Advanced Healthcare Development Fund
(ESTABLISHMENT). BILL, 2020

ARRANGMENT OF SECTIONS

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SCHEDULE
AN ACT TO ESTABLISH THE ADVANCED HEALTHCARE DEVELOPMENT FUND AND FOR OTHER RELATED MATTERS

Sponsored by Senator Sandy Ojang Onor

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

PART 1 – ESTABLISHMENT OF THE ADVANCED HEALTHCARE DEVELOPMENT FUND AND THE GOVERNING BOARD

Establishment of the Advanced Healthcare Development Fund

1. (1) There is established a Advanced Healthcare Development Fund (in this Act referred to as “the Fund) for the rehabilitation, restoration and consolidation of tertiary health care in Nigeria

(2) The Fund shall be a body corporate with perpetual succession and a common seal and may :-

(a) Sue and be sued in its Corporate name; and
(b) Hold and disposes its property whether movable or immovable

Establishment of the Governing Council

2. (1) There is established for the Fund a Governing Board (in this Act referred to as “the Board”)

(2) The Board shall consist of :-

(a) a Chairman,
(b) one representative each of the following,
i. Ministry of Health
ii. National Health Insurance Scheme
iii. Federal Inland Revenue Service,
iv. Nigerian Institute of Medical Research
v. Representatives from the Nigerian Medical Association
vi. Representatives from The Medical and Dental Council of Nigeria
(c) One person from each of the six geopolitical zones; and
(d) Executive Secretary

(3) The Chairman and members shall be appointed by the President on the recommendation of the Minister.

(4) The president may vary the composition of the Board after consultation with the Minister.

(5) The Performance of the functions or exercise of the powers of the Board shall not be affected by reason of there being a vacancy in the membership of the Board

(6) The appointment of a member shall not be invalidated by reason of a defect or irregularity in or in connection with his nomination or appointment.

(7) Members, other than ex-officio, shall be part-time members

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

Qualifications of Members

3. (1) The chairman shall be:
   a. A professor of medicine with at least 15 years of medical practice

(2) The members shall be:-

(a) Persons with considerable experience in Finance as it relates to Health, Health policy formulation and implementation

(b) Persons with considerable experience in Economics as it relates to Health, Health policy formulation and implementation

Tenure of Members

4. (1) A member other than ex-officio –

(a) Shall hold office for a term of four years and no more; or
(b) May hold office on terms and conditions as may be specified in his letter of appointment.

(2) A member may at any time be removed from office by the president for inability to discharge the functions of his office (whether arising from infirmity of mind or body) or if the President considers that it is not in the interest of the Fund or the public for such member to continue office.

Cessation of membership

5. (1) A member may cease to hold office if:

(a) He is without permission of the Board absent for more than three consecutive meetings for the Board or without such permission is absent from the Country for a period exceeding one year;
(b) In case of a professional who is disqualified or suspended (other than at his own request) from practicing his profession in any part of Nigeria by the order of any competent authority.
(c) A person shall cease to be a member if he:
   i. Becomes bankrupt; or
   ii. Is guilty of serious misconduct in relation to his duties; or
   iii. Is convicted of a felony or any offence involving dishonesty

(2) A member may at anytime resign his membership :-

(a) by giving notice in writing through the Minister to the President and the resignation becomes effective from the date specified in the notice; and
(b) if no date is specified, from the date of the receipt of the notice by the president.

(3) Where a member ceases to hold office for any reason whatsoever before the expiration of his term of office, the President after consulting the Minister may appoint another person for the unexpired term.
Allowances of Members

6. Members shall be paid such allowances as the Federal Government may from time to time direct.

PART II – FUNCTIONS OF THE FUND AND POWERS OF THE BOARD

Functions of the Fund

7. The Fund shall –

(a) Provide or maintain infrastructure essential for tertiary healthcare service delivery
(b) provide or maintain health research and publications
(c) provide or maintain clinical staff training and development; and
(d) any other need which, in the opinion of the Board of Trustees, is critical and essential for the improvement of quality and maintenance of standards in

