

A BILL

FOR

AN ACT TO ESTABLISH AN INDEPENDENT FEDERAL CHARITIES COMMISSION OF NIGERIA (FCCN), TO BE SADDLED WITH THE SOLE RESPONSIBILITY FOR PROVIDING REGULATORY FRAMEWORK, SET AND ENFORCE INSTITUTIONAL STANDARDS AND ADMINISTRATIVE MECHANISM IN ENABLEMENT OF RECURRENT REGISTRY AND SUPERVISION OF CHARITABLE AND NON- GOVERNMENTAL ORGANISATIONS IN NIGERIA FOR; STRENGTHENING INTERDEPENDENCY OF EXTERNAL MULTILATERAL AND INDIGENOUS AID INTERVENTIONS AS WELL AS FOR RELATED MATTERS; WITH A VIEW TO DEVELOPING A VIABLE THIRD SECTOR FOR PUBLIC BENEFIT THEREBY ACHIEVING INSTITUTIONAL CAPACITY FOR TRANSPARENT AND SUSTAINABLE DEVELOPMENT AND FOR RELATED MATTERS

Sponsored by Senator Duro Faseyi

[] Commencement

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

- 1 PART I - ESTABLISHMENT OF THE FEDERAL CHARITIES
- 2 COMMISSION OF NIGERIA
- 3 1.-(1) There be established a regulatory body as the Federal
- 4 Charities Commission (in this Act referred to as the Commission) which:
- 5 (a) Shall ensure the effective management of all component of the
- 6 Nation's Charities and Non-Governmental Organizations;
- 7 (b) Shall be a body corporate with perpetual succession and a
- 8 common seal; and
- 9 (c) May sue and be sued in its corporate name.
- 10 (2) The Commission shall be the national authority on Charities
- 11 and the Third Sector in Nigeria.

Establishment of the Federal Charities Commission of Nigeria

Objectives of
the Commission

- 1 2.-(1) The Objectives of the Commission shall be:
- 2 (a) To establish and strengthen the institutional regulatory framework
- 3 on Charities and Third Sector matters in Nigeria;
- 4 (b) To determine the charitable status of bodies categories as:
- 5 (i) Charitable Organizations (COs), wherein:
- 6 (a) such organization(s) fulfill set criteria for being registered
- 7 exclusively as a 'Charity' for sole public benefit without allowing its properties
- 8 to be used for non-charitable purposes outside of its primary purposes for
- 9 which it was originally registered;
- 10 (b) such organization is not associated with any political party,
- 11 political symbol, or have its activities influenced or controlled by any
- 12 representative of such or by a government minister, or by other means of a third
- 13 party organization for purposes that are at variance with the set criteria of its
- 14 purpose of existence.
- 15 (ii) Charitable Incorporated Organization (CIOs), wherein:
- 16 (a) Such charitable organization will satisfy the set criteria for 'public
- 17 benefit', it can be incorporated and operate like a company without becoming a
- 18 company regulated under company laws;
- 19 (b) Such charitable organization can carry out business, enter into
- 20 contracts, own properties, investments and employ people in their own right
- 21 but MUST NOT be source of any personal gain to its Board of
- 22 Trustees/Directors/Managers. However, remuneration can be paid for services
- 23 by staffs subject to approval by the Commission. Its existence as a charitable
- 24 organization is paramount hence can only reinvest profits for the continual
- 25 growth and satisfaction of its primary charitable purposes;
- 26 (c) To keep an accessible public register of the above charities;
- 27 (d) To identify and investigate apparent misconduct in, the
- 28 administration of charities and to take remedial or protective actions in relation
- 29 to such misconduct;
- 30 (e) To coordinate a streamlined assistance, information or advice, or

1 to make proposals to foreign multilateral organizations, federal, states and
2 local governments in all matters relating to the Commission's functions.

