

**BORDER COMMUNITIES DEVELOPMENT AGENCY ACT, 2003**

## ARRANGEMENT OF SECTIONS

## SECTION :

## PART I—ESTABLISHMENT OF THE BORDER COMMUNITIES DEVELOPMENT AGENCY, ETC.

1. Establishment of the Border Communities Development Agency.
2. Establishment of the Governing Board of the Agency.

## PART II—FUNCTIONS AND POWERS OF THE AGENCY

3. Functions and powers of the Agency.
4. Offices and premises of the Agency Cap. 202 LFN 1990.

## PART III—STAFF OF THE AGENCY

5. Appointment of the Executive Secretary of the Agency.
6. Other staff of the Agency.
7. Appointment of Heads of Departments of the Agency.
8. Pensions, Cap.346 LFN.

## PART IV—FINANCIAL PROVISIONS

9. Funds of the Agency.
10. Expenditure of the Agency.
11. Power to borrow
12. Annual estimates and expenditure.
13. Annual reports.

## PART V—LEGAL PROCEEDINGS

14. Limitation of suits against officers of the Agency Cap.379 LFN. 1990.
15. Services of documents.
16. Restriction on execution against property of the Agency.
17. Indemnity of officers.
18. Provision for take-off.
19. Regulations.
20. Power to accept gifts.
21. Investment.
22. Exemption from tax.
23. Secrecy.
24. Interpretation.
25. Short Title.

## SCHEDULES

**BORDER COMMUNITIES DEVELOPMENT AGENCY ACT, 2003****ACT, No. 23**

AN ACT TO ESTABLISH THE BORDER COMMUNITIES DEVELOPMENT AGENCY ;  
AND FOR RELATED MATTERS

(10th July, 2003)

Commence-  
ment

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

**PART I – ESTABLISHMENT OF THE BORDER COMMUNITIES DEVELOPMENT AGENCY, ETC.**

1.—(1) There is established an agency to be known as the Border Communities Development Agency (in this Act referred to as “the Agency”).

Establish-  
ment of the  
Border  
Communities  
Develop-  
ment  
Agency.

(2) The Agency—

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

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

(3) The headquarters of the Agency shall be in the Federal Capital Territory, Abuja and may have offices in the border States specified in the First Schedule to this Act.

First  
Schedule.

2.—(1) There is established for the Agency a governing board which shall provide the general policy guidelines for the day-to-day administration of the Agency and shall comprise—

Establish-  
ment of the  
Governing  
Board of the  
Agency.

(a) the Vice-President of the Federation, who shall be the Chairman ;

(b) the Attorney-General of the Federation ;

(c) the Ministers responsible for each of the following—

(i) the Ministry of Foreign Affairs ;

(ii) the Federal Ministry of Works and Housing ;

(iii) the Federal Ministry of Internal Affairs ;

(iv) the Federal Ministry of Finance ;

(v) the Federal Ministry of Defence ;

(vi) the Federal Ministry of Water Resources,

(vii) the Federal Ministry of Health and Human Resources ; and

(viii) the Federal Ministry of Education ;

(d) the Inspector-General of Police ;

(e) the Chief Economic Adviser, National Planning Commission ;

(f) the Director-General, National Boundary Commission ;

(g) the Director-General, National Intelligence Agency ;

(h) the Permanent Secretary, States and Local Government Affairs Office ;

- (i) the Surveyor-General of the Federation ; and
- (j) six other persons to represent each of the six geo-political zones.

(2) The Chairman and other members of the Board shall be appointed by the President.

Second  
Schedule

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

#### PART II—FUNCTIONS AND POWERS OF THE AGENCY

Functions and  
powers of the  
Agency.

3.—(1) The Agency shall—

(a) prepare a comprehensive programme of action for the development of the border communities ;

(b) prepare and submit proposals on project for the Border Communities to the President ;

(c) advise the Federal Government on border areas development and other related issues ;

(d) consult with the relevant border communities and liaise with the Federal Government on areas required for the overall development in order to maintain, sustain and develop border communities ;

(e) identify and determine in each year, such deliberate or conscious infra-structural project required for the overall development of the border communities ;

(f) execute such border development policies, projects and programmes in the border communities ;

(g) co-ordinate the activities of all relevant Ministries in the implementation of Federal Government policies and programmes for the development of border communities ; and

(h) set guidelines for the implementation and monitoring of Federal Government projects in the border communities ;

(i) plan and develop strategies towards ensuring efficient and effective implementation of Federal projects within the border States and ensure their implementation ;

(j) to receive and administer such funds as may be allocated to it from the Federation Account ;

(k) maintain an account with a reputable Bank ; and

(l) do such other things which it deems expedient in the performance of its functions under this Act.

