

A BILL

FOR

AN ACT TO ESTABLISH THE SUSTAINABLE DEVELOPMENT FUND, CHARGED WITH THE RESPONSIBILITY FOR IMPOSING, OPERATING AND MANAGING THE FUND FOR THE ATTAINMENT OF SUSTAINABLE DEVELOPMENT GOALS IN NIGERIA; AND FOR RELATED MATTERS

Sponsored by Hon. Abdulrazak Sa'ad Namdas

[] Commencement

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

1 PART I - ESTABLISHMENT AND COMPOSITION, ETC. OF THE
2 SUSTAINABLE DEVELOPMENT FUND AND MANAGEMENT BOARD ETC.

3 1.-(1) There is hereby established a fund to be known as the
4 Sustainable Development Fund (in this Act referred to as "the Fund") for the
5 attainment of sustainable development initiatives to (ad hunger, poverty,
6 gender inequality, provide clean water and sanitation, quality education,
7 good health and well-being, clean and affordable energy, climate
8 remediation, decent work and economic growth and the rehabilitation,
9 reconstruction, modification, expansion and or provision of critical
10 infrastructure and national asset in Nigeria.

Establishment
of the Sustainable
Development Fund

11 (2) The Fund shall:

12 (a) be a body corporate with tenor of fifteen years from
13 commencement date of this Act; and

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

15 (3) The Fund shall be located in the Presidency and shall be subject
16 to the direction, control and supervision of the President in the performance
17 of its functions under this Act.

18 (4) Notwithstanding the provisions of subsection (1) of this
19 section, the President may extend the tenor of the Fund when he deem fit in

1 the circumstance with resolution of the National Assembly of the Federal
2 Republic of Nigeria.

Imposition of
Sustainable
Development
Levy

3 2.-(1) There shall be paid and credited into the Fund established under
4 section 1 (1) of this Act a sustainable development levy (in this Act referred to
5 as "the Levy") as follows:

6 (a) A levy at the rate of _ percent of the total gross revenue of federal
7 self-funded and revenue generating agencies enumerated in the First Schedule
8 to this Act;

9 (b) A levy at the rate of percent of factory or facility price for each
10 consumer good, service or product enumerated in the Second Schedule to this
11 Act; and which Fund shall be operated and managed as provided in this Act.

12 (2) Notwithstanding the provisions of subsection (1) of this section,
13 the President may vary, add, delete, amend or substitute self-funded and
14 revenue generating agencies, consumer goods, services or products and
15 approved rates for the levy as and when he may deem fit in the circumstance
16 with the resolution of the National assembly of the Federal Republic of
17 Nigeria.

Assessment
and Collection
of Levy

18 3.-(1) The Federal Inland Revenue Service (FIRS) (hereinafter
19 referred to as "the Service") shall assess and collect from assigned or
20 designated agency or company the levy imposed under (2) (a) & (b) of this Act.

21 (2) The Service shall pay the levy collected into the Fund and shall,
22 when doing so, submit to the Fund, in an approved return form showing:

23 (i) the name of the agency or company making the payment;

24 (ii) the amount collected;

25 (iii) the assessable turnover of the agency or company for the
26 accounting period; and

27 (iv) such other information as may be required by the Fund for the
28 proper administration of the levy.

29 (3) The levy shall be due and payable within 60 days after the Service
30 has served notice to the assessment on the agency or company in such form as

1 the Service may, from time to time, determine.

2 (4) Where a levy is not paid within the time specified in that
3 section, the Service shall serve on the agency or company, a demand note for
4 the unpaid levy plus a sum which is equal to 2 percent of the levy.

5 (5) Any agency or company that fails within two month after a
6 demand note, to pay the levy imposed commits a offence and is liable on
7 conviction to a fine of not less than N1000,000.00 and the Chief Executive
8 Officer c the agency or company shall be liable to be prosecute and punished
9 for the offence in like manner as if he had himself committed the offence,
10 unless he proves that the act or omission constituting the offence took place
11 without his knowledge, consent or connivance.

