

Extraordinary



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ENVIRONMENTAL IMPACT ASSESSMENT BILL, 2018

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A BILL [EXECUTIVE]

FOR

AN ACT TO REPEAL THE ENVIRONMENTAL IMPACT ASSESSMENT ACT, CAP. E12, LAWS OF THE FEDERATION OF NIGERIA, 2004; AND ENACT THE ENVIRONMENTAL IMPACT ASSESSMENT ACT, 2018, TO SET OUT GENERAL PRINCIPLES, PROCEDURES AND METHODS TO ENABLE THE PRIOR CONSIDERATION OF ENVIRONMENTAL IMPACT ASSESSMENT ON CERTAIN PUBLIC OR PRIVATE PROJECTS AND FOR RELATED MATTERS

[] Commencement

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

1 PART I - GENERAL PRINCIPLES OF ENVIRONMENTAL IMPACT

2 ASSESSMENT

3 1. The objectives of any Environmental Impact Assessment (in
4 this Act referred to as "the assessment") are to:

Objectives of
Environmental
Impact Assessment

5 (a) establish before a decision is taken by any proponent, or person,
6 including authority, corporate body or unincorporated body including the
7 Government of the Federation, State or Local Government intending to
8 undertake or authorise the undertaking of any activity that may likely or to a
9 significant extent affect the environment, or have an environmental effect
10 that may likely or to a significant extent affect the environment on those
11 activities and which shall first be taken into account;

12 (b) promote the implementation of appropriate policies consistent
13 with all laws and decision making processes through which the goal and
14 objective in paragraph (a) of this Section may be realised; and

15 (c) encourage the development of procedures for information
16 exchange, notification and consultation between organs and persons where
17 proposed projects or activities are likely to have significant environmental
18 effects on boundary, National or interstate, or on the environment of

	1	bordering towns, villages and communities.
Restriction on Public or Private Projects	2	2.-(1) The public or private sector of the economy shall not undertake
	3	or embark on or authorise projects or activities, without prior consideration, at
	4	an early stage, of their environmental effects.
	5	(2) Where the extent, nature or location of a proposed project or
	6	activity, is such that it is likely to significantly affect the environment, its
	7	Environmental Impact Assessment shall be undertaken in accordance with the
	8	provisions of this Act.
	9	(3) The criteria and procedures under this Act, or Regulations or
	10	Guidelines made pursuant to it, shall be used to determine whether an activity
	11	is likely to significantly affect the environment and is therefore subject to an
	12	Environmental Impact Assessment.
Registration of Projects	13	3. A project proponent whether public or private except where
	14	exempted pursuant to this Act, shall formally register details of the proposed
	15	project with the Ministry prior to its commencement, in accordance with the
	16	provisions of this Act.
Identification of significant Environmental factors and issues	17	4.-(1) Under this Act, the relevant significant environmental factors
	18	and issues to be identified shall include but not be limited to the following
	19	(a) population and human health;
	20	(b) biodiversity and eco-system services;
	21	(c) land, soil, water, air and climate change;
	22	(d) carrying capacity and resilience;
	23	(e) heritage assets, culture and landscape;
	24	(f) economic and social impacts;
	25	(g) sustainable development; and
	26	(h) risk and disaster management.
	27	(2) The interaction between a proposed project or activity, factors and
	28	issues listed in subsection (1) (a) to (h) of this section that may likely have direct
	29	or indirect cumulative, short term and long term significant effects on the
	30	environment, shall be identified and studied before commencement of the

1 project or activity.

2 (3) Where appropriate, all efforts shall be made to identify all
3 environmental factors and issues at an early stage in the process.

4 5. An Environment Impact Assessment shall include at least the
5 following:

Minimum content
of an Environmental
Impact Assessment

6 (a) a description of the location of the proposed project or activity;

7 (b) a review of all applicable administrative and legal framework;

8 (c) a description of all actions and processes relevant to the
9 proposed project or activity;

10 (d) an evaluation of alternatives to the proposed project, and
11 justification for the preferred option;

12 (e) a description of the baseline environmental social, economic
13 and health status of the project location;

14 (f) evidence of consultation and public participation with relevant
15 stakeholders including Federal State, Local Governments and community
16 where the proposed project is to be located;

17 (g) an assessment of the likely or potential environmental, health,
18 social, cultural, economic, physical, and biological impacts of the proposed
19 activity and the alternatives, including the direct or indirect cumulative,
20 short-term and long-term effects;

21 (h) an identification and description of measures available to
22 mitigate adverse environmental impacts of the proposed activity and
23 assessment of those measures;

24 (i) the development of an Environmental Management Plan
25 (HEMP") for sustainable management and continual improvements
26 throughout the life cycle of the project;

27 (j) an indication of gaps in knowledge and uncertainty which may
28 be encountered in computing the required information;

29 (k) an indication of whether the environment of any other state,
30 Local Government Area or areas outside Nigeria is likely to be affected by

	1	the proposed activity or its alternatives; and
	2	(1) a brief and non-technical summary of the information provided
	3	under paragraphs (a) to (k) of this section.
Degree of Environmental Significance	4	6. -(1) The environmental effects in an environmental assessment
	5	shall be assessed with a degree of detail commensurate with their likely
	6	environmental significance.
	7	(2) The degree under sub-section (1) of this section shall be in
	8	accordance with the provisions of any Regulations or Guidelines made
	9	pursuant to this Act.
Examination of Environmental Impact Assessment by the Minister	10	7. -(1) The Minister shall examine the information provided as the
	11	Environmental Impact Assessment of a project or activity before making a
	12	decision.
	13	(2) Upon carrying out an examination pursuant to subsection (1) of
	14	this section, the Minister shall approve the project or activity, or:
	15	(a) give a conditional approval and state the condition;
	16	(b) deny approval and state reason for the denial; or
	17	(c) refer to the proponent for more information or evidence.
Public Participation	18	8. The public shall be given the opportunity to participate, make
	19	comments and access information on the Environmental Impact Assessment of
	20	the project or activity before a decision on a project or an activity to which an
	21	environmental assessment has been produced.
Period for making a decision by the Minister	22	9. The Minister shall not give a decision as to whether a proposed
	23	project or activity should be authorised or undertaken until 21 working days
	24	have lapsed, to consider comments pursuant to sections 8 and 16 (f) of this Act.
Decision on the Effect of an Environmental Impact Assessment	25	10. -(1) The decision of the Minister on any proposed activity subject
	26	to Environmental Impact Assessment shall:
	27	(a) be in writing;
	28	(b) state the reason for the decision; and
	29	(c) include the provisions, if any, to prevent, reduce or mitigate
	30	damage to the environment.

