



NATIONAL METALLURGICAL DEVELOPMENT CENTRE ACT

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NATIONAL METALLURGICAL DEVELOPMENT CENTRE ACT

An Act to establish the National Metallurgical Development Centre with responsibility for carrying out research into mineral ores produced in Nigeria and for matters connected therewith.

[1992 No. 50.]

[27th September, 1992]

[Commencement.]

PART I

Establishment of the National Metallurgical Development Centre

1. Establishment of the National Metallurgical Development Centre

- (1) There is hereby established a body to be known as the National Metallurgical Development Centre (in this Act referred to as "the Centre").
- (2) The Centre shall be a body corporate with perpetual succession and a common seal.
- (3) The Centre may sue or be sued in its corporate name and may for the purposes of its functions under this Act and subject to the Land Use Act, hold, acquire and dispose of any property movable or immovable.

1. Membership of the Governing Board of the Centre

- (1) There is hereby established for the Centre a Governing Board which shall comprise-

- (a) a chairman to be appointed by the President on the recommendation of the Minister;
- (b) one representative of the Federal Ministry of Power and Steel;
- (c) one representative of the Ajaokuta Steel Company;
- (d) one representative of the Nigerian Coal Corporation;
- (e) one representative of the National Iron Ore Mining Company; one representative of the Federal Ministry of Finance;
- (f) one representative of the National Planning Commission;
- (g) one representative of the Manufacturers Association of Nigeria (Steel Group);
- (h) three other persons to be appointed by the President on the recommendation of the Minister, being persons of proven integrity who by reason of their ability, experience and specialised knowledge of the metallurgical and allied industries, or by reason of their professional or business attainment are, in the opinion of the Minister, capable of making useful contributions to the work of the Centre; and
- (i) the Director of the Centre.
- (2) The supplementary provisions contained in the Schedule to this Act shall have effect with respect to the tenure of office of members, the proceedings of the Board and the other matters therein contained.

3. Functions of the Board

The Board shall be responsible for-

- (a) the formulation of the broad policy for the Centre in accordance with such guidelines as may, from time to time, be issued by the Federal Government; and
- (b) ensuring full compliance with the provisions of this Act.

PART II

Functions of the Centre

4. Functions of the Centre

The functions of the Centre shall be to-

- (a) undertake, through laboratory research and tests, mineralogical appraisal, examination and evaluation of mineral ore samples for the purpose of ascertaining the mineral species contained therein;
- (b) carry out liberation studies, characterisation and identification of ores and other material microstructural components, designed to disengage mineral species, so as to release their valuable grain constituents for industrial use;
- (c) up-grade the qualities of Nigerian low-grade ores and minerals through beneficiation techniques and processes with a view to achieving an efficient and economic extraction of the materials contained therein with the purpose of ensuring self-sufficiency and rendering unnecessary the importation of such ores or metals as are produced therefrom
- (d) carry out applied research on and develop both conventional and new refractory products using indigenous mineral raw materials;
- (e) conduct applied research into the quality of coals available in Nigeria and develop metallurgical coke from indigenous coal samples;
- (f) develop substitutes for strategic ferrous and non-ferrous alloys by increasing the adaptation and use of locally produced mineral raw materials as alloying elements to be used in the nation's metallurgical and allied industries;
- (g) improve the performance of the processes used in the metallurgical and allied industries through the application of fundamental scientific knowledge to the solution of problems related to steel production, fabrication and utilisation;
- (h) conduct research into foundry problems associated with Nigeria's metallurgical and allied industries with particular emphasis on problems relating to foundry moulding materials, smelting operations and casting techniques;