12 (6) The institution of proceeding or imposition of a penal, from
13 liability to pay the Service such levy that may become due under this Act.

14 4. There is hereby established for the management of the Fund, a
15 body to be known as the Sustainable Development Fund Management
16 Board (in this Act referred to as "the Board") which shall, subject to this Act,
17 have general control of the Fund.

Establishment
of the Sustainable
Development
Fund Management
Board

18 5.-(1) The Board shall be responsible for:

Functions of the
Board

19 (a) receiving monies accruing to the Fund;

20 (b) identifying, scrutinizing and approving programmes and
21 projects (including Public Private Partnership and Counterpart Funding
22 projects) in the following sectors:

23 (i) Food Security;

24 (ii) Education;

25 (iii) Health;

26 (iv) Water Supply and Sanitation;

27 (v) Gender Equality and Empowerment;

28 (vi) Security, Peace and Justice;

29 (vii) Land Transportation and Waterways;

30 (viii) Clean Energy and Climate Action; and

1 (ix) Sustainable Cities, Innovation and Industry.

2 (c) exercising control over the management of the Fund with a view to
3 ensuring accountability and proper utilization of the Fund for the purposes set
4 out in this Act;

5 (d) liaising with Ministries, Extra-Ministerial Departments, the State
6 and Local Government in identifying, funding and executing programmes and
7 projects in the various sectors set out in paragraph (b) of this subsection;

8 (e) entering into contractual agreements for the purpose of executing
9 approved programmes and projects (including Public Private Partnership and
10 Counterpart Funding projects); and

11 (f) entering supervisory authority over the Fund Project
12 Implementation Task Force established by section 10 of this Act.

13 (2) The Board shall also have power to carry out such activities as may
14 appear to the Board to be incidental or conducive to the attainment of its objects
15 under this Act.

16 (3) The supplementary provision set out in the Schedule to this Act
17 shall have effect with respect to the proceedings of the Board and the other
18 matters contained therein.

Power of the
Board

19 6. The Board shall, subject to the approval of the President have
20 power to allocate a percentage of monies accruing to the Fund to each of the
21 sectors specified in paragraph (b) of subsection (1) of section 5 of this Act.

Membership
of the Board

22 7.-(1) The Board shall consist of the following members, that is:

23 (a) the Chairman who shall be the Chief Executive of the Board;

24 (b) six members, each representing a geo-political zone in the
25 country;

26 (c) a representative each for the Manufacturers Association of Nigeria
27 (MAN), NACCIMA, NASSI, Civil Society Organisations, Nigeria Society of
28 Engineers (NSE), Nigeria Medical Association (NMA), Nigeria Union of
29 Teachers (NUT) and the Central Bank of Nigeria;

30 (d) the Secretary who shall also serve as the Secretary of the Board.

1 (2) The Chairman and members of the Board shall be:

2 (a) persons of proven integrity; and

3 (b) appointed by the President

4 (3) The Chairman and members of the Board shall be appointed by

5 the President subject to the confirmation of the Senate of the Federal

6 Republic of Nigeria.

7 8. The Chairman and members of the Board shall each hold office Tenure of Office

8 for a term of 4 years in the first instance and may be reappointed for a further

9 term of 4 years and no more.

10 9. The Chairman and members of the Board shall be paid such Emoluments

11 remuneration and allowances as the President may, from time to time,

12 determine.

13 10.-(1) A member of the Board may resign his appointment by a Cessation of

14 notice in writing under his hand, addressed to the President and which Membership t

15 resignation shall take effect only upon acknowledgement by the President

16 (2) A member of the Board shall cease to hold office if:

17 (a) he becomes of unsound mind;

18 (b) he becomes of bankrupt or makes a compromise with his

19 creditors;

20 (c) he is convicted of a felony or of any offence involving

21 dishonesty or corruption;

22 (d) he becomes incapable of carrying out the functions of his office,

23 either arising from an infirmity of the mind or of the body;

24 (e) he is guilty of serious misconduct in relation to his duties; or

25 (f) In the case of Institutional representative, he ceases to hold the

26 office on the basis of which he became a member of the Board.