1 (2) The decision of the Minister shall be made available to any
2 interested person or group.

3 (3) It shall be the duty of the Minister to publish his decision in a
4 manner by which members of the public or persons interested in the project
5 or activity shall be notified.

6 (4) The Minister may determine an appropriate method in which
7 the decision shall be published so as to reach interested persons or groups.

8 **11.** Where a decision on a project or an activity which has been
9 subjected to Environmental Impact Assessment has been made, the project
10 or activity and its effects on the environment shall be subject to appropriate
11 supervision, monitoring and follow-up by the Ministry.

Supervision of
the Project or
activity

12 **12.**-(1) where the information provided as part of Environmental
13 Impact Assessment indicates that the environment within another State in
14 the Federation or a Local Government Area is likely to be significantly
15 affected by a proposed project or activity, the Minister shall:

Notification to a
potentially affected
State or Local
Government Area

16 (a) notify the potentially affected State or Local Government of the
17 proposed activity;

18 (b) transmit to the affected State or Local Government Area any
19 relevant information of the environmental impact assessment; and

20 (c) enter into timely consultations with the affected State or Local
21 Government.

22 (2) The Minister shall ensure compliance with the provisions of
23 subsection (1) of this section and investigate any environmental degradation
24 or hazard that may occur during the implementation of a project or activity.

25 (3) Where the information provided as part of Environmental
26 Impact Assessment indicates that the environment within neighbouring
27 country is likely to be significantly affected by proposed project or activity,
28 the Minister shall inform the relevant government authority which shall
29 notify the neighbouring country of the proposed project or activity.

Mandatory Study
List

1 **13.**-(1) Where a project is described on the Mandatory Study List
2 specified in the Schedule to this Act or is referred to a Review Panel or
3 Mediation, no Federal, State or Local Government or any of their Authorities
4 or Agencies shall exercise any power or perform any duty or function that
5 would permit the project or activity to be carried out in whole or in part until the
6 Minister has taken:

7 (a) action in accordance with his power under this Act: or

8 (b) a decision or issued an order that the project or activity may be
9 carried out with or without conditions.

10 (2) Where the Minister has given a condition before the carrying out
11 of the project or activity, the condition shall be fulfilled before a person or
12 authority shall embark on the project or activity.

13 PART II - ENVIRONMENTAL ASSESSMENT OF PROJECTS

Cases where
Environmental
Impact Assessment
is required

14 **14.** Notwithstanding the provisions of Part I of this Act, an
15 Environmental Impact Assessment shall be required where person, corporate
16 body, financial institution, Federal, state or Local Government Authority or an
17 Agency established by the Federal, State or Local Government Authority:

18 (a) is the proponent of the project and does any act or activity which
19 commits the Federal, State or Local Government Authority to carrying out the
20 project or activity in whole or, in part;

21 (b) makes or authorises payment or provides a guarantee for a loan or
22 any other form of financial assistance to the proponent for the purpose of
23 enabling the project to be carried out in whole or in part, except where the
24 financial assistance is:

25 (i) in the form of any reduction, avoidance, deferral, removal, refund,
26 remission or other forms of relief from the payment of any tax, duty or excise
27 under Customs Excise Tariff etc (Consolidated) Act or any Regulation or Order
28 made pursuant thereto; or

29 (ii) provided for the purpose of enabling an individual project
30 specifically named in the enactment, regulation or order that provides the relief

1 to be carried out;

2 (c) has the administration, leases or otherwise disposes lands on or
3 any interest in those lands or transfers the administration and control or
4 interest in the land in favour of the Federal, State and Local Government or
5 its Agencies for the purpose of enabling the project to be carried out in whole
6 or in part; or

7 (d) under the provisions of any law or enactment, issues a permit or
8 licence, grants an approval or takes any other action for the purpose of
9 enabling the project to be carried out in whole or in part.

10 **15.** An Environmental Impact Assessment of a project or activity Excluded Projects
11 may not be required where the:

12 (a) President is of the opinion that the environmental effects of the
13 project or activity are likely to be minimal after due scientific technical and
14 socio-economic considerations;

15 (b) project or activity is to be carried out during national
16 emergency or for National security for which temporary measures have
17 been taken by the government; or

18 (c) project or activity is to be carried out in response to
19 circumstances that in the opinion of the President, the project is in the
20 interest of public health or safety.

21 **16.-(1)** Where the Minister decides that there is need for an Environmental
22 Impact Assessment
23 Process
24 Environmental Impact Assessment before the commencement of a
25 project or activity, the environmental assessment process shall include:

26 (a) submission, notification and formal registration of the project
27 or activity proposal;

28 (b) preparation of a screening report;

29 (c) project or activity scoping;

30 (d) approval of terms of reference or scope of work;

(e) preparation of a study report including biodiversity offset;

(f) public display for 21 working days;

1 (g) assessment and evaluation as provided in section 19 of this Act;
2 (h) issuance of Environmental Impact Assessment approval;
3 (i) Environmental Impact Statement and award of certificate; and
4 (j) design and implementation of a post Environmental Impact
5 Assessment Activities.

6 (2) The Minister shall ensure a life cycle approach in the
7 Environmental Impact Assessment process for all phases of the project or
8 activity, pre-construction, construction, operation and decommissioning
9 which shall include but not limited to the following:

- 10 (a) registration;
11 (b) initial environmental examination;
12 (c) screening;
13 (d) scoping;
14 (e) baseline data gathering and analysis;
15 (f) stakeholder's engagement;
16 (g) submission of draft Environment Impact Assessment report;
17 (h) public display and disclosure;
18 (i) review panel;
19 (j) submission of final Environmental Impact Assessment report;
20 (k) approval or denial;
21 (l) impact mitigation monitoring;
22 (m) post impact assessment;
23 (n) facility inspection and compliance monitoring; and
24 (o) environmental audit.

Review methods

25 **17.** The Minister may cause all Environmental Impact Assessment
26 reports to be assessed for approvals by one or a combination of the following
27 methods:

- 28 (a) internal technical review assessment or evaluation;
29 (b) external technical review assessment or evaluation (inter-
30 ministerial, State, Local Government Areas, or experts);

1 (c) public review; or

2 (d) technical review.

3 **18.** Where a project requires a review pursuant to section 17
4 subsection 1 (a), (b) or (c) of this Act, the Minister shall:

Appointment of
Technical Panel

5 (a) appoint a chairman and members of the panel who in his
6 opinion, are persons with the required relevant knowledge or experience;
7 and

8 (b) determine the terms of reference of the panel.