- (i) design and develop pilot flow-sheets for various metallurgical processes, especially for the economic standardisation and beneficiation of locally produced ores;
- (j) study fundamental aspects of metals and alloys and determine failure nodes in engineering components and structures with particular emphasis on proofs and failure stresses of steels and defects in steel ingots and rolled products;
- (k) develop and fabricate standard samples of machine tools and other engineering components and structures for analytical purposes with a view to their eventual adaptation and use on a large scale in the metallurgical and allied industries;
- (l) carry out intensive studies and research into the effects of toxic industrial effluent discharged from metallurgical and allied industries;
- (m) identify pollution patterns of various metallurgical and non-metallurgical industrial establishments and devise proper modes of controlling or eradicating effluent from such establishments;
- (n) develop enamelling and other techniques for the surface coating of metals including electroplating, galvanising and anodic protection, and study problems relating to corrosion of metals and alloys and modes of preventing them;
- (o) render both public and private establishments engaged in the metallurgical and allied industries, consultancy and technical services at various stages, (including exploration, processing, smelting, design and fabrication stages) and charge fees for such services;
- (p) liaise, collaborate and enter into joint ventures with other institutions whether in Nigeria or elsewhere whose functions are in one way or the other related to those of the Centre or which may require the services of the Centre;
- (q) establish, organise, run, operate, conduct and participate in such training courses, lectures, seminars, conferences, symposia and similar study groups as may enhance the activities of the Centre or the efficiency of any of its officers and employees;

(r) establish such facilities and do such other things which are conducive to the discharge of its functions under this Act; and

(s) commercialise any of its scientific break-throughs for the benefit of Nigerian industries as may be approved by the Board and in accordance with relevant Nigerian laws.

5. Power of Minister to give directions

Subject to this Act, the Minister may give to the Centre directions of a general character or relating generally to particular matters (but not to any individual person or on any particular case) with regard to the carrying out of the functions of the Centre under this Act and it shall be the duty of the Centre to comply with such directions.

PART III

Staff of the Centre

6. Appointment of the Director and principal officers of the Centre

(1) There shall be appointed for the Centre an officer to be designated as the Director of the Centre who shall be the chief executive of the Centre and shall be responsible for the day-to-day running and management of the affairs of the Centre.

(2) The Director shall be appointed by the President on the recommendation of the Minister.

(3) The Director shall be of the rank of a Permanent Secretary in the public service of the Federation.

(4) The Director shall be a person who possesses a qualification in metallurgy, mineral process engineering, industrial chemistry or any of the pure and applied sciences, from a recognised university or cognate institution and has since his qualification been actively employed or engaged in the metallurgical or allied industry in a managerial capacity for a continuous period of not less than ten years.

(5) The Director shall hold office in the first instance for a period of five years and shall be eligible for a reappointment for such further term of five years as the President may, from time to time, determine.

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

(7) There shall be appointed for the Centre such number of officers as may be expedient to be designated as Deputy Directors who shall be appointed by the Board.

(8) A Deputy Director appointed pursuant to subsection (7) of this section shall be a person who possesses the qualification and experience prescribed in respect of the office of the Director under subsection (4) of this section.

(9) There shall be appointed for the Centre such number of Assistant Directors as the Board may, from time to time, determine to assist the Director in the performance of his functions under this Act.

(10) The qualification and experience required for eligibility for appointment as an Assistant Director shall be as may be determined by the Board.

7. Other staff of the Centre

(1) The Board may appoint such other persons as employees of the Centre as it may consider necessary.

(2) Where the Board thinks it expedient that a staff vacancy in the Centre should be filled by a person holding an office in any of the public services in the Federation the Board may appoint that person by way of transfer or secondment from the service concerned.

(3) Where a person is seconded pursuant to subsection (2) of this section, he shall be notified of the terms and conditions of the secondment and the secondment shall be without prejudice to any pension rights which, but for the secondment, would still accrue to him.

(4) A person seconded under subsection (2) of this section may elect to be transferred to the staff of the Centre, in which case any previous service in any of the public service shall count as services for the purposes of any pension subsequently payable to the person under the Centre.

(5) Where a person is transferred from a public service to the Centre-

- (a) that person's former service in the relevant public service shall be taken into account in applying the provisions of the Pensions Act; and
- (b) the Pensions Act shall have effect as if that person's service with the Centre were service in the relevant public service.

9. Service in the Centre to be pensionable

- (1) Notwithstanding the provisions of the Pensions Act, service in the Centre shall be approved service for the purposes of that Act and, accordingly, officers and other persons employed in the Centre shall be entitled to such pensions, gratuities and other retirement benefits as are prescribed thereunder, so however that nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of a pension and gratuity in respect of that office.
- (2) For the purposes of the application of the provisions of the Pensions Act, any power exercisable thereunder by a Minister or other authority of the Government of the Federation, other than the power to make regulations under section 23 thereof, is hereby vested in and shall be exercisable by the Centre and not by any other person or authority.