27 (2) A member of the Board may be removed from office by the

28 President, if, he is satisfied that it is not in the interest of the Fund or the

29 interest of the public that the member should continue in office and notifies

30 the member in writing to that effect.

1 (3) Where a vacancy occurs in the membership of the Board, it shall
 2 be filled by the appointment of a successor to hold office for the remainder of
 3 the term of office of his predecessor, so that the successor shall represent the
 4 same interest and shall be appointed by the President.

Establishment
 of the Fund
 Programmes
 and projects
 Implementation
 Committee, etc.

5 11.-(1) There is hereby established for the purpose of implementing
 6 programmes and projects approved by the Board under this Act, a Fund
 7 Programmes and Projects Implementation Committee (in this Act referred to as
 8 "the PPIC").

9 (2) The PPIC established by subsection (1) of this section shall consist
 10 of:

- 11 (a) such number of persons of proven integrity to be appointed by the
 12 Board;
- 13 (b) individual consultants, resource persons, consulting firms; and
- 14 (c) be responsible to the Board.

15 PART II - STAFF OF THE FUND

Appointment
 of Secretary, etc.

16 12.-(1) There shall be appointed for the Fund, a Secretary who shall be
 17 appointed by the President.

18 (2) The Secretary shall subject to the control of the Board:

- 19 (a) be responsible for keeping proper records of the proceedings of the
 20 Board; and
- 21 (b) be the head of the Board's Secretariat and be responsible for the
 22 administration thereof with the approval of the Board.

Removal from
 Office of
 Secretary

23 13. Notwithstanding the provisions of section 10(1) of this Act, the
 24 Secretary of the Board may be removed from office by the President if any
 25 circumstances arise which would require the Secretary to cease to hold office
 26 as a member of the Board under section 10 of this Act.

Appointment
 of other Staff

27 14.-(1) The Board may employ such other staff as may, in the opinion
 28 of the Board, be necessary to assist the Board in carrying out the functions
 29 under this Act.

30 (2) The terms and conditions of service (including terms and

1 conditions as to remuneration, allowances, pensions, gratuities and other
2 benefit of the persons employed by the Board shall be as determined by the
3 Board from time to time.

4 (3) The Board shall have power to appoint either on transfer or on
5 secondment from any public service in the Federation, such number of
6 employees as may, in the opinion of the Board, be required to assist the
7 Board in the discharge of any of its functions under the Act, and shall have
8 power to pay to persons so employed such remuneration (including
9 allowances) as the Board may determine.

10 (4) The staff of the Board shall be public officers as defined by the
11 Constitution of the Federal Republic of Nigeria.

12 15.-(1) Service in the Board be public service for the purpose of Act No. 4, 2004
13 this Act and officers and staff of the Board shall, in respect of their service in
14 the Boards, be entitled to pension and retirement benefits as are prescribed in
15 the Pension Reform Act 2014.

16 (2) Notwithstanding the provision of subsection (1) of this section
17 nothing in this Act shall prevent the appointment of a person to any office on
18 terms which preclude the grant of a pension and gratuity in respect of that
19 office.

20 PART III - FINANCIAL PROVISIONS

21 16.-(1) There shall be paid and credited to the Fund established by Source of Funding
22 this Act.

23 (a) all monies accruing to the Fund by virtue of subsection (1) (a) &
24 (b) of section 2 of this Act;

25 (b) such money as may, from time to time, be lent, deposited with
26 or granted to the Fund by the Government of the Federation;

27 (c) Grants-in-aid and assistance from bilateral and multilateral
28 agencies;

29 (d) Such monies as may be appropriated for the Fund by the
30 National Assembly;

1 (e) All other sums accruing to the Fund by way of endowments,
2 bequest or other voluntary contributions by persons and organizations;
3 provided that the terms and conditions attached to such endowments, bequest
4 or contributions will not jeopardize the functions of the Board;

5 (f) all subventions, fees and charges for services rendered or
6 publications made by the Fund; and

7 (g) all other assets and income which may, from time to time, accrue
8 to the Fund.

