A BILL

FOR

AN ACT TO ESTABLISH THE NATIONAL HYDROGRAPHIC AGENCY, TO CARRY OUT HYDROGRAPHIC AND OCEANOGRAPHIC SURVEYS, INCLUDING OCEAN METEOROLOGY FOR NATIONAL DEFENCE AND CIVIL REQUIREMENTS AND FOR RELATED MATTERS, 2020

Sponsored by Hon Yusuf Adamu Gagdi

[ ]

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

PART I - ESTABLISHMENT OF THE AGENCY

1.- (1) There is established a body to be known as the National Hydrographic Agency (in this Act referred to as “the Agency”).

   (2) The Agency:

   (a) shall be a body corporate with perpetual succession and a common seal; and

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

2.- (1) The objectives of the Agency are to carry out:

   (a) Hydrographic and oceanographic surveys, including ocean meteorology for national defence and civil requirements;

   (b) Fulfill all international hydrographic treaties, conventions and protocols acceded to by Nigeria;

   (c) Carry out commercial hydrography, seismic and other marine surveys for economic diversification and revenue generation for the FGN;

   (d) Provide maritime safety information, notices to mariners and nautical publications for the safety of seafarers in line with IMO SOLAS Convention;

   (e) Represent Nigeria in all international hydrographic matters;

   (f) Provision of official nautical charts and publications, sailing
directions, list of lights, notices to mariners, tide tables and other nautical publications, where applicable, satisfying the needs for safe navigation within Nigerian waters and the sub region in general;

(g) Planning, acquisition and maintenance of survey platforms, including surface, sub-surface and air survey platforms that form part of the National Hydrographic Survey Fleet;

(h) Planning acquisition and maintenance of survey and charting equipment, instruments, software and infrastructure for the NHO;

(i) Conduct training and re-training in surveying, nautical cartography and related fields for NHA personnel involved in hydrographic activities using the medium of the National Hydrographic School;

(j) Monitor, control, superintend and coordinate all national hydrographic and oceanographic surveys;

(k) Be the sole authority for nautical charting, tidal matters and other nautical publications in Nigeria;

(l) Be the depository for all hydrographic, oceanographic and seismic data in Nigeria;

(m) Collection of hydrographic, oceanographic and other related data from all government and private stakeholders in Nigeria and use same for compilation of nautical charts and publications, including dissemination and updating all nautical information necessary for safe navigation within the Maritime Zones of Nigeria;

(n) Regulation of all hydrographic surveys conducted within Nigerian waters to ensure that they are in accordance with international standards and consistent with the need to ensure/improve safe navigation within Nigerian waters;

(o) Superintendence of all land survey and dredging matters within the NN and assist in the delimitation and demarcation of maritime boundaries of Nigeria in conjunction with National Boundary Commission;

(p) Provision, custody and distribution of navigational equipment and
publications for the NN, planning and provision of appointments, training
and career of personnel (Naval and Civilian) into hydrographic
specialization;

(q) Liaising with other local and international mapping, hydrographic and oceanographic organization for the purpose of maintaining local and international standards and providing accurate and up-to-date hydrographic data including electronic navigational charts, tide/current information, as well as forecasting and shoreline surveys; and

(r) Supporting emergency response, ecosystem approaches to marine management, and coastal resiliency by providing hydrographic data and services, planning, acquisition and maintenance of hydrographic and oceanographic platforms (ships/aircrafts/boats) and equipment and any other duties as may be assigned from time to time by the NHA Board

(2) For the purpose of carrying out the objects outlined in section 2(1) (a)-(r) of this Act, the Agency shall:

(a) establish such centres, facilities, departments and other research units within the Agency as may be necessary from time to time or desirable, subject to the approval of the governing council;

(b) be responsible for the discipline and welfare of personnel of the Agency;

(c) refer matters relating to the discipline of military personnel in the Agency according to the Armed Forces Act;

(d) conduct and sponsor studies and researches in hydrography and related fields of learning;

(e) engage top quality staff of international standards aimed at creating a centre of excellence in mandated fields of study;

(f) subject to the provisions of the Land Use Act, acquire, hold, grant, charge or otherwise deal with or dispose of moveable and immovable property wherever situate;

(g) accept gifts, legacies and donations, provided that the terms and
conditions attached to such gifts, legacies or donations are not inconsistent
with the objects and purpose for the establishment of the Agency;
(h) erect, provide, equip and maintain libraries, laboratories, lecture
halls, and other buildings as are necessary for the carrying out of the objects of
the Agency;
(i) Subject to any limitations or conditions imposed by Statute, invest
any moneys belonging to the Agency by way of endowment, whether for
general or special purposes or such other money as may not be immediately
required for current expenditure in any investments or securities in the
purchase or improvement of land, with power from time to time to vary any
such investments and to deposit any moneys for the time being not invested
with any approved bank on deposit or current account;
(j) borrow, whether on interest or not and if need be upon the security
of any of the property, moveable or immovable of the Agency, such moneys as
the council may from time to time require or expedient to borrow or to
guarantee any loan, advances of credit facilities;
(k) do such other things as may be required for the effective and
smooth running of the Agency; and
(l) do such acts or things that are incidental to the attainment of the
powers listed in this section as are considered necessary to promote the objects
of the Agency.

