

A BILL

FOR

AN ACT TO ESTABLISH THE NATIONAL FOOD RESERVE AGENCY AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Abdullahi Adumu

Commencement

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

1 PART I - C ESTABLISHMENT OF THE NATIONAL FOOD RESERVE
2 AGENCY AND THE GOVERNING BOARD

3 1.-(1) There is established a body to be known as National Food
4 Reserve Agency (in this Act referred to as "the Agency").

Establishment
of the National
Food Reserve
Agency

5 (2) The Agency shall-

6 (a) be a body corporate with perpetual succession, have a common
7 seal; and

8 (b) capable of suing and being sued in its corporate name.

9 2.-(1) There shall be for the management of the Agency a
10 Governing Board (in this Act referred to as "the Board").

Establishment
and membership
of the Governing
Board

11 (2) The Board shall consist of-

12 (a) a Chairman;

13 (b) one representative each of the following Federal Ministries and
14 Agencies and shall not be below the rank of a Director-

15 (i) Agriculture and Water Resources.

16 (ii) Finance.

17 (iii) Commerce and Industry.

18 (iv) Agricultural Research Council of Nigeria,

19 (v) National Agricultural Seeds Council,

20 (c) one representative each from the six geo political zones of the

- 1 Federation to be appointed in rotation among States of the geo political zone;
2 and
- 3 (d) the Director General.
- 4 (3) Members, other than ex officio shall be appointed by the President
5 on the recommendation of the Minister.
- 6 (4) The appointment of a member shall not invalidate any decision by
7 reason of a defect or irregularity in his appointment.
- 8 (5) After consultation with the Minister, the President may vary the
9 composition of the Board.
- Schedule 10 (6) The supplementary provisions set out in the Schedule to this Act
11 shall have effect with respect to the proceedings of the Board and other matters
12 contained therein.
- Qualifications
of Members 13 3.-(1) The Chairman and members shall hold the following
14 qualifications-
- 15 (a) cognate experience and proven capacity in agricultural policy
16 formulation and implementation;
- 17 (b) finance and economics as it relates to agriculture, administration
18 or organization of the affairs of any department of the Ministry of Agriculture
19 and Water Resources; and
- 20 (c) persons of proven integrity, ability and vast knowledge and
21 experience in their respective endeavours.
- Tenure of office 22 4. Subject to the provisions of section 5 of this Act, a member other
23 than ex officio shall hold office-
- 24 (a) for a term of four years and no more; and
25 (b) on any other terms and conditions as may be specified in the letter
26 of appointment.
- Cessation of
membership 27 5.-(1) A person shall cease to hold office as a member if-
- 28 (a) he becomes bankrupt, suspend payments or compounds with his
29 creditors;
- 30 (b) he is guilty of a serious misconduct in relation to his duties; or

1 (c) he is convicted by a court of law of a felony or any offence
2 involving dishonesty or frauds;

3 (d) he becomes of unsound mind, or incapable of carrying out his
4 duties;

5 (e) in the case of a qualified professional, he is disqualified or
6 suspended, other than at his own request, from practicing his profession in
7 any part of the world by an order of a competent authority made in respect of
8 that matter;

9 (f) he resigns his appointment by a letter addressed to the President
10 through the Minister; or

11 (g) he without permission of the Board is absent for more than three
12 consecutive meetings of the Board or without such permission is absent
13 from the country for a period exceeding one year.

