 1 (v) Federal Ministry Environment
2 (vi) Federal Ministry of Science and Technology;
3 (c) a representative of the Bankers' committee
4 (d) a representative of Manufacturers Association of Nigeria;
5 (e) a representative of a Federal University of Agriculture
6 nominated by the National Universities Commission;
7 (f) the Director-General.

8 (3) The provisions of the Schedule to this Bill shall have effect with
9 respect to the proceedings of the Board and other matters contained therein:

10 (1) The Director-General shall be appointed by the President on the
11 recommendation of the Minister and subject to the confirmation of the
12 Senate.

13 (2) The Director-General shall be a person with reasonable
14 experience in the bio-fuels energy sector and a holder of a first degree.

15 (4)(1) the Director-General shall hold office for a term of 5 years in
16 the first instance and may be reappointed for a further term of 4 years and no
17 more.

18 (2) The members of the Board other than ex-officio members shall
19 be paid such allowances as the commission may, from time to time,
20 determine.

21 (3) A member of the Board ceases to hold office if he so ceases to
22 hold such relevant office necessary to be on the Board and the next
23 succeeding holder of such office shall continue as a member of the Board.

24 PART IV - FUNCTIONS OF THE COMMISSION

25 5.-(1) The Commission shall be responsible for implementing the
26 strategies for growth of the bio- fuels industry in Nigeria, and specifically
27 the commission shall:

- 28 (a) Register all bio-fuels plants/projects in Nigeria;
29 (b) Issue licence to bio-fuel operators for the production of fuel
30 ethanol and/ or bio-diesel in Nigeria;

Functions of the
Commission

- 1 (c) Formulate and recommend fiscal, financial and other incentive
2 policies for the bio-fuel industry, as well as protection measures if and when
3 required;
- 4 (d) Periodically, review and assess the economic, technical,
5 environmental and social impact of the use of bio- fuels, and shall determine
6 changes in policies required when necessary;
- 7 (e) Monitor the supply and utilization of bio- fuel: and bio- fuels
8 blends and recommend appropriate measures to the Minister in case of
9 shortage in the supply of bio- fuels or feedstock;
- 10 (f) Review and adjust the minimum mandated bio-fuel blends as it
11 deems appropriate;
- 12 (g) Determine and put in place industry stabilization mechanisms;
- 13 (h) Designate and oversee the activities of the investment banks
14 appointed to manage the Bio- fuel industry Equity Fund;
- 15 (i) Establish and support the Bio-fuels Research Agency;
- 16 (j) Monitor intra-industry commerce, in particular relationships
17 between out-growers and bio-fuel producers;
- 18 (k) Present quarterly reports and briefings on the status of the bio- fuel
19 industry to the National Assembly;
- 20 (l) Disseminate and share information with investors and other
21 interested members of the public;
- 22 (m) Liaise with the Energy Commission of Nigeria in the
23 formulation, revision and implementation of the National Energy policy;
- 24 (n) Liaise with the National Sugar Development Council as may be
25 required; and
- 26 (o) Liaise with government ministries, agencies, parastatals, research
27 institutes or other bodies for the purposes of development of bio-fuel
28 feedstock.
- 29 (2) The Commission shall have the power to establish such

1 departments as are necessary for the effective discharge of its mandate under
2 this Bill.

3 PART V - STAFF OF THE FUND

4 6.-(1) there shall be, for the commission, a Director-General shall Staff of the Fund
5 be the Chief-Executive of the Commission.

6 (2) the Director-General shall, subject to the general control of the
7 commission, be:

8 (a) responsible for keeping proper records of the proceedings of the
9 commission; and

10 (b) the head of the secretariat and be responsible for:

11 (i) the day-to-day administration, and

12 (ii) Direction and control of all other employees, of the
13 commission.

14 (3) The Commission shall appoint such officers and other
15 employees as it may from time to time, deem necessary for the purpose of
16 the Commission.

17 (4) the Terms and Conditions of Service (including remunerations,
18 allowances, benefits and pensions) of officers and employees of the
19 Commission shall be as may be determined by the Commission.

20 (5) The Commission may, subject to the provisions of this Bill, and
21 with the approval of the Minister make regulations generally relating to the
22 conditions of service of the staff of the Fund and without prejudice to the
23 generality of the foregoing, such regulations may provide for:

24 (a) Appointment, promotion and discipline (including dismissal)
25 of staff;

26 (b) Appeals by such staff against dismissal or other disciplinary
27 measures and until such regulations are made, any instrument relating to the
28 conditions of service of officers in the civil service of the Federation shall be
29 applicable, with such modifications as may be necessary.

30 (6) staff regulations made under Sub-Section (1) of this section

1 shall not have effect until approval by the Minister and when so approved the
2 Board shall cause them to be brought to the notice of all affected persons in
3 such manner as it may, from time to time, determine.

4 (10) It is hereby declared that service in the commission shall be
5 approved service for the purpose of the Pension Act and, accordingly,
6 employees of the commission shall be entitled to pensions, gratuity or other
7 retirement benefits as are prescribed under the Pension Act.

8 PART VI - FINANCIAL PROVISIONS

Financial
Provisions

9 7.-(1) The commission shall establish and maintain a fund, which
10 shall be applied towards the discharge of its functions under this Bill.

11 (2) There shall be paid and credited to the fund established pursuant to
12 subsection (1) of this section, such sums as may be provided by the Federal
13 Government for the commission.