PART II - ESTABLISHMENT AND COMPOSITION OF THE
GOVERNING COUNCIL

3. There is established for the Agency a Council to be known as the
Governor Council, National Hydrographic Agency (in this Act referred to as
“the Council”).

4. The Council shall consist of the:
(a) Honourable Minister of Defence as Chairman;
(b) Honourable Minister of Transportation;
(c) Honourable Minister of Communications;
(d) Attorney-General of the Federation and Honourable Minister of Justice;
(e) Chief of Defence Staff;
(f) Chief of the Navy Staff;
(g) Minister responsible for matters relating to Finance; and
(h) Hydrographer of the Nation as Secretary.

5. The Council:
(a) shall initiate or approve the policy of the Agency and may give the Agency directions on general or specific matters;
(b) shall grant approval for the Agency to enter into research and production partnerships with any Company, Non-Governmental Organization, firm or individual;
(c) shall appoint technical consultants to advice it from time to time as the need and situation may arise;
(d) may, with the approval of the Council, establish other centres which shall be located in such places in Nigeria as may be selected by the Agency;
(e) may make regulations generally for the purpose of giving effect to the provisions of this Act, facilitating the discharge of the Agency's functions or pursuing the Agency's objectives;
(f) may delegate any of its powers or functions to any person or persons, authority or committee except for its powers to approve statues of the Agency;
(g) shall approve the creation of any office, department or committee as may be considered necessary or expedient for the smooth running of the Agency;
(h) shall recommend the nomination of Hydrographer of the Nation to the President and Commander-in-Chief of the Armed Forces for approval subject to the provisions of the Armed Forces Act;
(i) shall exercise control and supervise the policy, finances and
property of the Agency; 
(j) shall appoint the provost, professors and other academic and 
administrative staff, stipulate terms and conditions of their appointment, 
determine the remuneration of the principal officers and other staff of the 
Agency that are not military personnel and scope of their responsibilities; and 
(k) shall do such other things as are necessary for the successful 
performance of the functions of the Agency; 
(l) Shall approve the organizational structure, committees and 
definition of duties established by the hydrographer of the nation”.

6.- (1) The office of a member of the Council shall be deemed vacant if 
within 4 years from the date of first appointment: 
(a) he dies; 
(b) he resigns before the expiration of his tenure; 
© he is adjudged to be medically unfit, a lunatic or of unsound mind; 
(d) a case of gross misconduct is established against him; 
(e) he is sentenced to death or imprisonment; 
(f) he is adjudged or declared bankrupt; 
(g) he is discovered to be a member of any secret society; 
(h) he is indicted for fraud or embezzlement by a Judicial 
Commission of Inquiry or indicted for contravention of the Code of Conduct; 
(2) For the Hydrographer of the Nation, whose removal from office 
shall be in accordance with military posting, on the recommendation of the 
CNS and Council to the President and Commander-in-Chief of the Armed 
Forces of Federal Republic of Nigeria for approval, his tenure shall be for a 
minimum of 4 years.

PART III - STRUCTURE OF THE HEADQUARTERS, OFFICES AND 
DEPARTMENTS OF THE AGENCY

7.- (1) The Headquarters of the Agency shall be situated in the Federal 
Capital Territory Abuja.
(2) There shall be at the headquarters the following offices and Departments:

(a) Office of the Hydrographer of the Nation and Chief Executive Officer (CEO); 
(b) Naval Assistant Secretary 
(c) Deputy Hydrographer 
(d) Director Survey Operations; 
(e) Director Cartography; 
(f) Director Aerial Survey; 
(g) Director Cadastral Survey; 
(h) Director Legal; 
(i) Director Finance; 
(j) Director Photogrametry and GIS; 
(k) Director Administration; 
(l) Director Nautical Publication; and 
(m) Director Survey Instruments.

(3) Each Department shall be headed by a Director with an establishment rank of Rear Admiral or its equivalent in other Security Agencies or a Civilian with requisite professional experience, for a minimum duration of 2 years.

(4) The Agency shall have powers to establish other Departments as the need arises.