9 **19.** A technical panel shall:

Assessment by
Technical Panel

10 (a) in accordance with the provisions of this Act and its terms of
11 reference:

12 (i) ensure that all the necessary information required for an
13 assessment by a technical panel are obtained,

14 (ii) hold its meeting to the extent that it allows the public an
15 opportunity to participate in the assessment, especially for projects under
16 the Mandatory Study List specified in the Schedule to this Act,

17 (iii) assess and appraise the technical adequacy, and evaluate all
18 data, information and comments received from stakeholders, relevant
19 Ministries, Departments, Agencies and experts on the Environmental
20 Impact Assessment of a project, and

21 (iv) determine the level of compliance with Environmental Impact
22 Assessment of the project or activity in line with the provisions of this Act;

23 (b) prepare a report setting out the conclusion and recommendation
24 of the project or activity; and

25 (c) submit the report to the Minister.

26 **20.-(1)** A screening or mandatory study of a project or activity and
27 on assessment by a Review Panel or Mediation shall consider factors that
28 include:

Factors to be
considered by a
Review Panel

29 (a) environmental effects of the project or activity, including
30 equipment malfunctions or accidents that may occur in connection with the

1 project or activity and any cumulative environmental effects that are likely to
2 result from the project;

3 (b) significance or, in the case of a project or activity referred to in
4 sections 46, 47 and 48 of this Act, the magnitude of those effects;

5 (c) comments concerning effects received from the public in
6 accordance with the provisions of this Act;

7 (d) measures that are technically, socially and economically feasible
8 and can mitigate any significant or, in the case of a project or activity referred to
9 in sections 46, 47, and 48 of this Act, any adverse environmental effects of the
10 project or activity;

11 (e) the purpose of the project or activity;

12 (f) the alternative means of carrying out the project or activity that are
13 technically, socially and economically feasible and the environmental effects
14 of any such alternative means;

15 (g) the need for and the requirements of any follow-up programme in
16 respect of the project or activity;

17 (h) the short-term or long term capacity for regeneration of renewable
18 resources that are likely to be significantly or, in the case of the projects
19 referred to in sections 46, 47 and 48 of this Act, adversely affected by the
20 project or activity; and

21 (i) any other matter that the Minister, may from time to time require.

22 (2) The scope of the factors to be taken into consideration pursuant to
23 subsection (1) (a), (b), (d), (f), (g) and (h) of this section shall be determined by
24 the Minister.

25 (3) The Minister shall prescribe the terms of reference of the Review
26 Panel, where a project is referred to a Review Panel.

27 (4) An environmental assessment of a project shall be required to
28 include a consideration of the environmental effects that may result from
29 carrying out the project during the declaration of a national emergency.

1 **21.**-(1) The Minister may delegate to an appropriate authority or Designation of
2 responsible person any part of environmental impact assessment process or Functions
3 procedure except procedures as provided for in section 22 (1) or 40 of this
4 Act.

5 (2) Notwithstanding the provisions of subsection (1) of this
6 section, the Minister shall not take an action pursuant to section 22 (1) or 40
7 of this Act unless he is satisfied that any duty or function delegated pursuant
8 to subsection (1) of this section has been carried out in accordance with the
9 provisions of this Act.

10 **22.**-(1) Where the Minister is of the opinion that a project is not Screening
11 described in the Mandatory Study List or any exclusion list, he shall ensure
12 that:

13 (a) a screening of the project or activity is conducted; and

14 (b) a screening report is prepared.

15 (2) Any available information may be used in conducting the
16 screening of a project or activity, but where the Minister is of the opinion that
17 the information available is not adequate to enable him take an action
18 pursuant to section 22 (1) of this Act, he shall ensure that any study or
19 information that he considers necessary for that purpose is undertaken or
20 collected.

21 **23.**-(1) Where the Minister receives a screening report and he is of Declaration on
22 the opinion that the report could be used as a method of conducting Class Screening
23 screening of other projects within the same class, he may declare the report Report
24 to be a class screening report.

25 (2) A declaration made pursuant to subsection (1) of this section
26 shall be published in the Gazette and the screening report to which it relates
27 shall be made available to the public at the registry maintained by the
28 Ministry.

29 (3) Where in the opinion of the Minister a project or activity or a
30 part thereof is within a class in respect of which a class screening report has

1 been declared, he may use or permit the use of that report and the screening on
2 which it is based to an extent he considers appropriate for the purpose of
3 complying with section 13 of this Act.

4 (4) Where the Minister uses or permits the use of a class screening
5 report, he shall ensure that any adjustments made shall take into account local
6 circumstances and any cumulative environmental effects that are likely to
7 result from the project in combination with other projects that have been or will
8 be carried out.

Use of previously
conducted screening
report

9 **24.**-(1) The Minister may use or permit the use of a previously
10 conducted screening report to an extent he considers appropriate for the
11 purpose of complying with section 13 of this Act, where a proponent:

12 (a) proposes to carry out, in whole or in part a project or activity for
13 which a screening report has been prepared but did not proceed or the manner
14 in which it is to be carried out has subsequently changed; or

15 (b) seeks the renewal of a license, permit or approval referred to in
16 section 14 (d) of this Act in respect of a project or activity for which a screening
17 report has been prepared.

18 (2) Where the Minister uses or permits the use of a screening or
19 screening report pursuant to subsection (1) of this section, he shall ensure that
20 any adjustments made shall take into account all significant changes, in the
21 circumstances of the project.

Decision of the
Minister on
Screening

22 **25.**-(1) After completion of a screening report in respect of a project,
23 the Minister shall:

24 (a) exercise any power or perform any duty or function that would
25 permit the project or activity to be carried out and shall ensure that any
26 mitigation measures he considers appropriate are implemented, where In his
27 opinion:

28 (i) the project or activity is not likely to cause significant adverse
29 environmental effects, or

30 (ii) any such effect can be mitigated;

1 (b) refer the project to a Review Panel or Mediation appointed in
2 accordance with sections 32 and 35 of this Act where, in his opinion:

3 (i) the project is likely to cause significant adverse environmental
4 effects that may not be mitigated,

5 (ii) public concerns in respect of the environmental effects of the
6 project warrant it; or

7 (c) not exercise any power or perform any duty or function
8 conferred on him under any enactment that would permit the project to be
9 carried out in whole or in part where, in his opinion, the project is likely to
10 cause significant adverse environmental effects that cannot be mitigated.

11 (2) Notwithstanding the provisions of this section, where the
12 Minister takes the action referred to in subsection (1) (0) of this section, he
13 shall exercise any power and perform any duty or function conferred on him
14 by or under any enactment in a manner that ensures that any mitigation
15 measures that he considers appropriate in respect of the project are
16 implemented.