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

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

21 PART II - FUNCTIONS AND POWERS OF THE AGENCY

22 6. The Agency shall-

23 (a) implement the overall National Food Reserve Policy to ensure a
24 reliable supply of designated commodities and meet local short falls in the
25 supply of the designated agricultural commodities in the country;

26 (b) reduce post harvest losses by construction and management of
27 silos, warehouses and other suitable storage facilities to be installed at such
28 places and ensure the maintenance, availability and functionality of all
29 plants, equipment and ancillary facilities within the country that are, in the
30 opinion of the Minister, strategic and suitable for storage;

Functions of the
Agency

1 (c) facilitate and provide guidelines for the establishment and
2 maintenance of buffer stock by all states of the federation including the Federal
3 Capital Territory in order to ensure price stabilisation and food security and
4 correct problems relating to the supply of designated commodities;

5 (d) meet such other food emergencies caused by drought or flood, or
6 by such other natural disaster, as may be declared by the President;

7 (e) promote and ensure compliance to standard and grades of
8 agricultural produce so as to encourage uniformity in quality of produce, in
9 association with the relevant agencies and as provided for in Weight and
10 Measures Act and Standards Act;

11 (f) facilitate the establishment of a National Agricultural Market
12 Information System for each designated commodity operated by the Agency
13 for the benefit of the consumer and any person engaged in the production,
14 marketing, and processing of that commodity;

15 (g) to perform fertilizer regulatory and quality assurance functions as
16 well as develop strategy to enable the private sector take full responsibility for
17 fertilizer procurement and distribution to farmers;

18 (h) build capacity of farmer groups and cooperatives to improve
19 access to agriculture support services and facilitate participation development
20 in each Local Government Area including the Federal Capital Territory;

21 (i) encourage private sector investment in agriculture produce
22 processing through establishment of cottage industries, export conditioning
23 centres and agro industrial parks;

24 (j) ensure affordable mechanisation services to Nigerian farmers
25 through improved Public Private Partnerships in the provision of tractor and
26 farm machinery services;

27 (k) collaborate with national and international agencies to promote
28 agricultural development and coordinate donor sponsored agricultural
29 development programmes and projects implementation in the 36 States of the
30 Federation and the Federal Capital Territory;

1 (l) enhance agriculture extension delivery service through the
2 training of unemployed graduates as Advisory Service Providers and train
3 unemployed youths in all areas of agriculture to enable them become self
4 employed; and

5 (m) promote commercialisation of agricultural production systems
6 through Public Private Partnerships and facilitate the provision of enabling
7 environment for sustainable commercial agricultural development.

8 7.-(1) The Board shall have power to-

9 (a) manage and superintend the affairs of the Agency and subject to
10 the provisions of this Act, make, alter and revoke rules and regulations for
11 carrying on the functions of the Agency;

Powers of the
Board

12 (b) fix the terms and conditions for service including remuneration
13 of the employees of the Agency in consultation with relevant Government
14 Agencies;

15 (c) establish such number of committees as it deems necessary for
16 the efficient performance of the Agency; and

17 (d) do such other thing which in the opinion of the Agency are
18 necessary to ensure the efficiency performance of the functions of the
19 Agency.

20 (2) Notwithstanding anything to the contrary in this act, the
21 Minister shall exercise all the powers of the Board where:

22 (a) the Board has not been constituted;

23 (b) the Board has been dissolved.

24 (3) Any action taken or decision reached in compliance with the
25 provisions of subsection 2 of this section shall be valid.

26 8. The President may after consultations with the Minister give to
27 the Board such directives of a general nature with respect to the performance
28 of any function of the Agency

General Directives

29 PART III - ESTABLISHMENT OF ZONAL OFFICES

30 9.-(1) There shall be established in each zone as demarcated and

Establishment
of Zonal Offices

- 1 delineated by the Minister an office (in this Act referred to as "Zonal Office").
- 2 (2) The Zonal Office shall-
- 3 (a) be headed by a secretary who shall be responsible for
- 4 implementing the Agency's programmes in its area of operation;
- 5 (b) produce quarterly reports which shall be sent to the office of the
- 6 Director General;
- 7 (c) be accountable to the Agency for all funds accruing to it for
- 8 purposes of discharging its functions under this Act; and
- 9 (d) perform other duties as may be assigned by the Director General.
- 10 (3) The secretary may delegate in writing to any employee his powers
- 11 or functions under this Act, as he may deem appropriate, but the delegation
- 12 under this section, shall not prevent the exercise by the secretary of the power
- 13 so delegated.