14 (3) The Commission may accept gifts of land, money or other
15 testamentary dispositions, endowments and contributions on such terms and
16 conditions, if any, as may be specified by the person or organization making the
17 gift.

18 (4) The commission shall not accept any gift if the conditions attached
19 by the person or organization making the gift are inconsistent with the
20 functions of the commission.

21 (5) The commission shall be entitled to charge, retain and utilize for
22 its purposes, fees collected for the services rendered by the Commission under
23 this Bill.

24 (6) The Commission may, with the consent or in accordance with any
25 specific authority given by the Minister, borrow by way of loan or overdraft
26 such specified amount of money as may be required by the Commission for
27 meeting its obligations and discharging its functions under this Bill.

28 (7) The commission may, subject to the provisions of this Bill and the
29 conditions of any trust created in respect of any property, invest all or any of its
30 funds.

1 (8) the commission may invest any of its funds in securities;
2 prescribed by the Trustees Investment Act or in such other securities as may
3 from time to time, be approved by the Minister.

4 (9) Subject to the provisions of the Land Use Act, and any special
5 or general direction, which the Minister may give in that behalf, the
6 commission may acquire any land required for its purpose under this Bill.

7 (10) The commission may, from time to time, apply the proceed of
8 the fund established in pursuance of section 16 of this Bill to:

9 (a) Meet the cost of administration of the commission;

10 (b) Reimburse members of the commission or any committee set
11 up by the commission for expenses authorized or approved by the
12 commission in accordance with such rates as may be approved by th
13 Commission in accordance with such rates as may be approved in that behalf
14 by the Minister;

15 (c) The payment of salaries, fees or other remuneration or
16 allowances, pensions and gratuities payable to the employees of the
17 commission;

18 (d) The maintenance of any property acquired or vested In the
19 commission; and

20 (e) All or any of the functions of the commission under this Bill or
21 any matter connected with those functions.

22 (11) (a) the Commission shall cause to be prepared not later than
23 30th September in each year an estimate of the expenditure and income of
24 the Commission during the next succeeding year and when prepared, they
25 shall be submitted through the Minister to the President for approval;

26 (b) the Commission shall cause to be kept, proper accounts of the
27 Commission and proper records in relation thereto and when certified by the
28 Commission, the accounts shall be audited by the auditors appointed by the
29 commission from the list and in accordance with the guidelines supplied by
30 the Auditor-General for the Federation.

1 (12) The commission shall not later than three months before the end
2 of each year, submit to the relevant committees of both chambers of the
3 National Assembly a report on the activities and the administration of the
4 commission during the immediate preceding year and shall include such
5 reports, audited accounts of the commission and the auditors report on those
6 accounts.

7 PART VII - BODIES RESEARCH AGENCY

Bodies Research
Agency

8 8.-(1) There is hereby established a body to be known as the Bio-
9 Fuels Research Agency (in this Bill referred to as "the Agency").

10 (2) the Agency shall:

11 (a) function as a directorate under the commission

12 (b) be headed by a Director appointed by the commission.

13 (3) The Agency shall:

14 (a) Coordinate bio-fuel crop production optimization programme;

15 (b) Collaborate with the research and development efforts to:

16 (i) International Institute of Tropical Agriculture,

17 (ii) National Cereal Research Institute,

18 (iii) National Root Crops Research Institute,

19 (iv) National Institute for Oil Palm Research,

20 (v) Forestry Research Institute of Nigeria,

21 (vi) Nigerian Stored Product Research Institute,

22 (vii) Institute for Agricultural Research and Extension Services,

23 (viii) Agricultural Research Council of Nigeria,

24 (ix) National Biotechnology Development Agency,

25 (x) Sheda Science and Technology Complex,

26 (xi) National Centre for Agricultural Mechanization,

27 (xii) National Agricultural Seeds Council,

28 (xiii) Nigerian Automotive Council,

29 (xiv) Raw Materials Research and Development Council,

30 (xv) Federal Institute of Industrial Research, and

1 (xvi) Other relevant agencies

2 (c) Collaborate with the Federal Ministry of:

3 (i) Agriculture, and

4 (ii) Science and Technology,

5 (c) to provide direction for research in crop production, industry,
6 technology and process pertaining to the production of bio-fuels;

7 (d) Coordinate the allocation of funds set aside for bio-fuel
8 research for mandated national research organizations.

9 9.-(1) There is hereby established a fund to be known as the Bio-
10 fuels Fund into which shall be paid all monies contributed by:

Bio-Fuels Research
and Development
Fund

11 (a) Bio-fuels companies being 0.25 percent of their revenue;

12 (b) The Federal Government which shall not be less than 50
13 percent of the total monies contributed by bio-fuels companies pursuant to
14 paragraph(a) of this section; and

15 (c) The petroleum Technology Development Fund pursuant to
16 section 26 of this Bill.

17 (2) the fund established pursuant to subsection (1) of this section
18 shall be:

19 (a) domiciled with the Central Bank.

20 10. In this Bill:

Interpretation

21 "Commission" means Bio-Fuels Energy Regulatory Commission;

22 "Bio-fuel" means a fuel derived immediately from living matter or other
23 digested organic materials;

24 "Minister" means the Honourable Minister for Science and Technology.

25 11. This Bill may be cited as the Bio-Fuels Energy Regulatory
26 Commission (Establishment) Bill, 2019.

Citation

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Bio-Fuels Energy Regulatory Commission to provide a policy framework for the development of Bio-Fuels Energy in Nigeria; establish the Bio-Fuels Energy Regulatory Commission; establish the Bio-Fuels Research Agency.