9 (2) The Fund shall be managed in accordance with extant Financial
10 Regulations applicable to the Public Service of the Federation and rules made
11 by the President and without prejudice to the generality of the power to make
12 rules under this subsection, the rules shall in particular contain provision:

13 (h) specifying the manner in which the assets of the Fund are to be
14 held and regulating the making of payment into and out of the Fund; and

15 (i) requiring the keeping of proper accounts and records for the
16 purposes of the Fund in such as may be specified in the rules.

17 (3) The Board, may from time to time, apply the proceeds of the Fund
18 for the following purposes;

19 (j) the cost of administration of the Fund and the Board.

20 (k) the payment of salaries, fees and other remuneration, allowances,
21 pension and gratuities payable to members or employees of the fund or expert
22 or professional appointment by the Board.

Budgetary
Provisions

23 17. The Board shall not later than 30th September submit to the
24 President an estimate of its expenditure and income during the next succeeding
25 year.

Expenses to be
paid out of the
Fund

26 18. All expenses incurred in the administration of the Fund shall be
27 paid by the Board out of the monies of the Fund.

Award of Contract

28 19. The Board shall have power to award contracts up to an amount of
29 N1,000,000,000.00 but shall be required to obtain the approval of the President
30 for any contract in excess of that amount.

- 1 20.-(1) The Board may accept gifts of land, money or other
2 property upon such terms and conditions, if any, as may be specified by the
3 persons or organization making the gift. Power to accept
gifts
- 4 (2) The Board shall not accept any gift if the condition attached by
5 the person or organization making the gift are inconsistent with the
6 objectives of the Fund under this Act.
- 7 21.-(1) The Board shall be exempted from the payment of income
8 tax, any other levies, duties or contributions that may be imposed by law or
9 regulation on any income accruing from investment made by the Board or
10 otherwise howso ver. Exemption from
Tax
- 11 (2) The provision of any enactment relating to the taxation of
12 companies or trust funds shall not apply to the Board or the Fund.
- 13 22. The Board shall cause to be kept proper accounts of the Fund,
14 and proper records in relation thereto and when certified by the Board, such
15 account shall be audited by auditors appointed by the Board from the list and
16 in accordance with the guidelines supplied by the Auditor-General of the
17 Federal Republic of Nigeria. Account and
Audit
- 18 23. The Financial Year of the Board shall start on the 1st day of
19 January of each year and end on the 31 SI day of December of the same year
20 or such time as may be prescribed by the Financial Regulation issued by the
21 Federal Government of Nigeria from time to time. Financial Year
- 22 24. The Board shall at the end or every three months, submit to the
23 President a report on its activities and administration of the Board in relation
24 to the Fund. Quarterly Report
- 25 25.-(1) The Board shall not later than three months after the end of
26 each year submit to the President and the National Assembly of the Federal
27 Republic of Nigeria a report on the activities and the administration of the
28 Board in relation to the Fund during the immediate preceding year and shall
29 include in such reports the Auditor's report thereon. Annual Report
- 30 (2) The Board shall not later than four months after the end of each

1 year, publish the annual report in at least three national newspapers circulating
2 in Nigeria.

Power of
President to
give directives

3 26. Subject to the provision of this Act, the President may give to the
4 Board such directives of a general nature with regards to the exercise by the
5 Board of its functions under this Act and it shall be the duty of the Board to
6 comply with the directives.

7 PART IV - LEGAL PROCEEDINGS

Offences

8 27.-(1) A person who contravenes or fails to comply with provisions
9 of this Act is guilty of an offence under this Act.