Powers of the Board

8. The board shall have power to –

(a) make regulations for the management of the fund with the approval of the
   President through the Minister for health on the basis of:
   i. funding of all Federal and State tertiary hospitals
   ii. equality among the six geo-political zones of the Federation in the case
       of special intervention
(b) approve the annual budget of the Fund;
(c) approve all grants for healthcare research, training and development;
(d) approve loan for healthcare investment subject to section 8 (b) of this Act;
(e) review and monitor the activities of the Fund;
(f) approve payment to persons employees by the Fund such remuneration and
    allowances;
(g) give report on all activities of the Fund on quarterly basis through the Minister to
    the President
(h) specify the manner in which assets of the Fund are to be held and regulate
    payment into and out of the Fund.
(i) specify the manner for timely disbursement and recovery (where necessary) of
    loans;
(j) require the keeping of proper accounts and records for the purposes of the Fund in such form as may be specified in the rules;
(k) require the accounts of the Fund to be audited periodically by the Auditor-General of the Federation;
(l) ensure the submit of copies of the accounts and the auditor’s report thereon to the Federal Executive Council through Minister;
(m) monitor the execution of projects; and
(n) Carry out such other activities as may be incidental to the discharge of its function under this Act.

PART III-APPOINTMENT OF THE EXECUTIVE SECRETARY AND OTHER STAFF

Appointment of the Executive Secretary, etc

9. (1) There shall be for the fund an Executive Secretary who shall be appointed by the President on the recommendation of the Minister.

(2) The Executive Secretary shall be a person who in the opinion of the Minister has acquired cognate experience in any of the following disciplines –

(a) Medicine or any healthcare related discipline
(b) Economics
(c) Finance

(3) The Executive Secretary shall be the Chief Executive of the Fund and is responsible for the day-to-day administration of the Fund subject to the general directions of the Board.

(4) The Executive Secretary shall –
   (a) hold office for a term of five years and no more; or
   (b) on such terms and conditions as are specified in his letter of appointment

(5) Notwithstanding, the provision of subsections (4) of this section, the Executive Secretary may be removed from office by the President-
   (a) for inability to discharge the functions of his office (whether arising from infirmity of mind or body or any other cause) or for misconduct, or
   (b) if he is satisfied that it is not in the interest of the service or the public for him to continue in office.

(6) The Executive Secretary may resign his appointment by a letter to the President through the Minister.
(7) The Board may deploy or appoint for the Fund other employees upon such terms and conditions as may be determined by the Board.

(8) Service in the Fund shall be approved service for the purpose of the Pension Reform Act.

**PART IV – FINANCIAL PROVISIONS**

*Account*

10. (1) The Fund shall establish and maintain an account from which shall be defrayed all expenditure incurred by the Fund.

(2) There shall be paid into the account established in subsection 1 of this section the following:
   a. 1% of The Consolidated Revenue Fund
   b. 1% of the Sovereign Wealth Fund
   c. take off grant provided by the Federal Government
   d. monies appropriated by the National Assembly

*Expenditure*

11. The Board may from time to time, apply the proceed of the account established in section 10 (1) of this Act to –

   a) the cost of administration of the Fund;
   b) the payment of the allowances and benefits of members and for reimbursing members of any committee set up by the Board for such expenses as may be expressly authorised by the Board;
   c) the payment of salaries, remuneration or allowances, pensions and other benefits payable to the officers, and other employees of the Fund, 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 emolument from the Federal or State Government; and
   d) the development and maintenance of any property vested in or owned by the Fund.
Annual Accounts and Estimates

12. (1) The Fund shall keep accounts in respect of each year and proper records in relation to those accounts and shall cause to be prepared in each year –
   a) a statement showing the income and expenditure of the Fund for the preceding year; and
   b) a statement of all assets and liabilities of the Fund as at the last day of the preceding year

(2) The Fund shall cause every statement prepared under this Section to be audited within six months after the end of the year to which the statement relates by auditors from the list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

(3) The fund shall submit to the Minister, not later that 31st August in each year, as estimate of its expenditure and income during the next succeeding year.

Annual Report, Audited Accounts and Auditor’s Report

13. (1) The fund shall prepare and submit to the Minister not later than six months after the end of the year a report, in such form as the Minister may direct, on the activities of the Fund during the immediate preceding year and shall include in the report a copy of the audited accounts of the Fund for that year and auditor’s report thereon.

(2) The Minister shall submit a copy of each report made to him under this section to the Federal Executive Council.

Powers to accept gifts

14. (1) The Fund 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 gift.

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

Power to borrow

15. (1) The Fund may, from time to time, borrow by way of overdraft or otherwise such sums as it may require for the performance of its functions under this Act.
(2) The Fund shall not, without the approval of the Minister, borrow money which exceeds at any time, the amount set by the Government as the limit of the authority of the Fund.

(3) Where the sum to be borrowed is in foreign currency, the Fund shall seek and obtain the approval of the Minister through the Board.