9. Conditions of service of officers and staff

Without prejudice to the provisions of section 6 of this Act, the terms and conditions of service, including terms and conditions as to remuneration, allowances, retiring and other benefits of the officers and servants of the Centre, shall be such as may be determined by the Board with the approval of the Minister.

10. Power to enter land and payment of compensation

- (1) Subject to subsections (2) and (3) of this section, the Centre shall have power by its officers, employees, workmen or agents, from time to time, to enter upon land for the purposes of discharge of the Centre's functions under this Act and in particular may enter upon the land for the purpose of-
 - (a) surveying the land or taking levels in connection with any survey;
 - (b) carrying on drilling, quarrying, excavation or trenching activities thereon;
 - (c) constructing any structure and placing, maintaining, examining, repairing, altering or removing any installation or beacon for the purpose of survey as aforementioned;

- (d) cutting down or removing such trees and underwood that may interfere with such surveyor other activities as aforementioned;
- (e) carrying out such other relevant activities necessary to give effect to the functions of the Centre as set out in section 4 of this Act.
- (2) The Centre shall, when practicable, serve on the occupier of any land upon which it intends to enter pursuant to subsection (1) of this section, a notice which shall be in writing, giving a description of the nature of the works intended to be executed on the land.
- (3) In discharging the functions of the Centre pursuant to subsection (1) of this section, the officers, workmen, servants or agents referred to therein may remain on any such land for such reasonable time as may enable them to execute and do all such works and things as may be necessary.
- (4) The Centre shall not construct, place, maintain, examine, repair, alter or remove any beacon in or upon any land under the control of a department or other public authority without the prior approval of the head of department or public authority concerned.
- (5) In the exercise of the powers conferred under this section, the members of the Board and the officers, employees, workmen or agents of the Centre shall ensure that as little damage as may be reasonable in the circumstance is done and the Centre shall pay adequate compensation for any damage done to any buildings, installations, crops or economic trees.
- (6) Where there is a dispute as to the amount of compensation payable, the procedure for the computation of such compensation shall be as prescribed in section 29 of the Land Use Act or in accordance with any regulations or instrument made in that behalf by the Government of the State in which the land is situated.

11. Power to acquire **land**

- (1) The Centre may, subject to the Land Use Act, acquire any land for the purpose of discharging its functions under this Act.
- (2) If there is any hindrance to the acquisition of any land by the Centre under this Act (including any failure by the Centre to reach an agreement as to the amount to be paid in respect of the acquisition), the Centre may apply to the Minister for a declaration under subsection (3) of this section.

(3) The Minister, on receiving an application from the Centre and after such enquiry as he may think fit, may request the Governor of the State in which the land is situated to declare that the land is required for the service of the Centre and accordingly for an overriding public purpose.

(4) Where a declaration is made under subsection (3) of this section, the land to which the declaration relates shall be deemed to be land required for the public purpose of the Federation within the meaning of the Land Use Act and the Centre shall acquire the land accordingly.

(5) Where a declaration has been made under subsection (3) of this Act in respect of any land and-

(a) the land has been acquired pursuant to subsection (4) of this section; or

(b) the Governor of the State concerned is satisfied that there are no rights subsisting in respect of the land, the Governor may vest the land in the Centre by issuing a certificate of occupancy in respect thereof in favour and in the name of the Centre.

(6) The compensation, if any, payable under the Land Use Act for the acquisition of any land under this section or for the revocation of any rights relating to the land, where applicable, shall in the first instance be paid by the Federal Government but the Centre shall refund to that Government any compensation so paid and all incidental expenses incurred by that Government.

(7) A plan of any land referred to in subsection (2) of this section-

(a) containing measurements of the boundaries of the land;

(b) showing the relationship of the land to any sufficient identifying mark;
and

(c) signed by the Director, shall be a sufficient description of the land for the purposes of an application under that subsection.

(8) The Centre shall not, without the approval in writing of the Governor of the State in which the land is situated, alienate, mortgage, charge or otherwise demise any immovable property which has been vested in the Centre under this section or in respect of which a right of occupancy has been so granted to the Centre.

PART IV

Funds of the Centre and other financial provisions

12. Funds of the Centre

(1) The Centre shall establish a fund which shall consist of-

- (a) such sums as may be provided to it by the Government of the Federation for running the affairs of the Centre;
- (b) such sums as may be collected or received by the Centre for services rendered by the Centre;
- (c) such sums as may, from time to time, be lent to the Centre by any person;
- (d) such other sums as may be received by the Centre from any other source.