10 (2) Where an offence under this Act is committed by a body corporate
11 or firm or other association of individuals:

12 (a) every director, manager, secretary or other similar officer of the
13 body corporate;

14 (b) every partner or officer of the firm;

15 (c) every person concerned in the management of the affairs of the
16 association; or

17 (d) every person who was purporting to act in that capacity is
18 severally guilty of that offence and liable to be proceeded against and punished
19 for the offence in like manner as if he had himself committed the offence,
20 unless he proves that the act or omission constituting the offence took place
21 without his knowledge, consent or connivance.

Penalties

22 28.-(1) Except as otherwise provided in this Act, a person guilty of
23 an offence under this Act shall, on conviction, be liable to imprisonment for a
24 minimum term of 6 months and up to a term of six months or to a fine of up to
25 N2,000,000.00 or both.

26 (2) The institution of proceedings or imposition of a penalty under
27 this Act shall not relieve a company from liability to pay to the Service a levy
28 which is or may become due under this Act.

29 (3) Notwithstanding subsection (1) of this section, where any
30 company or corporate body liable to file a levy return under this Act fails in any

1 year to file such return, the Service, if it is of the opinion that such a company
2 or corporate body is liable to pay a levy, may, according to the best of its
3 judgment, make an assessment of the levy in accordance with the provisions
4 of this Act. The Federal High court shall have jurisdiction to try offenders
5 under this Act.

6 30.-(1) Subject to the provisions of this Act, the provisions of the
7 Public Officers Protection Act shall apply in relation to any suit instituted
8 against any officer or employee of the Fund.

Limitation of
suits against the
Fund, etc. Cap.
P41 LFN, 2004

9 (2) Notwithstanding anything contained in any other law or
10 enactment, no suit against any member of the Board or any other officer or
11 employee of the Fund for any act done in pursuance or execution of the Act
12 or any other law or enactment, or of any public duty or authority or in respect
13 of any alleged neglect or default in the execution of this Act or such law or
14 enactment, duty or authority, shall lie or be instituted in any court unless:

15 (a) it is commenced within 3 months next after the act, neglect or
16 default complained of; or

17 (b) in the case of a continuation of damage or injury, within 6
18 months next after the ceasing thereof.

19 (3) No suit shall be commenced against a member of the Board,
20 officer or employee of the Fund before the expiration of a period of one
21 month after written notice of intention to commence the suit shall have been
22 served upon the Fund by the intending plaintiff or his agent.

23 (4) The notice referred to in subsection (3) of this section shall
24 clearly and explicitly state the cause of action, the particulars of the claim,
25 the name and place of abode of the intending plaintiff and the relief which he
26 claims.

27 31. A notice, summons or other document required or authorized
28 to be served upon the Fund under the provisions of this Act or any other law
29 or enactment may be served by delivering it to the Secretary or by sending it

Service of
Documents

	1	by registered post and addressed to the Secretary at the principal office of the
	2	Fund.
Restriction on execution against property of the Fund	3	32.-(1) In any action or suit against the Fund, no execution or
	4	attachment of process in the nature thereof shall be issued against the Fund.
	5	(2) Any sum of money which may, by the judgment of any court, be
	6	awarded against the Fund shall, subject to any direction given by the court
	7	where notice of appeal of the said judgment has been given, be paid from the
	8	general reserve fund of the Fund.
Indemnity of Officers	9	33. A member of the Board, any officer or employee of the Fund shall
	10	be indemnified out of the assets of the Fund against any proceeding, whether
	11	civil or criminal, in which judgment is given in his favour, or in which he is
	12	acquitted, if any such proceeding is brought against him in his capacity as a
	13	member of the Board, officer or employee of the Fund.
Regulations	14	34. The President may make such regulations as he deems to be
	15	necessary or expedient for giving full effect to the provision of this Act.
Interpretation	16	35. In this Act unless the context otherwise requires:
	17	"Board" means the Sustainable Development Fund Management Board
	18	established by section 4 of this Act;
	19	"Fund" means the Sustainable Development Fund established by section 1 of
	20	this Act;
	21	"President" means the President of the Federal Republic of Nigeria;
	22	"Secretary" means the secretary to the Board appointed by section 11 of this
	23	Act;
	24	"Executive Order" means a rule or order issued by the President to the
	25	executive branch of government and having the force of law under this Act;
	26	"the Service" means the Federal Inland Revenue established under the Federal
	27	Inland (Establishment) Act, 2007;
	28	"company" means a company registered in Nigeria.
Citation	29	36. This Bill may be cited as the Sustainable Development Fund
	30	(Establishment, Etc.) Bill, 2019.