PART V – LEGAL PROCEEDING

Limitation against suit

16. (1) No suit shall be instituted – in any court against the Fund or its employee unless it is commenced –

a) within three months next after the act, neglect or default complained of; and
b) in the case of continuation of damage or injury, within three months next after the ceasing thereof

(2) No suit shall commence against the Fund before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Fund by the intending plaintiff or his agent and the notice shall clearly state –

a) cause of action;
b) particulars of claim;
c) the name and place of abode of the intending plaintiff; and
d) the relief which he claims

Service of Documents

17. A notice, summons or other documents required or authorized to be served upon the Fund under the Provisions of this Act or any other law or enactment may be served by:-

a) delivering it to the office of the Executive Secretary; or
b) by sending it by registered post addressed to the Executive Secretary or the Principal office of the Fund.
Restriction on Execution

18. (1) In any action or suit against the Fund, no execution or attachment of process in any nature thereof shall be issued against the Fund unless not less than three months' notice of the intention to execute or attach has been given to the Fund.

(2) Any sum of money maybe which by the judgement of any court awarded against the Fund ought to subject to any direction given by the court where no notice of appeal against the judgement has been given, be paid from the account of the Fund.

Indemnity

19. A member, the Executive Secretary or any employee of the fund shall be indemnified out of the asset of the Fund against any liability incurred by him in defending any proceeding, whether civil or criminal, if any such proceeding is brought against him in his capacity as a member, Executive Secretary or employee of the Fund.

PART VI — MISCELLANEOUS

Directives

20. Subject to the provisions of this Act, the President may give to the Fund directives of a general nature or relating generally to matters of policy with regard to the performance by the Fund of its functions and it shall be the duty of the Fund to comply.

Direction by the Minister

21. Subject to the provision of this Act, the Minister may give to the Board directions of general nature relating to matters of policy with regard to the exercise by the Board of its functions and the Board shall comply with such directions.

Power to make regulations

22. The minister may make regulations generally for the purpose of giving full effect to this Act.
Fixing of seal

23. The fixing of the seal of the Fund shall be authenticated by the signature of the Executive Secretary and the Secretary.

Interpretation

24. In this Act –

“Board” means the Governing Board of the Fund established by section 2 of this Act;
“Chairman” means the Chairman of the Board;
“Functions” includes power and duty;
“Fund” means the Fund established by section 1(1);
“Executive Secretary” is the Chief Executive of the Fund and Chairman of the Management committee;
“Member” means an individual representing an organization or institution in (the Board and includes the Chairman and Executive Secretary);
“Minister” means the Minister charged with the responsibility for matters relating to Healthcare

Short title

25. This Bill may be cited as the Advanced Healthcare Development Fund (Establishment) Bill, 2020.

SCHEDULE (1)
SUPPLEMENTARY PROVISIONS RELATING TO THE PROCEEDINGS OF THE BOARD

1. Before appointing a person as a member, the Minister shall satisfy himself that, that person will have no such interest or owe such allegiance as likely to affect prejudicially the discharge by him of his functions as a member and that he has no such interest; and any person who is or whom the Minister proposes to nominate as a member shall, whenever requested by the Minister considers necessary for the performance by the Minister of his duties under this Act.
2. (1) Subject to this Act and Section 27 of the Interpretation Act (which provides for the decisions of a statutory body to be taken by a majority of the members of the body and for the persons presiding to have a second or casting vote), the Board may make standing orders regulating its proceedings or of any committee thereof.

(2) The quorum at a meeting shall be a third of the members of the meeting.

3. (1) The Board shall 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 the Chairman is required to do so, by notice to him by not less than seven members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

(2) At any meeting of the Board, the Chairman shall preside but if he is absent, the members present at the meeting shall elect one of their members to preside provided there is a quorum.

4. Where the Board wishes to obtain the advice of any person on any particular matter, the Board may invite any person as it thinks fit, but any person who is invited 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.

5. (1) The Board may appoint one or more committees to carry out, on behalf of the Board, such of its functions as the Board may determine.

(2) Every Committee appointed under this paragraph shall consist of such number of persons as may be determined by the Board and not more than one third of those persons may be persons who are not members of the Board.

(3) A decision of a committee of the Board shall be of no effect until it is ratified by the Board.

6. (1) Where member has an interest in any application for loan for any project made or proposed by any beneficiary shall disclose his interest at a meeting of the Board.

(2) Such disclosure shall be recorded in the minute of the meeting and the member shall not take part after such disclosure in any deliberation or decision of the Board with regard to that particular subject matter in respect of which his interest was disclosed.
EXPLANATORY MEMORANDUM

This Bill establishes the Advanced Healthcare Development Fund for the purposes of providing funding for Healthcare development.