Offices and  
premises of  
the Agency  
Cap. 202 LFN  
1990.

4. For the purposes of providing offices and premises necessary for the performance of its functions under this Act, the Agency may subject to the Land Use Act, take lease of any interest in land or other property and may sell or dispose of such interest held by it.

## PART III—STAFF OF THE AGENCY

5.—(1) There shall be for the Agency, an Executive Secretary who shall be appointed by the President of the Federal Republic of Nigeria.

Appointment  
of the  
Executive  
Secretary of  
the Agency.

(2) The Executive Secretary shall be the Chief Executive and Accounting Officer of the Agency and be responsible for the execution of the policy and the day-to-day administration of the affairs of the Agency.

(3) The Executive Secretary shall hold office—

(a) for a term of four years in the first instance and may be re-appointed for a further term of 4 years and no more ; and

(b) on such terms and conditions as may be specified in his letter of appointment.

6.—(1) The Board shall appoint, for the Agency, such officers and other employees as it may, from time to time deem necessary for the purpose of the Agency.

Other Staff,  
of the  
Agency.

(2) The terms and conditions of service (including remuneration, allowances, benefits and pensions) of officers and employees of the Agency shall be determined by the Board.

(3) The Board shall appoint for the Agency a Secretary who shall possess such qualification and experience as are appropriate for a person required to perform the functions of that office under this Act.

(4) Subject to the provisions of this section, the Secretary shall hold office on such terms as to emoluments and otherwise as may be specified in his letter of appointment.

7.—(1) The Commission may appoint Heads of Departments for the Agency who shall be professionals in border issues and such other persons to be officers and employees of the Agency to assist the Secretary in the exercise of the functions of the Agency under this Act.

Appointment  
of Heads of  
Departments  
of the  
Agency.

(2) The remuneration and tenure of office of the Heads of Departments and the other officers and employees of the Agency shall be determined by the Board after consultation with the Federal Civil Service Commission.

(3) Notwithstanding the provisions of subsection (1) of this section, the Heads of Departments or any of the officers and employees of the Agency may be appointed by the Agency by way of transfer or secondment from any of the Public Service in the Federation.

8.—(1) Service in the Agency shall be approved service for the purpose of the Pensions Act and accordingly, employees of the Agency shall be entitled to pensions, gratuities and other retirement benefits as are prescribed under the Pensions Act.

Pension  
Cap. 346  
LFN 1990.

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Act shall prevent the appointment of a person to any office on terms, which

...the grant of a pension, gratuity or other retirement benefit in respect of that office.

(3) For the purposes of the application of the provisions of the Pensions Act, any power exercisable by a Minister or other authority of the Federal Government other than the power to make regulations under section 23 of the Pensions Act is vested in and shall be exercisable by the Board and not by any other person or authority.

#### PART IV—FINANCIAL PROVISIONS

Funds of the  
Agency.

9.—(1) The Agency shall establish and maintain a fund into which shall be paid and credited—

- (a) a take-off grant from the Federal Government ;
- (b) annual subvention from the Federal Government ;
- (c) such counter-part funding as may be provided, from time to time by a State or Local Government ;
- (d) loans and grants-in-aid from national, bilateral and multilateral agencies ;
- (e) rents, fees and other internally generated revenues from services provided by the Agency ;
- (f) 7.5 per cent of the total revenue allocation due to the Federal Government deductible at source ;
- (g) 15 per cent of the total monthly statutory allocation due to member States of the Agency deductible at source ;
- (h) 55 per cent of the monies due to member States of the Agency from the ecological Fund ;
- (i) 10 per cent of the monthly statutory allocation due to the border Local Governments deductible at sources ; and
- (j) all other sums accruing to the Agency, from time to time.

Expenditure  
of the  
Agency.

10. The Agency may from time to time apply the proceeds of the Agency—

- (a) to the cost of administration of the Agency ;
- (b) to the paying of the emoluments, allowances and benefits of members of the Board and reimbursing members of the Board or of any Committee set up by the Board for such expenses as may be expressly authorised by the Board ;
- (c) to the payment of the salaries, fees or other remunerations or allowances, gratuities and pensions and other benefits payable to the officers and other employees of the Agency but no payment of any kind under this paragraph (except such as may be expressly authorised by the Board) shall be made to any person who is in receipt of emoluments from the Federal or a State Government ;
- (d) for the development and maintenance of any property vested in or owned by the Agency ; and
- (e) for and in connection with all or any of its functions under this Act.