14 PART IV - APPOINTMENT OF DIRECTOR GENERAL AND OTHER STAFF

Appointment,
qualification and
tenure of office
of the Director-
General

- 15 **10.**-(1) There shall be appointment for the Agency a Director General
- 16 who shall be responsible for the management of the Agency and its day to day
- 17 administration.
- 18 (2) The Director General who shall be a person knowledgeable in
- 19 agriculture and having the requisite cognate experience shall be appointed by
- 20 the President on the recommendation of the Minister.
- 21 (3) The Director General shall be-
- 22 (a) the Chief Executive and Accounting officer of the Agency; and
- 23 (b) perform such other functions as the Board may from time to time
- 24 direct.
- 25 (4) The Director General shall hold office for a term of five years and
- 26 no more.
- 27 (5) If for any reason the Director General is unable to perform his
- 28 functions or carry out his duties, or there exist a vacancy in the office of the
- 29 Director General, the Board may designate an employee of the Agency who is
- 30 next in rank to the Director General to act as the Director General during the

1 period of this inability or vacancy until a Director General is appointed in
2 accordance with the provisions of this Act and the employee shall while so
3 acting, have all the powers and performs all the functions of the Director
4 General.

5 11.-(1) The Board on the recommendation of the Director General
6 may establish such number of departments for the effective and efficient
7 discharge of the functions of the agency.

Establishment
of Departments

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

9 (3) Every department shall be assigned responsibilities from time
10 to time as the Director General may direct.

11 (4) The principal officers of the Agency shall be the Director
12 General, heads of departments and zonal secretaries

13 12.-(1) The Board shall appoint for the Agency a Secretary/Legal
14 Adviser who shall be a legal practitioner and shall have been so qualified for
15 a period of not less than ten years.

Appointment,
qualification and
functions of the
Secretary/Legal
Adviser

16 (2) The Secretary/Legal Adviser shall-

17 (a) be Secretary to the Board;

18 (b) be responsible for keeping the books and proper records of
19 proceedings and correspondences of the Board and the upkeep of the
20 records of the Agency;

21 (c) administer and discharge all legal obligations of the Agency;

22 (d) administer and discharge all insurance requirements of the
23 Agency;

24 (e) retain external legal services on behalf of the Council as he may
25 deem necessary or expedient; and

26 (f) perform such other functions as the Board or the Director
27 General as the case may be, may from time to time, assign to him.

28 13. The Board may deploy or appoint for the Agency other
29 employees upon such terms and conditions as may be determined by the
30 Board.

Appointment of
other staff

1 (d) for the maintenance of any property acquired or vested in the
2 Agency; and

3 (e) for and in connection with all or any of the functions of the
4 Agency under this Act.

5 17.-(1) The Board shall, not later than 30th September each year
6 submit to the Minister an estimate of the expenditure and income of the
7 Agency during the next proceeding year

Annual estimate
and expenditure

8 (2) The Agency shall keep proper account in respect of each
9 financial year and shall cause the accounts to be audited not later than 6
10 months after the end of each financial year by auditors appointed from the
11 list and in accordance with the guidelines supplied by the Auditor General of
12 the Federation

13 18. The Agency shall submit to the Minister not later than 30th
14 June each year, a report, in such form as the Minister may direct on the
15 activities of the Agency during the immediate proceeding year, and shall
16 include in the report a copy of the audited accounts of the Agency for that
17 financial year and the auditors report thereon.

Annual report

18 19. The Agency may with the consent of the Minister, borrow on
19 such terms and conditions as the Agency may determine, such money
20 required for the carrying out its functions.

Power to borrow

21 20.-(1) The Agency may accept any gift, grant or donation from
22 any person upon such terms and conditions specified by the person making
23 the gift, grant or donation.

Gift to the Agency

24 (2) The Agency shall not accept any gift, grant under subsection (1)
25 of this sections if the conditions attached thereto are inconsistent with the
26 functions of the Agency under this Act.