(2) The other resources of the Centre shall consist of all other assets which may, from time to time, be vested in or accrue to the Centre in the course of discharging its functions under or pursuant to this Act.

(3) The Centre may, from time to time, apply the proceeds of the fund established in pursuance of subsection (1) of this section for the following purposes, that is-

- (a) to the cost of administration of the Centre and any research work carried on by or on behalf of the Centre;
- (b) to the provision of such training for employees of the Centre as the Board may deem necessary;
- (c) to reimburse members of the Board and the committees of the Centre for such expenses as may be expressly authorised by the Board; and
- (d) in connection with all or any of its functions under this Act or under any other written law.

13. General reserve

- (1) Without prejudice to the power of the Centre to set aside from revenue appropriate amounts for replacement, contingencies or other purposes, the Centre may establish and maintain a general reserve.
- (2) The management of the general reserve, the sum to be carried, from time to time to the credit of the general reserve, the charges to be made against the general reserve and any other application of the moneys comprised therein shall be as the Board may, with the approval of the Minister, determine.
- (3) No part of the money comprised in the general reserve shall be applied otherwise than for the purpose of the Centre.

14. Power to borrow and invest

- (1) The Centre may, with the consent of or in accordance with any general authority given by the Minister, borrow by way of loan from the Federal Government or by way of temporary overdraft approved by the Minister, sums required by the Centre for meeting its functions under this Act.
- (2) The Centre may invest all or any of its fund in such manner as may be approved by the Minister.
- (3) Subject to section 5 of this Act, the Minister may, with the approval of the President, issue to the Centre directions as to the disposal of surplus funds.

15. Annual estimates, accounts and audit

- (1) The Board shall prepare and submit to the Minister not later than 30 September of the year in which this subsection comes into force (so however that the Minister may, if he considers it necessary, extend the period) and of each subsequent year, an estimate of its income and expenditure during the next succeeding year.
- (2) The Board shall keep proper accounts in respect of each year and proper records in relation to those accounts and shall cause its accounts to be audited within six months after the end of each year to which the accounts relate by auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.

16. Annual report

(1) The Centre shall prepare and submit to the Minister not later than eighteen clear months after its establishment and once every year thereafter a report in such form as the Minister may direct on the activities of the Centre during the last preceding year and shall include in the report a copy of the audited accounts of the Centre for that year and of the auditors' report on the accounts.

(2) The Minister shall cause a copy of each report made to him under this section to be submitted to the President so soon after the receipt thereof as may be convenient.

(3) For the purposes of the first report of the Centre under this section, the last preceding year shall be deemed to include so much of any period before the beginning of that year as begins with the date of the first meeting of the Board.

PART V

Miscellaneous

17. Limitation of suits against the Centre

(1) Subject to the provisions of this Act, the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Centre.

[Cap. P41.]

(2) Notwithstanding anything in any other enactment, no suit against a member of the Board, a Director, or any other officer or employee of the Centre for any act done in pursuance or execution of this Act or any other enactment or law, or of any public duty or authority, or in respect of any alleged neglect or default in the execution of this Act or such enactment or law, duty or authority, shall lie or be instituted in any court unless -

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

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

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

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

18. Service of documents

A notice, summons or other document required or authorised to be served upon the Centre under the provisions of this Act or any other enactment or law, may be served by delivering it to the chairman or the Director or by sending it by registered post and addressed to the Director at the principal office of the Centre.

19. Restriction on execution against the property of the Centre

(1) In any action or suit against the Centre, no execution or attachment or process in the nature thereof shall be issued against the Centre.

(2) Any sums of money which may by the judgment of the court be awarded against the Centre shall, subject to any directions given by the court where notice of appeal has been given by the Centre in respect of the said judgment, be paid by the Centre from the general reserve fund of the Centre. **20. Indemnity of officers**

A member of the Board, the Director, any officer, servant or employee for the time being of the Centre, shall be indemnified out of the assets of the Centre against any liability incurred by him in defending any proceedings, whether civil or criminal, in which judgment is given in his favour, or in which he is acquitted, if any such proceeding is brought against him in his capacity as such member of the Board, Director, officer or any employee of the Centre.