11.—(1) The Agency may from time to time borrow by overdraft or otherwise such sums as it may require for the performance of its functions under this Act.

Power to borrow.

(2) The Agency shall not without the approval of the President, borrow money which exceeds at any time the amount set by the President.

(3) Notwithstanding subsection (1) of this section, where the sum to be borrowed is in foreign currency, the Agency shall not borrow the sum without the prior approval of the President.

12.—(1) The Agency shall not later than 30th September in each year submit to the President an estimate of its expenditure and income including payments to the Agency for the next succeeding year.

Annual Estimates and Expenditure.

(2) The Agency shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause the accounts to be audited within 6 months after the end of each year by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

13.—(1) The Agency shall prepare and submit to the Federal Executive Council, through the President, not later than 6 months after the end of each year, a report in such form as he may direct on the activities of the Agency during the immediate proceeding year and shall include in the report a copy of the audited accounts of the Agency for that year and the Auditor's report on the accounts.

Annual Reports.

(2) The President shall upon receipt of the report referred to in subsection (1) of this section cause a copy of the report and audited accounts of the Agency to be submitted to each House of the National Assembly.

#### Part V—LEGAL PROCEEDING

14. The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.

Limitation of suits against officers of the Agency  
Cap. 349  
LFN. 1990.

15. A notice, summons or other documents required or authorised to be served upon the Agency under the provisions of this Act or any other law or enactment may be served by delivering it to the Executive Secretary or by sending it by registered post addressed to the Executive Secretary at the principal office of the Agency.

Services of documents.

16.—(1) In any action or suit against the Agency, no execution or attachment of process shall be issued against the Agency unless not less than three months notice of the intention to execute or attach has been given to the Agency.

Restriction on execution against property of the Agency.

(2) Any sum of money which by the judgement of any court has been awarded against the Agency shall subject to any direction given by the court where notice of appeal against the judgement has been given, be paid from the Fund of the Agency.

17. A member of the Board or the Executive Secretary, any officer or employee of the Agency shall be indemnified out of the assets of the Agency against any liability incurred by him in defending any proceeding whether civil or criminal, if the

Indemnity of Officers

proceeding is brought against him in his capacity as a member, Executive Secretary, officer or employee of the Agency.

Provision for  
take-  
off

**18.** Notwithstanding the provisions of section 4, the National Boundary Commission may provide take-off office accommodation, staff and all the necessary facilities needed for the carrying out the functions of the Agency under this Act.

Regulations

**19.** The Agency may with the approval of the President, make such regulations as in its opinion are necessary or expedient for giving full effect to the provisions of this Act.

Power to  
accept gifts.

**20.—**(1) The Agency may accept any gift of land, money or other property on such terms and conditions, if any, as may be specified by the person or organisation making the gift.

(2) The Agency shall not accept any gift if the conditions attached by the person or organisation offering the gift are inconsistent with the functions of the Agency.

Investment  
Cap. 449  
LFN. 1990.

**21.** The Agency may, subject to the provisions of this Act and the conditions of any trust created in respect of any property, invest all or any of its funds in any security prescribed by the Trustee Investment Act or in such other securities as may from time to time be approved by the President.

Exemption  
from tax.

**22.—**(1) The Agency shall be exempted from the payment of income tax on any income accruing from investment made by the Board for the Agency or otherwise.

(2) The provisions of any enactment relating to the taxation of companies or trust funds shall not apply to the Agency or the Board.

Secrecy.

**23.—**(1) A member of the Board or the Executive Secretary or any other officer or employee of the Agency shall-

(a) not for his personal gain, make use of any information which has come to his knowledge in the exercise of his powers or is obtained by him in the ordinary course of his duty as a member of the Board or as the Executive Secretary, officer or employee of the Agency ;

(b) treat as confidential any information which has come to his knowledge in the exercise of his powers or is obtained by him in the performance of his duties under this Act ; and

(c) not disclose any information referred to under paragraph (b) of this subsection, except when required to do so by a court or in such other circumstances as may be prescribed by the Board from time-to-time.

(2) Any person who contravenes the provisions of subsection (1) of this section commits an offence and is liable on conviction to a fine not less than ₦20,000 or imprisonment for a term not exceeding 2 years or to both such fine and imprisonment.

Interpreta-  
tion.