27 21.-(1) The Agency shall establish a Guarantee Reserve Fund into
28 which shall be paid, from time to time such sum as will maintain the credit
29 balance of such Fund at an amount not less than one quarter of the total of the
30 money which the Agency is liable for the time being to be called upon to pay

Guarantee
Reserve Fund

1 under guarantee given by the Minister.

2 (2) Subject to the provision of section (3), the money in the Guarantee
3 Reserve Fund shall be applied solely to meet the obligations incurred by the
4 Agency under any guarantee.

5 (3) Nothing in subsection (2) shall prevent the Agency transferring
6 from the Guarantee Reserve Fund to any of its accounts the sum by which the
7 credit from time to time maintained under subsection (1).

General Reserve
Fund

8 **22.**-(1) In addition to the Guarantee Reserve Fund, the Agency shall
9 establish and maintain a General Reserve Fund and shall, subject to any
10 directions given by the Minister under subsection (3), pay into such Fund any
11 net profit earned by the Agency.

12 (2) The Guarantee Reserve Fund shall be applied to indemnify any
13 loss or deficiency which may occur in any transaction of the Agency, other than
14 that those for which the Guarantees Reserve Fund is available.

15 (3) The Minister with the concurrence of the Auditor General of the
16 Federation, may give direction to the Agency as to the balance to be maintained
17 in the General Reserve Fund and where such directions are given, the Agency
18 shall not be required to pay any of its net profits into the fund whereby the
19 balance thereof would exceed the amount directed by the Minister with the
20 concurrence of the Auditor General.

Power to invest

21 **23.** Money of the Agency not immediately required for the purposes
22 of the Agency may in consultation with the Accountant General of the
23 Federation be invested.

Execution of
documents

24 **24.** All deeds, instruments contract and other documents shall be duly
25 executed by or on behalf of the Agency if-

26 (a) if appended with the seal of the Agency and signed by two
27 members of the Board thereof;

28 (b) executed in that behalf by one member of the Board and a member
29 of the Agency both of whom have been appointed by the Board for the purpose.

- 1 **25.** The Agency shall purchase food items either through open
2 bidding, commodity exchange or contract growers, however where the
3 Government so desires, the Agency shall purchase food items through
4 guaranteed minimum price scheme. Purchase of
food items
- 5 **26.**-(1) The Agency shall release food stock under commercial
6 purpose or Government intervention. Release of food
stock
- 7 (2) Release under commercial purposes shall be conducted
8 through an open competitive bidding process and or Abuja Securities and
9 Commodity Exchange.
- 10 (3) Release under Government intervention shall be at the price
11 determined by the Government, however, the Government shall reimburse
12 the Agency at a price not less than the cost of stocking
- 13 **27.**-(1) Any person who knowingly misrepresents the grade of Penalties
14 designated commodity contrary to established standards shall be guilty of an
15 offence and shall be liable upon conviction to a fine of not less than
16 N100,000 as well as the forfeiture of the commodity.
- 17 (2) Any person who fails to pay the fine imposed under subsection
18 (1) of this section within two weeks shall in addition to that penalty be
19 prohibited from participating in the marketing or processing of any
20 designated commodity for a period not exceeding three years.
- 21 **28.**-(1) No suit shall lie or be instituted in any court against the Time within
which to sue
22 Agency or any member of the staff of the Agency-
- 23 (a) for any act done in pursuant or execution of any enactment or
24 law or of any public duties of the Agency, or
- 25 (b) in respect of alleged neglect or default in the execution of any
26 enactment or law, duties or authority, unless it is commenced within three
27 months next after the act, neglect or default complained of and in the case of
28 a continuance of damage or injury, within twelve months next after
29 cessation.
- 30 (2) Without prejudice to the Constitution-

1 (a) no suit shall be commenced against the Agency before expiration
 2 of a period of one month after written notice of intention to commence the suit
 3 shall have been served upon the Agency by the intending plaintiff or his Agent:

4 (b) the notice shall clearly and explicitly state the cause of action, the
 5 particulars of the claim, the name and place of abode of the intending plaintiff
 6 and the relief which he claims.