17 (3) Before taking any action in relation to a project pursuant to
18 subsection (1) of this section, the Minister shall give the public an
19 opportunity to examine and comment on the screening report and any record
20 that has been filed in the public registry established in respect of the project
21 pursuant to section 55 of this Act and shall take into consideration any
22 comments that are filed.

23 **26.** Where the Minister is of the opinion that a project is described Mandatory Study
24 in the Mandatory Study List specified in the Schedule to this Act, he shall:

25 (a) ensure that a mandatory study is conducted, and a mandatory
26 study report is prepared and submitted to him, in accordance with the
27 provisions of this Act; or

28 (b) refer the project to a Review Panel or Mediator appointed in
29 accordance with sections 32 and 35 of this Act.

Use of previously conducted Mandatory Report	1	27. -(1) The Minister may use or permit the use of a previously
	2	conducted mandatory report to an extent he considers appropriate, for the
	3	purpose of complying with the provisions of section 13 of this Act where a
	4	proponent:
	5	(a) proposes to carry out, in whole or in part, a project for which a
	6	mandatory study report has been prepared but the proponent did not proceed or
	7	the manner in which it is to be carried out has subsequently changed; or
	8	(b) seeks the renewal of a licence, permit or approval referred to in
	9	section 14(d) of this Act in respect of a project for which a mandatory study
	10	report has been prepared.
	11	(2) Where the Minister uses or permits the use of a mandatory study or
	12	a mandatory study report pursuant to sub-section (1) of this section, he shall
	13	ensure that any adjustments made shall take into account any significant
	14	changes in the circumstances of the project.
Public Notice	15	28. -(1) Upon receiving an Environmental Impact Assessment study
	16	report in respect of a project, the Minister shall, in any manner he considers
	17	appropriate, publish in a notice, setting out the following information, the:
	18	(a) date on which the Environmental Impact Assessment study report
	19	shall be available to the public;
	20	(b) place at which copies of the report may be reviewed; and
	21	(c) deadline and address for filing comments on the content of the
	22	report.
	23	(2) The duration for Public display and review of an Environmental
	24	Impact Assessment study report shall not be less than 21 working days.
	25	(3) Prior to the deadline set out in the notice published by the Minister,
	26	any person may file comments with the Ministry relating to the content of the
	27	Environmental Impact Assessment study report.
Referral to Review Panel or Mediation	28	29. Upon the consideration of the Environmental Impact Assessment
	29	study report and any comments filed pursuant to section 25(3) of this Act, the
	30	Minister shall refer the project to a Review Panel or Mediator appointed in

1 accordance with sections 32 and 35 of this Act where, in the opinion of the
2 Minister:

3 (a) the project is likely to cause significant adverse environmental
4 effects that may not be mitigated;

5 (b) where public concerns in respect of the environmental effects
6 of the project warrant it;

7 (c) the project is not likely to cause significant adverse
8 environmental effects; or

9 (d) any such effects can be mitigated.

10 **30.** Where at any time the Minister decides not to exercise any
11 power or perform any duty or function pursuant to section 29 of this Act in
12 relation to a project that has not been referred to a Review Panel or
13 Mediation, he may terminate the environmental assessment of that project.

Termination by
the Minister

14 **31.** Where a project is to be referred to a Review Panel or
15 Mediation under this Act, the Minister shall, within a prescribed period,
16 refer the project to:

Decision of the
Minister on Types
of Review

17 (a) a Review Panel; or

18 (b) Mediation where he is satisfied that:

19 (i) the parties who are directly affected by or have direct interest in
20 the project have been identified and are willing to participate in the
21 mediation through representatives; and

22 (ii) the mediation is likely to produce a result that is satisfactory to
23 all of the parties.

24 **32.** Where a project is referred to a Public or Technical Review
25 Panel, the Minister shall:

Appointment of
a Review Panel

26 (a) appoint a chairman and members of the panel who in his
27 opinion, are persons with the required relevant knowledge or experience;
28 and

29 (b) prescribe the terms of reference of the panel.

Assessment by
Review Panel

- 1 **33.** A Review Panel shall, in accordance with the provisions of this
2 Act and its terms of reference:
3 (a) ensure that the information required for an assessment by a
4 Review Panel has been obtained and made available to the public;
5 (b) hold hearing in a manner that offers the public an opportunity to
6 participate in the assessment;
7 (c) prepare a report setting out:
8 (i) the conclusions and recommendations of the panel relating to the
9 environmental effects of the project and any mitigation measures or follow-up
10 programme; and
11 (ii) a summary of any comments received from the public; and
12 (d) submit the report to the Minister.

Hearing of
Witnesses

- 13 **34.**-(1) A Review Panel shall have the power to summon any person to
14 appear as witness before it and ordering the witness to:
15 (a) give evidence, orally or in writing; and
16 (b) produce such documents or things as the panel consider necessary
17 for conducting its assessment of the project activity.
18 (2) A Review Panel shall have the power to enforce the attendance of
19 witnesses and to compel them to give evidence and produce documents and
20 other things.
21 (3) A hearing by Review Panel shall be in public unless the panel is
22 satisfied after representation made by a witness that specific, direct and
23 substantial harm would be caused to the witness by the disclosure of the
24 evidence, documents or other things that the witness is ordered to give or
25 produce pursuant to subsection (1) of this section.
26 (4) Where a Review Panel is satisfied that the disclosure of evidence,
27 documents or other things would cause specific, direct and substantial harm, to
28 a witness, the evidence, documents or things shall be privileged and shall not,
29 without the authorization of the witness, knowingly be or be permitted to be
30 communicated, disclosed or made available by any person who has obtained

1 the evidence, documents or other things pursuant to this Act.

2 (5) Where a summons issued or an order made by a review panel
3 pursuant to subsection (1) and (2) of this section is not complied with, it may
4 be enforced at the Federal High Court or State High Court.

5 **35.** Where a project is referred for mediation, the Minister shall:

Appointment of
Mediator

6 (a) appoint as Mediator any person who, in his opinion possesses
7 the required knowledge or experience; and

8 (b) prescribe the terms of reference of the mediation.

9 (1) In the case of a dispute in respect of the participation of parties
10 in mediation, the Minister may, on the request of the mediator, determine
11 those parties who are directly affected by or have a direct interest in the
12 project or activity.

13 (2) Any determination by the Minister pursuant to subsection (1) of
14 this section shall be binding on the parties.

15 **37.-(1)** A mediator shall not proceed with mediation unless the
16 mediator is satisfied that all the information required for mediation is
17 available to all the parties.