PART IV - PRINCIPAL OFFICERS AND OTHER STAFF OF THE AGENCY

8.—(1) There shall be appointed for the Agency, a Hydrographer of the Nation drawn from the Nigerian Navy, not below the rank of a serving Rear Admiral or its equivalent whose appointment and removal from office shall be in accordance with military posting, on the nomination of the Chief of Naval Staff (CNS) and Council recommendation to the President and Commander-in-Chief of the Armed Forces of Federal Republic of Nigeria for approval.
(2) He must have acquired in hydrographic survey experience in Hydrographic Survey Operations and management or Offshore Survey; and shall be responsible to the Council for:

(a) giving to the Council such information as to the activities of the Agency as the Chairman of the Council may require;

(b) authorizing programmes and plans for giving effect to policy approved by the Council or to any direction of the Council subject to all or any of the powers in this section as may be delegated to him by the Council;

(c) carrying out the day-to-day running of the Agency;

(d) preparation of programme of work and estimates of the Agency's income and expenditure annually;

(e) supervision of the activities of the Directors in the Agency; and

(f) co-ordinating the activities of the Centres; and

(g) establishment of organizational structures, committees and definitions of duties.

(2) The fact that any power has been delegated to the Hydrographer pursuant to sub-section (1) of this section shall not preclude the Council itself from exercising them in any special case.

(3) The powers to referred to in sub-section (2) of this section shall include the:

(a) be the operational and administrative Head of the NHA;

(b) be the National Authority for hydrographic survey and nautical cartography in the maritime zones of Nigeria;

(c) have authority to deal with all matters related to hydrography and nautical cartography in the execution of the roles of the NHA;

(d) direct the NHA towards the performance of its statutory functions;

(e) render annual Report on the activities of the NHA to the Board;

(f) be responsible for the deployment of naval officers and ratings of the NHA onboard private seismic, oceanographic and scientific survey vessels for monitoring duties within Nigerian waters; and
(g) Issue of survey permits to private seismic, oceanographic and scientific survey vessels wishing to carry out all forms of survey within Nigerian waters

Sub-Heading of Part IV to read-

(i) Appointment and Functions of the Hydrographer of the Nation”.

(ii) Amend the word “Navy” in Section 8(1) to read “Nigerian Navy” and substitute the rank “Rear Admiral” to “Rear Admiral”.

(iii) Substitute the word “be” in Section 8(2) with “have acquired” and delete the words “knowledgeable’, “and have demonstrated”.

(iv) Insert the words “or offshore survey” after the word Hydrographic Survey Operations and Management in Section 8(2).

(v) Delete “; and” at the end

9.- (1) There shall be appointed for the Agency, a Deputy Hydrographer, drawn from the Navy, not below the rank of a serving Major-General or its equivalent whose appointment and removal from office shall be in accordance with Military posting, on the recommendation of the Chief of Naval Staff (CNS) and Council approval, must be Knowledgeable in hydrographic survey and have demonstrated experience in hydrographic Survey Operations or Offshore Survey.

(2) The Deputy Hydrographer shall assist the Hydrographer of the Nation in the day to day Agency of the Agency and in any other responsibility as may be assigned him.

10.- (1) The Hydrographer of the Nation shall be the Secretary to the Council and shall be in charge of the Secretariat of the Council.

(2) The Secretary of the Council shall carry out such functions and duties as the Council may assign including functions specified in Sub-section 3(a)-(d) of this section.

(3) The Secretary of the Council shall, in addition to such other functions and duties as the Council may assign to him:
(a) prepare the minutes of meetings of the Council and its Committees;
(b) keep and secure the records of the Council;
(c) issue notices of meetings of the Council and other correspondences as may be directed by the Hon. Minister of Defence; and
(d) ensure proper dissemination of the decisions of the Council to the appropriate persons, institutions or authorities.

11.- (1) The Nigerian Navy shall post Naval Officers from time to time, to fill administrative, command, and other military vacancies in the Agency.

(2) The Council shall appoint such persons as employable highly skilled Retired Officers from the Armed Forces or other Security Agencies or Civilian Members of staff for the Agency for research and general Administration as it considers necessary and shall approve terms and conditions of service including provision for the payment of pensions.

(3) Newly appointed members of staff of the Agency shall, unless exempted by the Minister of Defence, take such oaths as to secrecy and other matters as the Minister of Defence may, from time to time, direct.

12. For continuation in projects, Personnel who are trained hydrographic specialists posted to the Agency should have a minimum of 3 years tour of duty to enable them acquire requisite training, experience transfer knowledge and in hydrographic survey operations.

PART V - FINANCIAL PROVISIONS

13.- (1) There is established a fund, which shall be known as the National Hydrographic Development Fund (in this Act referred to as “the Fund”).

(2) There shall be paid and credited into the Fund established under sub-section (1) of this section:

(a) grants-in-aid and assistance from bilateral and multilateral agencies;
(b) all other sums accruing to the Fund by way of gifts, endowments, bequest or other voluntary contributions by persons and organisations:

Provided that the terms and conditions attached to such gifts, endowments, bequest or contributions will not jeopardize the functions of the Agency;

c) such monies as may be appropriated for the Fund by the National Assembly; and

d) foreign aids and assistance from bilateral and multilateral agencies.