3 15. (3) The Commission may carry out any actions (whether in
4 Nigeria or elsewhere) which is calculated to facilitate, or is conducive or
5 incidental to the performance of its functions Subsection (3) does not enable
6 the Commission to do anything in contravention of any express prohibition
7 or limitation on its powers which is contained in any enactment (including
8 this Act). The Commission may develop a viable, transparent tenders and
9 procurement system to integrate a legal registration and licensing system
10 whereby foreign NGOs or consultancies can only operate under the legal
11 status of indigenous Charities in order to facilitate capacity building and
12 state ownership. The Commission in performing its functions must, so far as
13 relevant have regards to:

14 (a) the principles under which regulatory activities should be
15 proportionate, accountable, consistent, transparent and targeted only at
16 cases in which action is needed, and

17 (b) any other principle appearing to the Commission to represent
18 best regulatory practice.

19 3. The Commission shall have such Departments as it may deem
20 appropriate.

Structure of the
Commission

21 4. There shall be for the Commission a Director General who
22 shall:

Staff of the
Commission

23 (a) be appointed by the President, Commander-in-Chief-of-the-
24 Armed Forces on the recommendation by the Minister for Economy;

25 (b) not be qualified for appointment as a Director-General unless
26 he/she possesses outstanding qualifications and has at least 8years
27 experience in the Management of Charities, international or local NGOs or
28 related fields; be the Chief Executive of the Commission and be responsible
29 for:

30 (i) day to day administration of the Commission;

1 (ii) execution of the policies of the Commission; and
2 (iii) Performing other functions as the Board or President may from
3 time to time assign to him/her.

4 (c) Hold office in the first instance for a term of four (4) years and may
5 be reappointed for another term of 4 years and no more as the President,
6 Commander-in-Chief of the Armed Forces may determine;

7 (d) Shall hold office on such terms and conditions as may be specified
8 in his letter of appointment.

9 5. Notwithstanding the provisions of section 5 of this section, the
10 Director-General may be removed from office by the President, Commander-
11 in-Chief of the Armed forces:

12 (a) in his/her inability to discharge the functions of his/her office
13 (whether arising from infirmity of mind or body or any other cause) or for
14 misconduct:

15 (b) if the President IS satisfied that it is not in the interest of the
16 Commission or of the public for him/her to continue in the office;

17 (c) if the Director-General resigns his appointment by a notice in
18 writing under his hand addressed to the President.

19 6. The Commission shall appoint a Secretary and Legal Adviser, who
20 shall be:

21 (a) a legal practitioner of not less than 5 years post-call experience;
22 (b) subject to the control and supervision of the Board and Director-
23 General; and

24 (c) keeping the books and records conducting the correspondence of
25 the Board and performing such other duties as the Board or the Director-
26 General may from time to time direct and without prejudice to the generality of
27 the foregoing, the Secretary shall be responsible for:

28 (i) making arrangements for meetings of the Board;
29 (ii) preparing the agenda and minutes of meetings of the Board; and
30 (iii) Such other functions as may be assigned to him/her by the Board

1 and the director-General.

2 7. The terms of service and conditions of remuneration of
3 employees of the Commission shall be determined in line with the
4 appropriate service authorities.

The Terms of
Service

5 8.-(1) Removal and Discipline of staff shall be in accordance with
6 existing civil service regulations.

Removal and
Discipline

7 (2) if it appears to the Board that there are reasons that any member
8 of the senior staff employed by the Commission other than the Director-
9 General should be removed from office on grounds of misconduct or
10 inability to perform the functions of his/her office, the Board shall:

11 (a) give notice of those reasons to the person (a) concerned;

12 (b) afford the person an opportunity of making representation on
13 the matters to the board in person; and

14 (c) if the person concerned or members of the Board so request
15 within one month beginning with the date of the notice, make arrangement:

16 (i) for a committee of the board to investigate the matter and report
17 back to the Board; and

18 (ii) for the person in question to be afforded an opportunity of
19 appearing before, and being heard by the investigating committee on the
20 matter

21 (3) if the Board, after considering the report or the investigating
22 committee is satisfied that the person in question should be removed, the
23 Board may remove the person concerned by an instrument in writing signed
24 on the directive of the Board.

25 (4) the Director-General of the Commission may, in a case of
26 misconduct by a member of staff which in the opinion of the Director-
27 General is prejudicial to the interest of the Board, suspend such member of
28 staff and any such suspension shall be reported to the Board.