Mediation

18 (2) A mediator shall, in accordance with the provisions of this Act,
19 and the terms of reference of the mediation:

20 (a) help the parties to reach a consensus on:

21 (i) the environmental effects that are likely to result from the
22 project or activity,

23 (ii) any measures that would mitigate any significant adverse
24 environmental effects, and

25 (iii) an appropriate follow-up programme,

26 (b) prepare a report setting out the conclusions and
27 recommendations of the parties; and

28 (c) submit the report to the Minister.

29 **38.-(1)** Upon the submission of a report by a Review Panel or the
30 Mediator, the Minister shall:

Decision of the
Minister on
Recommendations
of Review Panel or
Mediation

1 (a) exercise any power or perform any duty or function that would
2 permit the project or activity to be carried out and shall ensure that any
3 mitigation measures he considers appropriate are implemented, where in his
4 opinion:

5 (i) the project or activity is not likely to cause significant adverse
6 environmental effects, or

7 (ii) any such effect can be mitigated;

8 (b) not exercise any power or perform any duty or function conferred
9 on him under any enactment that would permit the project to be carried out in
10 whole or in part where, in his opinion, the project or activity is likely to cause
11 significant adverse environmental effects that cannot be mitigated.

12 (2) Where the Minister takes an action pursuant to subsection (1) (a)
13 of this section, he shall exercise any power and perform any duty or function
14 conferred on him by or under any enactment in a manner that ensures that any
15 mitigation measure that he considers appropriate in respect of the project is
16 implemented.

Design and
Implementation

17 **39.**-(1) Where the Minister takes an action pursuant to section 38(1)
18 (a) of this Act he shall, in accordance with this Act, design any follow-up
19 programme that he considers appropriate for the project or activity and arrange
20 for the implementation of that programme.

21 (2) The Minister shall, where necessary, advise the public of:

22 (a) his action in relation to the project or activity;

23 (b) any mitigation measure to be implemented with respect to the
24 adverse environmental effects of the project or activity;

25 (c) the extent to which the recommendations set out in any report
26 submitted by a Review Panel or Mediator have been adopted; and

27 (d) any post Environmental Impact Assessment activities designed,
28 pursuant to subsection (1) of this section.

Environmental
Impact Assessment
(EIS)

29 **40.** An Environmental Impact Statement stating the name of the
30 project or activity, the review results of the Environmental Impact Assessment

1 Study and the conditions for approval or disapproval shall be issued by the
2 Ministry.

3 **41.**-(1) A certificate stating that an Environmental Assessment of a Certificate
4 project or activity has been completed, and signed by the Minister in the
5 exercise of the power, duty or function referred to in section 9 of this Act in
6 relation to the project or activity, shall be, in the absence to the contrary
7 proof, be the conclusive proof of the matter stated in the Certificate.

8 (2) The Minister may suspend, revoke or cancel a certificate as
9 specified in subsection (1) of this section where:

- 10 (a) proponent contravenes the conditions set out on the certificate,
11 (b) there is a substantial change or modification in the project or in
12 manner in which the project is being implemented,
13 (c) the project poses a threat to the environment which was not
14 foreseen before the certificate was issued; or
15 (d) it is established that the information or data given by the
16 proponent in support of its application for an environmental Impact
17 Assessment certificate was false, incorrect or intended to mislead.

18 **42.** The relevant authority that may be contacted In relation to Relevant
19 environmental impact assessment include: Authority

- 20 (a) Federal Authority;
21 (b) the Government of a State;
22 (c) Local Government Authority;
23 (d) any other body established pursuant to an Act Law, or Bye-law
24 or the legislature of a State and having powers, duties or functions in relation
25 to an assessment of the environmental effects of a project;
26 (e) anybody established pursuant to a land claims agreement and
27 having powers, duties or functions in relation to an assessment of the
28 environmental effects of a project;
29 (f) a government of a Foreign State or of a subdivision of a Foreign
30 State, or any institution of such a government; and

1 (g) an International Organisation of States or any institution of such
2 an Organisation.

Joint Review
Panel

3 **43.**-(1) Subject to the provisions of subsection (2) of this section,
4 where the referral of a project to a Review Panel is required or permitted by this
5 Act and any relevant authority referred to in section 42 (f) or (g) of this Act, has
6 a responsibility or an authority to conduct an assessment of the environmental
7 effects of the project or any part of it, the Minister and the Minister of Foreign
8 Affairs may establish a Joint Review Panel with the Relevant Authority.

9 (2) The Minister shall not establish a Joint Review Panel with any
10 Relevant Authority referred to in section 42 of this Act unless he is satisfied
11 that:

12 (a) he may appoint or approve the appointment of the chairman or a
13 co-chairman and one or more other members of the panel;

14 (b) he may prescribe or approve the terms of reference for the panel;

15 (c) the public shall be given an opportunity to participate in the
16 assessment conducted by the panel;

17 (d) on completion of the assessment, the report of the panel shall be
18 submitted to him; and

19 (e) the panel's report shall be made available in accordance with
20 section 55 of this Act.

21 (3) Where the Minister constitutes a Joint Review Panel with any
22 relevant authority referred to in section 42 of this Act, the assessment
23 conducted by that panel shall be deemed to satisfy any requirements of this Act,
24 in respect of the assessment by a Review Panel.

Substitute for
a review Panel

25 **44.**-(1) Where the referral of a project or activity to a review panel is
26 required or permitted by this Act and the Minister is of the opinion that a
27 process for assessing the environmental effects of projects that is followed by a
28 Federal Authority under an Act of the National Assembly other than this Act, or
29 by a body referred to in section 42 (1) (d) of this Act, would be an appropriate
30 substitute, the Minister may approve the substitution of that process for an

1 environmental impact assessment by a review panel under this Act.

2 (2) The Minister shall not approve a substitution referred to in
3 subsection (1) of this section unless he is satisfied that the:

4 (a) process to be substituted includes a consideration of the factors
5 referred to in section 12 of this Act;

6 (b) public has been given an opportunity to participate in the
7 assessment;

8 (c) at the end of the assessment, a report has been submitted to the
9 Ministry; and

10 (d) report has been published.

11 (3) The approval referred to under subsection (1) of this section
12 shall be:

13 (a) in writing and may be given in respect of a project or a class of
14 projects; and

15 (b) shall be deemed to satisfy any requirement of this Act, in
16 respect of assessment by a review panel.

17 **45.** Notwithstanding the provisions of section 44 of this Act or any
18 other law, the Environmental Impact Assessment process of the Ministry
19 shall take precedence over any other one. Authority over
Environmental
Impact Assessment

20 **46.**-(1) Where a project for which an Environmental Assessment is
21 not required under section 15 of this Act, is to be carried out in a state and the
22 President, upon the recommendation of the Minister, is of the opinion that
23 the project is likely to have serious environmental effects in another State, he
24 may approve the recommendation of a panel of experts constituted by the
25 Minister, to conduct an assessment of the Inter-state environmental effects
26 of the project. Inter-State
Environmental
Effects

27 (2) The Minister shall not establish a review panel pursuant to
28 subsection (1) of this section where the President and the Governments of all
29 interested States have agreed on another panel for conducting an assessment
30 of the inter-state environmental effects of the project.