21. Dissolution of existing Centre

(1) The National Metallurgical Development Centre hitherto operating under the National Steel Council established under the National Steel Council Act, is hereby dissolved.

[Cap. N76.]

(2) A person who immediately before the commencement of this Act was a member of staff or an employee of the dissolved Centre shall, as from the commencement of this Act, become the holder of an appointment in the Centre with the status, rank, designation and functions which correspond as far as possible to those which appertained to him as a member of that staff or as such an employee.

(3) All assets, rights, liabilities and obligations which immediately before the commencement of this Act were assets, rights, liabilities and obligations of the dissolved Centre shall, by virtue of this Act and without further assurance, vest in or be taken over by the Centre.

(4) Anything made or done or having effect as if made before the commencement of this Act by the dissolved Centre and having any resulting or continuing effect shall be treated as from the commencement of this Act as if it were made or done by the Centre.

22. Regulations

The Centre may make regulations generally for carrying into effect the provisions of this Act.

23. Interpretation

In this Act, unless the context otherwise requires -

"Board" means the Board of the Centre;

"Centre" means the National Metallurgical Development Centre established under subsection (1) of section 1 of this Act;

"chairman" means the chairman of the Board;

"member" means a member of the Board and includes the chairman;

"mineral" means any solid mineral or raw material excluding petroleum;

"Minister" means the Minister charged with responsibility for power and steel.

24. Short title

This Act may be cited as the National Metallurgical Development Centre Act.

SCHEDULE

[Section 2 (2).]

Supplementary provisions relating to the Board

Tenure of officer of members

1. Subject to paragraph 3 of this Schedule, a member who is not a public officer shall hold office on first appointment for a period of four years beginning with the date of his appointment and at the expiration of that period for a further period of four years.
2. A member of the Board who is a public officer shall cease to be such a member upon his ceasing to hold the office entitling him to be appointed as a member of the Board.
3. Any member of the Board may at any time be removed from office for inability to discharge the functions of his office or for misconduct or on his conviction for a criminal offence involving dishonesty, fraud or moral turpitude.
4. A member of the Board shall be paid reasonable allowance as may be determined by the Board with the approval of the Minister.

Proceedings of the Board

5. Subject to the provisions of this Schedule and section 27 of the Interpretation Act, the Board may make standing orders for regulating its proceedings or the proceedings of any of its committees.
6. The quorum at any meeting of the Board shall be the chairman or an *ex officio* member and three other members and the quorum of any committee set up by the Board shall be as determined by the Board.

7. The chairman shall preside at all meetings at which he is present and in his absence, the members may elect one of their number to preside at the meeting.

8. (1) The Board shall meet not less than once in every six months and subject to provisions of any standing orders of the Board, it shall meet at such times as it may be summoned by the chairman.

(2) If the chairman is required so to do by notice in writing given to him by not less than three other members, he shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.

9. Where the Board desires to obtain the advice or services of any person on any particular matter, it may co-opt that person as a member for such period as it thinks fit, provided that a person so co-opted shall not be entitled to vote nor shall he count towards a quorum.

10. The first meeting of the Board shall, notwithstanding the other provisions of this Schedule, be summoned by the Minister and subject as hereafter provided, any other meeting shall be convened by the chairman.

Committees

11. (1) The Board may appoint such number of committees, whether standing or *ad hoc*, to perform such of its functions as the Board may direct.

(2) No decision of any committee of the Board shall take effect until it is confirmed by the Board.

(3) Every committee appointed by the Board under the foregoing provisions of this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons, not necessarily all members of the Board, as the Board may determine in each case.

Miscellaneous

12. The fixing of the seal of the Centre shall be authenticated by the signature of the chairman (or of some other members authorised either generally or specifically by the Board to act in that behalf) and of the Director.

13. Any contract or instrument which if made or executed by a person not being a body corporate will not be required to be under seal, may be made or executed on behalf of the Centre by any person generally or specially authorised by the Board to act for that purpose.

14. Any document purporting to be a document executed under the seal of the Centre and authenticated as aforesaid shall be received in evidence and shall, unless the contrary is proved, be presumed to be so executed.

15. Any member of the Board who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board shall forthwith disclose his interest to the Board and shall not vote on any question relating to the contract or arrangement.

SUBSIDIARY LEGISLATION

No Subsidiary Legislation



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