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SCHEDULE

Section 5(3)

SUPPLEMENTARY PROVISION RELATING TO THE BOARD, ETC.

Proceedings of the Board

1.-(1) Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of statutory body to be taken by a majority of its members and for the person presiding at any meeting, when a vote is ordered, to have a second or casting vote), the Board may make standing orders regulating its proceedings or that of any of its committees.

(2) At every meeting the Board, the Chairman shall preside and in his absence the members present at the meeting shall appoint one of their numbers to preside at the meeting.

(3) The quorum at a meeting of the Board shall be not less than one-third of the total number of the Board members at the date of the meeting.

(4) The Board shall for the purpose of this Act, meet not less than four times each year and subject, thereto, the Board shall meet whenever it is summoned by the Chairman, and if required to do so by notice given to him by not less than 1/3 of members, he shall summon a meeting of the board to be held within fourteen days from the date in which the notice is given.

(5) When the Board desires to obtain the advice of any person on any particular matter, the Board may co-opt him to the board for such period as it thinks fit, but a person who is a member by virtue of this paragraph shall not be permitted to vote at any meeting of the Board and shall not count towards a quorum.

Committees

(6)(1) Subject to its standing orders, the Board may appoint such number of standing or adhoc committees as it thinks fit to consider and report on any matter with which the Board is concerned.

(2) A committee appointed under this paragraph shall:

(a) Consist of such number of persons (not necessarily members of

1 the Board as may be determined by the Board) and a person, other than a
2 member of the Board, shall hold office on the committee in accordance with the
3 terms of his appointment; and

4 (b) Be presided over by a member of the Board.

5 3. The quorum of any committee set up by the Board shall be its
6 quorum as provided under Section 3 of this Schedule.

7 4. The decision of any committee of the Board shall constitute a
8 recommendation to the Board.

9 *Miscellaneous*

10 (7) The fixing of the Seal of the Fund shall be authenticated by the
11 signature of the Chairman or any other person generally or specifically
12 authorised by the Board to act for that purpose and that of the Secretary.

13 (8) Any contract of instrument which if made by a person not being a
14 body corporate, would not be required to be under seal may be made or
15 executed in behalf of the Board by the Secretary or any other person generally
16 or specifically authorized by the Board to act for that purpose.

17 (9) Any document purporting to be contract, instrument or document
18 duly signed or sealed on behalf of the Board shall be received in evidence and
19 shall, unless the contrary is proved, be presumed without further proof to have
20 been signed or sealed.

21 (10) The validity of any proceedings of the Board or any of its
22 committees shall not be affected by:

23 (a) Any vacancy in the membership of the Board, or Committee; or

24 (b) Any defect in the appointment of a member of the Board or
25 Committee; or

26 (c) Reason that any person not entitled to do so took part in the
27 proceedings of the Board or Committee.

28 (11) A member of the Board or Committee who has a personal interest
29 in any contract or arrangement entered into or proposed to be considered by the
30 Board or Committee shall forthwith disclose his interest to the Board or

1 Committee and shall not vote on any question relating to the contract or
2 arrangement.

3 (12) No member of the Board shall be personally liable for any act
4 or omission done or made in good faith while engaged in the business of the
5 Board.

EXPLANATORY MEMORANDUM

This Bill seeks to establish the Sustainable Development Fund charged with the responsibility for imposing, operating and managing the fund for the attainment of sustainable development goals in Nigeria.