1 (3) A Panel of experts may be constituted pursuant to subsection (1) of
2 this section on the approval of the President or at the request of the government
3 of any interested State.

4 (4) Before constituting a Review Panel pursuant to subsection (1) of
5 this section, the Minister shall give notice of the intention to constitute a panel
6 of experts to the proponent of the project and to the state or all interested states.

7 (5) For the purposes of this section and section 15 of this Act,
8 "interested state" means a state:

9 (a) in which the project is to be carried out; or

10 (b) that claims that adverse environmental effects are likely to occur
11 in that state as a result of the project or activity.

Trans-boundary
Environmental
Effects

12 47.-(1) Where a project for which an Environmental Assessment is
13 not required under section 15 of this Act is to be carried out in Nigeria and the
14 President is of the opinion that the project is likely to cause adverse
15 environmental effects outside Nigeria, the President shall direct the Minister in
16 collaboration with the Minister of Foreign Affairs to:

17 (a) constitute a panel of experts to conduct an assessment of the
18 International environmental effects of the project;

19 (b) advise him on the project.

20 (2) Before constituting a panel of experts pursuant to subsection (1) of
21 this section, the Minister shall give notice of the intention to establish a panel to
22 the:

23 (a) proponent of the project;

24 (b) government of any interested State in which the project is to be
25 carried out or that is adjacent to Federal lands on which the project is to be
26 carried out; and

27 (c) government of any foreign state which in the opinion of the
28 President, adverse environmental effects are likely to occur as a result of the
29 project.

- 1 **48.**-(1) Where a project for which an environmental assessment is
2 not required under section 15 of this Act is to be carried out in Nigeria and
3 the Minister is of the opinion that the project is likely to cause adverse
4 environmental effects on Federal Lands or on lands in respect of which a
5 State or Local Government has interests, the Minister may constitute a panel
6 of experts to conduct an assessment of the environmental effects of the
7 project on those lands.
- 8 (2) Where a project for which an environmental assessment is not
9 required under section 15 of this Act, is to be carried out on lands in a Local
10 Government Area or on lands that have been set aside for public interest and
11 the Minister is of the opinion that the project is likely to cause adverse
12 environmental effects outside those lands, he may constitute a Panel of
13 experts to conduct an assessment of the environmental effects of the project
14 outside those lands.
- 15 (3) Before a panel of experts is constituted pursuant to subsection
16 (1) or (2) of this section, the Minister shall give notice of the intention to
17 constitute a panel of experts to the proponent of the project and to the
18 governments of all interested States.
- 19 (4) For the purposes of this Act a reference to any land including
20 forest reserves, include a reference to all waters on and air above those lands,
21 areas or forest reserves.
- 22 **49.** Sections 32 to 34 and 42 to 44 of this Act shall apply, with such
23 modifications as the circumstances require, to a Review Panel constituted
24 pursuant to sections 46(1), 47 (1), 48(1) and (2) of this Act.
- 25 **50.**-(1) Upon the Minister submitting the appraisal of the
26 assessment on the environmental effect of a project pursuant to section 46
27 (1), 47 (1) and 48 (1) and (2) of this Act the Minister may with approval of
28 the President by an order published in the Gazette, prohibit a proponent from
29 doing any act or activity resulting in the project being carried out in part or in
30 whole, unless:
- Environmental
Effects on Federal
and other lands
- Application of
certain Provisions
- Power to prohibit
a proponent by
the President

1 (a) the assessment is completed and the Minister is satisfied that the
2 project is not likely to cause any adverse environmental effects;

3 (b) such effects shall be mitigated; or

4 (c) justified in the circumstances thereof.

Power to prohibit
a proponent by
the Minister

5 **51.** The Minister may, except in respect of projects listed in section 15
6 of this Act, prohibit the proponent of a project or activity from doing any act or
7 activity that would result in the project or activity being carried out in whole or
8 in part, where the panel of experts submits a report to him indicating that the
9 project is likely to cause some adverse environmental effects, unless the
10 Minister is satisfied that such effects have adequately been mitigated.

Injunction

11 **52.**-(1) Where, on the application of the Minister, it appears to a court
12 that a prohibition made under sections 50 and 51 of this Act in respect of a
13 project or activity has been, is about to be, or likely to be contravened, the court
14 may issue an injunction ordering any person named in the application to refrain
15 from doing any act or activity that would commit the proponent to ensuring that
16 the project or any part thereof is carried out until:

17 (a) with respect to a prohibition made pursuant to section 45 of this
18 Act, the assessment of the environmental effects of the project or activity
19 referred to in sections 46 (1), 47 (1) 48 (1) or (2) of this Act is completed and the
20 Minister is satisfied that the project or activity is not likely to cause any adverse
21 environmental effects or any such effects shall be mitigated or are justified in
22 the circumstances; and

23 (b) with respect to a prohibition made pursuant to section 46, of this
24 Act the Minister is satisfied that the adverse environmental effects referred to
25 in that section had been mitigated.

26 (2) Notice of the application shall be given to the persons named in the
27 application at least 48 hours before an injunction is issued pursuant to
28 subsection (1) of this section, unless the urgency of the situation is such that the
29 delay involved in giving such notice would not be in the public interest.

1 practicable in the planning stages of the projects.

Public Registry

2 **55.**-(1) In order to facilitate public access to records relating to
3 environmental assessments, a public registry shall be established and operated
4 in accordance with the provisions of this Act in respect of every project or
5 activity for which an environmental assessment is conducted.

6 (2) The public registry in respect of a project shall be maintained:

7 (a) by the Ministry from the commencement of the environmental
8 assessment until any follow-up programme In respect of the project is
9 completed; and

10 (b) where the project is referred to a Review Panel or Mediation, by
11 the Minister until the report of the Review Panel or Mediation is submitted to
12 the Minister.

13 (3) Subject to the provisions of subsection (4) of this section, a public
14 registry shall contain all records and information produced, collected or
15 submitted with respect to the environmental assessment of the project,
16 including any:

17 (a) report relating to the assessment;

18 (b) comments filed by the public In relation to the assessment; and

19 (c) record prepared by the Minister for the purposes of section 32 of
20 this Act.