29 (5) for good cause, any member of staff, except the Director-
30 General may be suspended from office or his appointment may be

1 terminated by the Board and for the purpose of this subsection, "good cause"
2 means:

3 (a) any physical or mental incapacity which the Board, after obtaining
4 medical advice considered to render the person concerned unfit for the
5 discharge of the functions of his office;

6 (b) conduct of a scandalous or other disgraceful nature which the
7 Board considers to be such as to render the person concerned unfit to continue
8 to hold his office; or

9 (c) conduct which the Board considers to be such as to constitute
10 failure or inability of the person concerned to discharge the functions of his
11 office or to comply with the terms and conditions of his service.

12 (6) any person suspended pursuant to this section shall be placed on
13 half pay and the Board shall before the expiration of a period of 4 months after
14 the date of such suspension consider the case against that person and come to a
15 decision whether to:

16 (a) Continue such person's suspension and if so on what terms
17 (including the portion of his emoluments to be paid to him); reinstate such
18 person to his office, in which case the Board shall restore his full emoluments to
19 him with effect from the date of the suspension;

20 (b) terminate the appointment of the person in question in which case
21 such a person shall not be entitled to the portion of his emolument withheld
22 during the period of the suspension; or

23 (c) take such lesser disciplinary action against such person (including
24 the restoration of such portion of his emolument that might have 5 been
25 withheld) as the Board may determine.

26 (7) In any case where the Board, pursuant to this section, decides to
27 continue a person's suspension or decides to take further disciplinary action
28 against a person, the Board shall before the expiration of a period of 4 months
29 from such decision, come to a final determination in respect of the case
30 concerning that person.

1 (8) A person who signed the instrument of removal by virtue of this
2 section shall serve or cause to be served on the person concerned, a copy of
3 the instrument.

4 (9) Notwithstanding the foregoing, any person aggrieved by the
5 Board's decision, may within 21 days of receipt of the Board's decision
6 against him, address a petition to the Minister to reconsider his case.

7 9.-(1) If any junior staff is accused of misconduct and/or
8 inefficiency, the Director-General may suspend him for not more than 3
9 months and shall direct the matter to the Junior Staff Appointment and
10 Promotion Committee to:

11 (a) Consider the case; and

12 (b) Make recommendation as to the appropriate action to be taken
13 by the Director-General.

14 (2) In all cases under this section, the junior member or staff shall
15 be informed in writing of the charges against him/her and be given
16 reasonable opportunity to defend himself/herself.

17 (3) The Director-General may, after due consideration of
18 recommendation made pursuant to subsection (1) (b) of this section.
19 Dismiss, terminate, retire or downgrade the staff concerned.

20 (4) Any person aggrieved by the Director-General's decision under
21 subsection (3) of this section may, within a period of 21 days from the date of
22 receipt of the letter communicating the decision to him, address a petition to
23 the Board to reconsider his case and the Board's decision thereon shall be
24 final.

25 10.-(1) There is established for the Commission, a Board which
26 shall consist of:

27 (a) a Chairman who shall be a serving head of the Nigerian Bar
28 Association, appointed on part-time basis by the President, Commander-
29 in-Chief of the Armed Forces;

30 (b) the Director-General of the Commission;

Structure of the
Board

1 (c) A representative not below the rank of a Director, nominated from;
 2 the Third Sector (NGOs and Charity community) (Part-time, appointed), Civil
 3 Liberties Organization Representative (shadow observer), a Police Officer in
 4 the Rank of an AIG (Part-time, appointed) a Local Government Union
 5 Representative (Part-time, appointed), a Student Union Representative
 6 (shadow observer), the Commission's Secretary (Part-time), relevant
 7 Permanent Secretaries will be invited based on the discourse for briefings.

8 (2) Membership of the Board is on part-time, except the office of the
 9 Director-General.

Tenure of office

10 11. A member of the Board appointed, other than the Director-
 11 General, shall hold office for a term of 4 years, and subject to the provisions of
 12 this Act.

Vacancy

13 12.-(1) the office of a member of the Board shall become vacant if:

14 (a) he resigns as a member of the Board by notice in writing under his
 15 hand addressed to the President; and

16 (b) if it appears to the Board that a member of the Board other than an
 17 ex-officio member or Director-General should be removed from office on the
 18 28 grounds of misconduct or inability to perform the functions of his office, the
 19 Board shall make a recommendation to the President.