14. The Agency shall apply the funds to:

(a) the training of members of staff of the Agency and provision of scholarships and awards for specialized training of personnel;

(b) pay the civilian personnel, overhead allowances, benefits and other administrative costs of the Agency; and

(c) pay all personnel involved in hydrographic survey programmes a special allowance called Hazard Allowance (HA), Special Skill Allowance (SSA), Shift Allowance (SA) and Plain-Clothing Allowance (PCA).

15. All incomes derived by the Agency from the sources specified in this Act and all contributions to the Fund of the Agency shall be exempted from tax.

16.- (1) The Accounts of the Agency shall be audited not later than 6 months after the end of the year to which they relate by auditors appointed by the Agency from the list of auditors supplied and in accordance with the guidelines issued by the Auditor-General of the Federation.

(2) An auditor appointed under subsection (1) of this section shall have access to all accounts and other records relating to such accounts as are kept by the Agency and shall have the power to request from any staff of the Agency such information and explanation as in the Auditor’s opinion are
necessary for the purpose of the audit.

17. The Agency shall prepare and submit to the Council not later than 30th June in each year, a report on the activities of the Agency, the audited accounts of the Agency and the Auditors' Report for each year preceding the report.

18. The Council may, with the consent of or in accordance with the general authority given to it by Government, borrow by way of loan or overdraft from any source or money required by the Agency for meeting its obligations in the discharge of its functions under this Act.

19. The Agency may accept gift of land, money, property or loan, upon such terms and conditions if any, as may be specified by the person or organization making the gift provided that the conditions attached by the person making the gifts are not inconsistent with the objects of the Agency and the Federal Government policy.

PART VI - TRANSFER OF PROPERTY TO THE AGENCY

20.- (1) The Agency shall ensure the implementation of all policies in the attainment of its goals and objectives.

(2) The policies shall be in line with the National Hydrographic Policy and Program as well as Defence Policy of the nation.

(3) The implementation of such policies shall be under the direct responsibility of the Hydrographer of the Nation NHA.

21. All landed property of the Agency shall not be disposed of or charged except with the resolution of the Council.

PART VII - MISCELLANEOUS

22. Bodies established under this Act, shall have power to constitute Committees consisting members of such Bodies and, subject to the provisions of sections 5 and 10 of this Act, authorize a Committee established by it to exercise on its behalf, such functions as may be delegated to the Committee.

23. In this Act, the following expressions shall have the following meanings:
“AFN” means Armed Forces of Nigeria;
"CDS" means Chief of Defence Staff;
“CNS” means Chief of the Naval Staff
"HN" means Hydrographer of the Nation;
"CEO" means Chief Executive Officer;
"DH" means Deputy Hydrographer;
"Facility" means any place, premises, structure or installation designed, adapted or equipped for the performance of any hydrographic Survey or hydrographic-related process or activity;
"Fund" means the Fund of the Agency or National Hydrographic Development Fund established under Section 23(1) of this Act;
"Government institutions" means any:
(a) body or company established by or under any law; or
(b) other institution or body recognized by the Minister by notice in the Gazette;
"Launching" means the placing or attempted placing of any ship into a trajectory or into water, or the testing of a launch vehicle or ship in which it is foreseen that the launch ship will lift from the water surface;
"Launch vehicle" means any device manufactured or adapted to launch a ship;
"Licence" means a licence issued by the National Hydrographic Agency the regulatory hydrographic Agency or proprietary in Nigeria body;
"Licensee" means any person who is the holder of a licence;
"Member" means a member of the Council;
“Misconduct” means immoral, unethical or unprofessional behaviour;
"MOD" means "Ministry of Defence;
“Other Security Agencies” means the Nigeria Police Force, the Department of State Security Services, the National Intelligence Agency, Nigerian Customs Service, Nigerian Immigration Service, Nigeria Security and Civil Defence Corps;
"Prescribed" means prescribed by regulation;
"Regulation" means any regulation made under this Act;
"Secretary" means the Secretary of the Council appointed under Section 10 (1) of this Act;
"Technical officer" includes scientists, engineers and lawyers working in the Agency; and
"Technological assets" means any capital assets, patents, designs, data, equipment and computer software specifically related to hydrographic survey.

24. This Bill may be cited as the National Hydrographic Agency (Establishment) Bill, 2020.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the National Hydrographic Agency, and to provide a legal framework to carry out hydrographic and oceanographic surveys, including ocean meteorology for national defence and civil requirements and fulfil all international hydrographic treaties, conventions and protocols acceded to by Nigeria.