21 (4) A public registry shall contain the records referred to in subsection
22 (3) of this section where the records fall within one of the following categories:

23 (a) records that have otherwise been made available to the public
24 carrying out the assessment pursuant to this Act and any additional records, that
25 have otherwise been made publicly available;

26 (b) a record or part of a record that the Ministry has in its possession,
27 or any other record of a Ministry or Government Agency that the Minister
28 determines would have been disclosed to the public if a request had been made
29 in respect of that record at the time the record was filed with the Registry,
30 including any record that would be disclosed in the public interest;

1 (c) any record or part of a record, except a record or part containing
2 third party information, if the Minister in the case of a record in the
3 Ministry's possession, or the Minister believes on reasonable grounds that
4 its disclosure would be in the public interest because it is required in order
5 for the public to participate effectively in the assessment.

6 (5) Notwithstanding any other enactment, no civil or criminal
7 proceedings shall lie against the Minister, or against any person acting on
8 behalf of or under the direction of the Minister, and no proceedings shall lie
9 against the State or any of its Agencies for the disclosure in good faith of any
10 record or any part of a record pursuant to this Act, for any consequences that
11 flow from that disclosure, for the failure to give any notice if reasonable care
12 is taken to give the required notice.

13 (6) In this section, "third party information" means:

14 (a) trade secrets of a third party;

15 (b) financial, commercial, scientific or technical information that
16 is confidential information supplied to a Government institution by a third
17 party and is treated consistently in a confidential manner by the third party;

18 (c) information, the disclosure of which could reasonably be
19 expected to result in material financial loss or gain to, or could reasonably be
20 expected to prejudice the competitive position of a third party; and

21 (d) information, the disclosure of which could reasonably be
22 expected to interfere with contractual or other negotiations of a third party.

23 **56.**-(1) The Minister shall during each year, maintain a statistical
24 summary of all the Environmental Impact Assessments undertaken or
25 directed by him on actions taken, and decisions made, in relation to the
26 environmental effects of the project after the assessments are completed.

Preparation of
Statistical
Summary

27 (2) The Minister shall ensure that the summary for each year is
28 compiled and completed within the first three months after the end of that
29 year.

Defect in form of Technical irregularities 1 **57.** An application for judicial review in connection with any matter
2 under this Act shall be refused where the sole ground for relief established on
3 the application is a defect in form or a technical irregularity.

Termination of Environmental Impact Assessment process 4 **58.** The Minister may terminate an Environmental Impact
5 Assessment process where:
6 (a) it is not in public interest;
7 (b) it poses a threat to the environment and public health; or
8 (c) the process had exceeded the prescribed time.

Post Environmental Impact Assessment activities 9 **59.**-(1) Post Environmental Impact Assessment activities shall be
10 conducted, subject to the approval of the Minister:

11 (a) to determine and monitor the effectiveness of any measures taken
12 to mitigate the adverse environmental effects of the project; and

13 (b) to monitor compliance with the provisions of this Act as well as the
14 recommendations and conditions of an Environmental Impact Assessment
15 approval and certificate.

16 2. Post Environmental Impact Assessment activities include
17 Environmental Audit (EAu), Post Impact Assessment (PIA), Environmental
18 Management System (EMS) and other specialized studies, which may be
19 conducted by the proponent in accordance with the provisions of this Act.

20 PART III - SUPPLEMENTAL ASSESSMENT

Strategic Environmental Assessment (SEA) 21 **60.**-(1) Notwithstanding the provisions of this Act in respect of the
22 mandatory study list specified in the Schedule to this Act, a Strategic
23 Environmental Assessment shall be required where:

24 (a) a wide range of government, public and private policies, plans and
25 programmes are to be implemented; and

26 (b) small scale projects are required in a statewide or regional basis
27 and the project do not constitute a major project requiring a stand-alone
28 Environmental Impact Assessment.

29 (2) A Strategic Environmental Assessment directive or approval shall
30 be issued or permitted by a competent authority (at the national, level only).

1 (3) The Strategic Environmental Assessment approval may not
2 have a list of conditions similar to an Environmental Impact Assessment for
3 a specific project or activity.

4 (4) A Strategic Environmental Assessment is mandatory for a
5 project, plan, programme or activity which is prepared for agriculture,
6 forestry, fisheries, energy, industry, transport waste or water management
7 telecommunications, tourism, town and country planning or land use, and
8 which sets the framework for a future development consent of a project
9 listed pursuant to this Act.

10 **61.**-(1) The Strategic Environmental Assessment procedure shall
11 be as follows:

Strategic
Environmental
Assessment
Procedure

12 (a) an environmental report is prepared in which the likely
13 significant effects on the environment and the reasonable alternatives of the
14 proposed plan or programme are identified;

15 (b) the public and the environmental authorities are informed and
16 consulted on the draft plan or programme and the environmental report
17 prepared;

18 (c) as regards a plan or programme which is likely to have
19 significant effect on the environment in another country, the state in whose
20 territory the plan or programme is being prepared shall consult the other
21 member state;

22 (d) the environmental report and the result of the consultation shall
23 be taken into account before adoption and upon the plan or programme
24 being adopted, the environmental authorities and the public shall be
25 informed and the relevant information made available to them, in order to
26 identify unforeseen adverse effects at an early stage; and

27 (e) significant environmental effects of the plan or programme
28 shall be monitored.

29 (2) In conducting a Strategic Environmental Assessment, the
30 following shall be considered, the:

- 1 (a) environment's carrying capacity;
2 (b) estimated environmental impacts and risks;
3 (c) ecosystem services performance;
4 (d) efficiency of natural resource utilization;
5 (e) level of vulnerability and capacity for adaptation and resilience;
6 (f) opportunities for wealth creation, socio-economic well being and
7 national cohesion; and
8 (g) cumulative impacts.

9 (3) The Minister shall issue Regulations or Guidelines for Strategic
10 Environmental Assessment.

11 (4) A Strategic Environmental Assessment shall be conducted by the
12 lead agency in charge of the policy, plan, programme or activity, subject to the
13 approval of the Minister.

14 (5) For the purpose of this section, a lead agency includes a State,
15 Local Government Area, Ministries, Departments and Agencies of the Federal
16 or State Governments.

Environmental
Audits

17 **62.**-(1) Environmental Audits shall be conducted by a proponent
18 every three years pursuant to the issuing of an Environmental Impact
19 Assessment permit for a project or activity.

20 (2) Only competent Environmental Impact Assessment approving
21 authorities shall have the mandate to approve Environmental Audits.

22 (3) Where a competent government authority has conducted an
23 Environmental Audit as a third party for regulatory purposes, the Minister shall
24 review the Audit for approval and permitting.

25 (4) The Minister shall from time to time, issue procedures for
26 Environmental Audit, to ensure its regulation.