**24.** In this Act—

“Agency” means Border Communities Development Agency established under section 1 of this Act ;

“Board” means the Governing Board of the Agency Established under section 2 of this Act ;

“Chairman” means the Chairman of the Board of the Agency ;

“Executive Secretary” means the Executive Secretary of the Agency ;

“Fund” means the Fund established under section 9(1) of this Act ;

“Member” means a member of the Board of the Agency and includes the Chairman ;

“President” means the President Commander-in-Chief of the Armed Forces of the Federal Republic of Nigeria.

**25.** This Act may be cited as the Boarder Communities Development Agency (Establishment etc.) Act 2003.

Short Title.



FIRST SCHEDULE

Section 1 (3)

1. Adamawa
2. Akwa-Ibom
3. Bayelsa
4. Benue
5. Borno
6. Cross River
7. Delta
8. Jigawa
9. Katsina
10. Kebbi
11. Kwara
12. Lagos
13. Niger
14. Ogun
15. Ondo
16. Oyo
17. Rivers
18. Sokoto
19. Taraba
20. Yobe
21. Zamfara.

## SECOND SCHEDULE

## Section 2 (3)

## SUPPLEMENTARY PROVISIONS RELATING TO THE BOARD ETC.

1. Subject to this Act and section 27 of the Interpretation Act (which provides for decisions of a 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.

Proceedings  
of the Board  
Cap. 192  
LFN. 1990.

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

3. The quorum at a meeting of the Board shall consist of the Chairman or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule and six other members.

4. The Board shall for the purposes of this Act, meet not less than three times in 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 five other members, he shall summon a meeting of the Board to be held within 14 days from the date on which the notice is given.

5. Where the Board desires to obtain the advice of any person on a 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 sub-paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards a quorum.

6.—(1) Subject to its standing orders, the Board may appoint such number of standing and *ad-hoc* Committees as it thinks fit to consider and report on any matter with which the Agency is concerned.

(2) A committee appointed under this paragraph shall—

(a) consist of such number of persons (not necessarily members of the Board as may be determined by the Board), and a person, other than a member of the Board, shall hold office on the committee in accordance with the terms of his appointment ; and

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

(3) The quorum of any Committee set up by the Board shall be as may be determined by the Board.

(4) A decision of a Committee of the Board shall be of no effect until it is confirmed by the Board.

7. The fixing of the seal of the Agency shall be authenticated by the signature of the Chairman, the Executive Secretary or any other person generally or specifically authorized by the Board to act for that purpose.

Miscellaneous

8. Any contract or instrument which if made by a person not being a body corporate would not be required to be under seal may be made or executed on behalf of the Agency by the Executive Secretary or by any other person generally or specially authorized by the Board to act for that purpose.

9. Any document purporting to be a contract, instrument or other document duly signed or sealed on behalf of the Agency shall be received in evidence and shall unless the contrary is proved, be presumed without further proof to have been so signed or sealed.

10. The validity of any proceedings of the Board or any of its committees shall not be affected by—

- (a) any vacancy in the membership of the Board, or committee ; or
- (b) any defect in the appointment of a member of the Board or committee ; or
- (c) reason that any person not entitled to do so took part in the proceedings of the Board or Committee.

11. A member of a Committee who has a personal interest in any contract or any agreement entered into or proposed to be considered by the Committee shall forthwith disclose his interest to the committee and shall not vote on any question relating to the contract or arrangement.

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

I certify, in accordance with section 2 (1) of the Acts authentication act, CAP. 4, laws of the Federation of Nigeria 1990, that this is a true copy of the bill passed by both houses of the National Assembly.

IBRAHIM SALIM, CON  
*Clerk to the National Assembly*  
*Day of June, 2003*

EXPLANATORY MEMORANDUM

This Act establishes the Border Communities Development Agency charged with the development of border communities, among other things.

**SCHEDULE TO THE BORDER COMMUNITIES DEVELOPMENT AGENCY BILL, 2003**

(1)	(2)	(3)	(4)	(5)
<i>Short Title of the Bill</i>	<i>Long Title of the Bill</i>	<i>Summary of the Contents of the Bill</i>	<i>Date passed by Senate</i>	<i>Date passed by House of Representatives</i>
The Border Communities Development Agency (Establishment, etc.) Bill 2003.	An Act to establish the Border Communities Development Agency, and for related matters.	This Bill seeks to establish the Border Communities Development Agency charged with the development of border communities, among other things.	28-5-2003	6-3-2003

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. 4, Laws of the Federation of Nigeria 1990.

I ASSENT.



IBRAHIM SALIM, CON  
*Clerk to the National Assembly*  
 26th Day of June, 2003

CHIEF OLUSEGUN OBASANJO, GCFR  
*President of the Federal Republic of Nigeria*  
 10th Day of July, 2003