20 (2) Notwithstanding the provisions of subsection (1) of this section,
 21 the President may remove any member of the Board if he is satisfied that it is in
 22 the public interest to do so.

Functions and
 Powers of the
 Board

23 13.-(1) The Board shall:

24 (a) advice on the overall policy formulation of the Commission in
 25 particular with regard to financial, operational and administrative matters;

26 (b) Establish committees as may be expedient and charged with
 27 specific functions;

28 (c) Encourage and promote activities related to the functions of the
 29 Commission;

30 (d) Carry out such other activities as may be directed by the President

1 Commander-in-Chief of the Armed Forces.

2 (2) The Board shall have power to appoint for the Commission
3 either directly or on secondment from any public or civil service of the
4 Federal such number of employees as may, in the opinion of the Board be
5 required to assist the Commission in the discharge of any of its functions
6 under this Act.

7 14.-(1) The Commission shall establish and maintain a fund from
8 which it shall defray all expenditures incurred.

Financial
Provisions

9 (2) There shall be paid and credited to the fund:

10 (a) annual budget allocation from the Federal Government:

11 (b) such other sums as may be given to the Commission by the
12 Federal government;

13 (c) all moneys accruing to the Commission, including grants-in-
14 aid endowments and donations;

15 (d) all charges, dues, fees, fines or other amounts collected by the
16 Commission; and

17 (e) all interests on moneys invested by the Commission

18 15. The Commission shall, when necessary, apply the funds at its
19 disposal for the purpose of the Commission.

20 16. The Commission will have no powers to borrow regardless of
21 the provisions 2 of the debt management Act.

22 17.-(1) The Commission may, subject to the provision of this Act
23 and conditions of any trust created in respect of any property, invest all or
24 any of its funds in accordance with section 15(I) of this Act. The
25 Commission may invest any of its surplus funds in such portfolios as may be
26 permitted by law.

27 18.-(1) The Commission may accept gifts of land, money or other
28 property or things from within and outside Nigeria on such terms and
29 conditions, if any as may be specified by person or organization offering the
30 gifts.

Gifts, etc.

1 (2) The Commission shall not accept any gift if the terms and
2 conditions attached by person or organization offering the gift are inconsistent
3 with its functions under the Act.

4 19. The Commission shall submit to the President, in accordance
5 with the prescription in the annual budget cycle each year, its programme of
6 work and estimates of its income and expenditure for the following year.

7 20.-(1) The Board shall keep proper accounts of the Commission and
8 proper records in relation and to those accounts.

9 (2) The accounts of the Commission shall be audited after the end of
10 the year to which the audit relates by auditors appointed by Ministry of Justice
11 from among the list and in accordance with the guidelines supplied by the
12 Auditor-General of the Federation.

Annual Report

13 21. The Commission shall prepare and submit to the National
14 Assembly not later than six months after the end of the year, a report, in such
15 form as the National assembly directs on the activities of the Commission
16 during the immediate preceding year and shall include in the report a copy of
17 the audited accounts of the Commission of that year and the auditor's report
18 thereon.

Registration
and Licensing
of Charitable
Organisations

19 22. There shall be for the Commission, a Department created for the
20 purpose to register under defined categories specific to their activities every
21 charitable organizations including churches and other bodies of NGOs which
22 shall satisfy the charitable 'set criteria' of Part 214 of this Act to pass the
23 charitable 'set criteria', a prospective organization has to (1) provide public
24 benefits and have only charitable purposes as defined below:

25 (a) The prevention or relief of poverty. The prevention of poverty
26 includes; preventing those who are poor from becoming poorer, as well as
27 preventing those who are at risk of being poor from becoming poor;

28 (b) The advancement of education. This covers both formal
29 education, such as that provided through schools and universities, and less
30 formal education in the community;