Service of
document

7 **29.** The notice referred to in section 28(2) of this Act and any
 8 summons, notice or other documents required or authorized to be served upon
 9 the Agency shall be served by delivering same to the Director General of the
 10 Agency, or sending it by registered post addressed to the Director General at
 11 the headquarters of the Agency.

Power to
prosecute

12 **30.** The Agency may, with the consent of the Attorney General of the
 13 Federation institute legal proceedings against any person that contravenes the
 14 provision of this Act.

Declaration of
national food
emergency

15 **31.**-(1) The President may declare a National Food Emergency if in
 16 his opinion, there is a major short fall in the domestic production or availability
 17 of designated food items.

18 (2) Whenever the President declares a National Food Emergency
 19 under subsection (1), the powers of the Board under this Act shall vest in the
 20 Minister.

21 (3) The Minister shall exercise the powers of the Board, during the
 22 existence of the National Food Emergency and for not more than thirty days
 23 after the end of emergency as declared by the President.

24 (4) When the Minister exercises the power referred to in subsection
 25 (2) of this Act the Board shall act as Advisory Committee to the Minister.

Power to make
regulations

26 **32.** The Minister with the approval of the President may make
 27 regulation generally for the purpose of giving full effect to this act".

Interpretation

28 **33.** In this Act, unless the context otherwise requires-
 29 "Agency" means the Agency established by section 1 of this Act;
 30 "Board" means the governing Board of the Agency;

- 1 "Chairman" means the chairman of the Board;
- 2 "Constitution" means Constitution of the Federal Republic of Nigeria, 1999;
- 3 "Director General" means the Director General appointed for the Agency
- 4 under paragraph (e) subsection (2) of section 2 of this Act;
- 5 "Function" includes powers and duties;
- 6 "Minister" means the minister charged with responsibility for matters
- 7 relating to Agriculture and Water Resources.
- 8 "Member of the Board" includes the chairman;
- 9 "President" means President of the Federal Republic of Nigeria.

10 34. This Bill may be cited as the National Food Reserve Agency Short title

11 (Establishment, etc.) Bill, 2019.

12 SCHEDULE

13 *Section 2(6)*

14 *Proceeding of the Board*

15 1.-(1) Subject to this Act and section 27 of the Interpretation Act,

16 the Board may make standing regulation on its proceedings or those of any

17 its committees.

18 (2) At any meeting of the Board-

19 (a) six members shall form a quorum, but in determining whether a

20 quorum has been constituted the presence of any person invited to offer

21 opinion or tender documents shall not be considered;

22 (b) the Chairman of the Board or in his absence, the member

23 elected by the members present to act as Chairman, shall preside;

24 (c) all questions shall be decided by a majority of votes of members

25 present and voting but any person invited to attend any meeting of the board

26 by virtue of paragraph (c) subsection (1) of section 24 of this Act shall not be

27 entitled to vote in such meeting; and

28 (d) the Chairman of the Board or other member presiding has a

29 deliberative vote and, in the event of equality of votes, also has a casting

30 vote.

1 deliberation or decision.

2 (3) For the purposes of subsection (1) of this section a general
3 notice given at a meeting of the Board by a member to the effect that he is a
4 member of a specified company or firm and is to be regarded as interested in
5 any transaction or project of the Agency concerning the company or firm,
6 shall be regarded as a sufficient disclosure of his interest in relation to that
7 transaction or project.

8 (4) A member of the Board need not attend in person at a meeting of
9 the Board in order to make any disclosure which he is required to make
10 under this section if he takes reasonable steps to secure that the disclosure is
11 made by notice which is brought up and read at the meeting.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Food Reserve Agency for the purposes of storing food grains and other food commodities for Strategic purposes.