- 1 (c) The advancement of religion. Religion encompasses the
2 worship of one God or other gods;
- 3 (d) The advancement of health (including the prevention or relief
4 of sickness, disease or human suffering). Health can mean both physical and
5 mental health, and advancing health can include the prevention or relief of
6 sickness, disease or human suffering;
- 7 (e) The saving of lives;
- 8 (f) The advancement of citizenship or community development
9 (including rural or urban regeneration and the promotion of civic
10 responsibility, volunteering, the voluntary sector or the effectiveness or
11 efficiency of charities);
- 12 (g) The advancement of the arts, heritage, culture or science;
- 13 (h) The advancement of public participation in sport (and 'sport'
14 means sport which involves physical skill and exertion);
- 15 (i) The provision of recreational facilities, or the organization of
16 recreational activities, with the object of improving the conditions of life for
17 the persons for whom the facilities or activities are primarily intended, and
18 only in relation to recreational facilities or activities which are:
- 19 (a) primarily intended for persons who have need of them by
20 reason of their age, ill-health, disability, financial hardship or other
21 disadvantage, or
- 22 (b) available to members of the public at large or to male or female
23 members of the public at large. Activities under this purpose might include
24 provision of a community center or a youth club or providing facilities for
25 the public to participate in sports or other leisure pursuits.
- 26 (i) The advancement of human rights, conflict resolution or
27 reconciliation;
- 28 (k) The promotion of religious or tribal harmony, tolerance,
29 diversity;
- 30 (l) The advancement of environmental protection or improvement.

1 This includes the preservation or conservation of the natural environment or
2 particular parts of it and the promotion of sustainable development;

3 (m) The relief of those in need by reason of age, ill-health, disability,
4 financial hardship or other disadvantage (including relief given by the
5 provision of accommodation or care). This purpose may be furthered by the
6 provision of care to those in need in a variety of settings, provision of housing
7 for those in need (for instance by housing associations) and by relieving the
8 effects of ill-health;

9 (n) Any other purpose that may reasonably be regarded as analogous
10 to any of the preceding purposes (and the advancement of any philosophical
11 belief (whether or not involving belief in a god) is analogous to the purpose set
12 out in (c) above). This allows some flexibility for us to recognize evolving
13 purposes as charitable in the light of changes in society. We might recognize a
14 purpose as analogous where it combines or is like some of the existing
15 purposes in some ways but has new aspects. As well as 'advancing any
16 philosophical belief' some other purposes we have recognized on this basis are:

17 (1) the relief of unemployment;

18 (2) increasing; or

19 (3) improving the efficiency of emergency services.

20 It will fail the charitable 'set criteria' if its constitution allows its properties to be
21 distributed or applied for non-charitable purposes if there is a private benefit
22 from your organization's activities whether there is any disbenefit to the public
23 from your organization's activities as well as such as stipulated under part 2 14
24 of this Act. All individuals undertaking charitable functions in Nigeria shall by
25 this Act be required to be registered as an accredited personnel whereof such
26 database shall be compiled for regulatory purposes. No charitable organization
27 shall take under its services a non-accredited employee. There shall be created
28 for the Commission a Department for Orphanages, Mentally Challenged and
29 Elderly Care Units; this department shall provide the framework for regulating
30 the operations of such services in Nigeria.

1 There shall be created for the Commission also a Department for
2 Multilateral Cooperation whereof such will be tasked with coordinating and
3 streamlining, and facilitating all multilateral efforts by foreign and
4 indigenous partners towards achieving set objectives that falls within the
5 charitable purposes as defined under part 8, 7(1) subsection.

6 There shall also be created for this Commission a Department of Finance
7 and Funds Administration that will ensure a strict and streamlined funds
8 management system that is based on matching evidenced projects,
9 operations, and impact evaluation reports. The Commission shall set up
10 other relevant departments as it deems fit for the disposal of its primary
11 functions. After registration, each charities and NGO shall be given a charity
12 number and an operational license specific to their scope of activity. These
13 registration numbers and licenses will be entered into a national database
14 along with the details of each registrant charities. Licenses issued to
15 organizations shall be valid subject to the annual reviews of the operations
16 of each charitable organizations. The Commission shall provide viable
17 templates or examples of a constitution for becoming a Charity, or
18 Charitable Incorporated Organization to enable a smooth transitioning
19 during the re-registration period that should not be more than a year from
20 commencement or extended as may be directed by the Board.

21 23. Whereupon without a license, it shall be an offence for any
22 individual (s), or organization (s) to operate a charitable organization or
23 associations that solicits funds internationally or from the Nigerian public
24 for the disposal of its activities as defined within Part 8 7(1) of this Act, or as
25 such as falls into the following categories; Welfare, Researches, Advocacy,
26 Religion, Educational, Recreational, Economic and Healthcare Relief. For
27 the purpose of clarity, a religious inspirational ministry must be proven to be
28 distinct from a Lifestyle Business, the former MUST be classed as a
29 religious charitable organization regardless whether its activities are funded
30 voluntarily or other means by members of the public. A Lifestyle Business

Offences and
Penalties

1 shall be subjected to regulations of the Corporate Affairs Commission for tax
2 purposes. Any person (s) convicted of an offense under this part shall be liable
3 to the sum of N350,000, or to an imprisonment of two years or both, upon
4 sentencing, the court may decide that whole or part of the fine be remitted to the
5 accounts of this Commission towards the defrayment of administrative and
6 enforcement costs. Such person (s) convicted under this part shall be
7 disqualified from holding any position of trust in any charitable organization
8 for a period of ten years. Any person (s) who makes, signs or utters any false
9 statement (s) or make such false declaration (s) in support for, or in response to
10 a request or inquiries or investigations or during the re- registration processes
11 by the Commission, such person (s) shall be liable to a fine of N500, 000 naira
12 or to an imprisonment of three years or both as well as disqualified from
13 holding any position of trust in any charitable organization for ten years. In line
14 with its regulatory functions, this Commission shall develop rules and
15 guidelines with stipulated fees that will ensure compliance by all charitable
16 bodies in Nigeria.

17 This Commission will highlight grounds for which some Traditional or
18 Corporate Associations or Cooperatives, may be exempt from licensing,
19 however, such grounds MUST not negate the principles as defined within the
20 categories of the charitable under part 8, 7(1) subsection. Any organization that
21 have hitherto been registered as a charitable body and have operated as such,
22 shall be prohibited from moving or relocating its operational head office,
23 assets, funds, properties, investments away from Nigeria and/or severe such as
24 was generated in the course of its existence whether through its affiliates or
25 operations even domiciled abroad.

Conditions for
License
Revocation

26 **24. A charity may have its license revoked where its activities poses**
27 **significant threat to security and unity; or wherein the discharge of its primary**
28 **charitable purposes, it deviates into ventures that are for personal or selfish**
29 **gains; or wherein the discharge of its primary charitable purposes, there has**
30 **been proven grounds of gross theft, money laundering and other criminal acts**

1 that the Commission considers of dire consequence to the dissemination of
2 its statutory and regulatory duties.

3 25. All charitable gifts in cash or assets or commodities or
4 securities or investments must be declared and recorded by all charitable
5 organizations in Nigeria. Such gifts to leaders of religious organizations
6 shall follow specific guidelines set out to specifically curb corrupt practices,
7 vain material profligacy and personal enrichment to the detriment of the
8 general public, hence such gifts shall upon being declared; wherein such as
9 perishable items; half of such will be shared equally amongst all the
10 religious officials of such religious association whilst the remaining half
11 donated to the local community's charitable organization for upkeep of the
12 Orphans, Mentally Challenged and Elderly. Wherein such gifts are in assets,
13 investments, etc. such shall be held and 12 managed by a single 'body or
14 Trust' on behalf of that religious association wherein proceeds are shared in
15 such proportion defined within this part. The non-compliance of this section
16 shall attract a fine deemed fit by the Commission. All workers directly
17 employed by a religious charity to perform specific religious duties, shall be
18 exempted from taxes.

Guidelines and
procedure for
Charitable Gifts

19 26. This Bill may be cited as the Federal Charities Commission of
20 Nigeria Bill, 2019.

Short title

EXPLANATORY MEMORANDUM

The Bill seeks to establish the Federal Charities Commission of Nigeria charged with the responsibility for providing the regulatory framework, institutional and administrative mechanism for strengthening the interdependency of foreign Multinational and indigenous aid interventions in Nigeria.