Post Impact
Assessment (PIA)

27 **63.**-(1) Post impact Assessments shall be conducted by a proponent
28 where a project has commenced (that is commissioned) without the issuance of
29 an Environmental Impact Assessment permit for an activity and is less than
30 three years in operation.

1 (2) Only a competent Environmental Impact Assessment
2 approving authority shall have the mandate to approve a Post Impact
3 Assessments.

4 (3) Where a competent government authority has conducted a Post
5 Impact Assessment as a third party for regulatory purposes, the competent
6 Environmental Impact Assessment approving authority shall review the
7 Post Impact Assessment for approval and permitting.

8 (4) The Minister shall from time to time issue procedures for Post
9 Impact Assessment, to ensure its smooth regulation.

10 **64.**-(1) Health and Social Impact Assessments shall be conducted
11 by a proponent where it is deemed necessary by the competent authority
12 pursuant to the outcomes of an Environmental Impact Assessment, Strategic
13 Environmental Assessment or from a screening report, such a screening
14 report shall be deemed as a class screening report for similar projects.

Health Impact
Assessment (HIA)
and Social Impact
Assessment (SIA)

15 (2) Only a competent Environmental Impact Assessment
16 approving authority shall have the mandate to approve a Social Impact
17 Assessment and Health Impact Assessment.

18 (3) Where a competent government authority has conducted
19 Health Impact Assessment or Social Impact Assessment as a third party for
20 regulatory purposes, the competent Environmental Impact Assessment
21 approving authority shall review the Post Impact Assessment for approval
22 and permitting.

23 (4) The Minister shall from time to time Issue procedures for Post
24 Impact Assessment to ensure its smooth regulation.

25 **65.** Specialised studies like Modeling Studies, Environmental
26 Seabed Surveys and Biodiversity Studies shall be conducted and approved
27 by the Environmental Impact Assessment competent authority where:

Specialized
Studies

28 (a) a screening and scoping report requires that it shall enhance
29 decision making for Environmental Impact Assessment approval;

30 (b) whereupon after an Environmental Impact Assessment

1 approval, it is mandated as a vital tool for approval follow up action and
2 monitoring.

3 PART IV - MISCELLANEOUS

Registration of
Environmental
Impact Assessment
Practitioners

4 **66.**-(1) The Minister shall register only a certified Environmental
5 Impact Assessment practitioner as a consultant, for quality assurance and
6 control.

7 (2) The Ministry shall maintain a register of all Environmental Impact
8 Assessment practitioners engaged as consultants pursuant to subsection (1) of
9 this section.

10 (3) The Minister shall strike out the name of an Environmental Impact
11 Assessment practitioner from the register under subsection (2) of this section,
12 where the Environmental Impact Assessment practitioner fails to discharge
13 any assigned responsibility in accordance with the provisions of this Act.

Power to facilitate
Environmental
Assessment

14 **67.** In this Act, the Minister may-

15 (a) issue Regulations, Guidelines, Standards or Codes of Practice, for
16 conducting an assessment of the environmental effects of projects;

17 (b) establish research or advisory bodies;

18 (c) enter into agreements or arrangements with any relevant authority
19 within the meaning of section 42(a), (b), (c) (d) or (e) in respect of assessments
20 of environmental effects;

21 (d) enter into agreements or arrangements with States for the purposes
22 of coordination, consultation, and exchange of information in relation to the
23 assessment of the environmental effects of projects of common interests;

24 (e) recommend the appointment of members to bodies established by
25 Federal Authorities or to bodies referred to in section 42(1)(e) of this Act on a
26 temporary basis, for the purpose of facilitating a substitution pursuant to
27 Section 41 of this Act;

28 (f) establish criteria for the appointment of members of Review
29 Panels and Mediators;

30 (g) establish criteria for the approval of a substitution pursuant to

1 section 41 of this Act; and

2 (h) grant interim Environmental Impact Assessment approval of
3 three months for a major project of urgent notional importance.

4 **68.**-(1) For the purpose of implementation of this Act, there shall be
5 established a Fund in this Act referred to as "the Implementation Fund".

Implementation
Fund

6 (2) The Implementation Fund shall consist of-

7 (a) annual budgetary allocations;

8 (b) twenty percent of all monies from Environmental impact
9 Assessment fees and charges;

10 (c) donations, gifts, grants in aid or endowment, from national,
11 bilateral and multilateral organizations, on such terms and conditions, if any,
12 between the donor and the Ministry, provided such term and conditions are
13 consistent with the objectives of this Act; and

14 (d) all sums accruable to the Ministry for the defrayal of expenses
15 incurred in the implementation of the provisions of this Act and Polluter
16 Pays Principle.

17 **69.** The Department responsible for Environmental Assessment in
18 the Ministry may, with the approval of the Minister, make Regulations,
19 published in the Gazette-

Power to make
Regulations

20 (a) in respect of the procedures and requirements of, and the time or
21 period relating to the Environmental Assessment process set out in this Act,
22 or including the conduct of assessment by Review Panels established
23 pursuant to section 32 of this Act;

24 (b) prescribing a list of projects or classes of projects for which an
25 Environmental Assessment is not required;

26 (c) prescribing a list of projects or classes of projects not covered
27 by the Mandatory Study List in the Schedule to this Act for which a
28 mandatory study is required where he is of the opinion that the projects are
29 likely to have significant adverse environmental effects;

30 (d) prescribing a list of plans, policies and programmes for which

1 Strategic Environmental Assessment (SEA) is required;

2 (e) prescribing fees and charges for the implementation of this Act;

3 and

4 (f) prescribing such other things necessary to give effect to the
5 implementation of this Act.

Offences and
Penalties

6 **70.**-(1) A person, who contravenes the provision of this Act or any
7 regulation made pursuant to this Act commits an offence and is liable on
8 conviction:

9 (a) in the case of an individual, to a fine not less than Five Million
10 Naira and not more than Ten Million Naira, or imprisonment for a term not less
11 than one year or not more than three years, or both;

12 (b) in the case of a firm or body corporate, to a fine not less than Ten
13 Million Naira and not more than Twenty Million Naira.

14 (2) A person, consultant, mediator, proponent or Environmental
15 Impact Assessment practitioner who provides a false information or makes a
16 false declaration or any false statement which he knows to be false or does not
17 have reasonable grounds to believe to be true, commits an offence and is liable
18 on conviction -

19 (a) in the case of an individual, to a fine not less than One Million
20 Naira and not more than Two Million Naira, or to imprisonment for a term not
21 less than six months, or both;

22 (b) in the case of a body corporate, to a fine not less than Five Million
23 Naira and not more than Ten Million Naira.

Repeals and
Savings

24 **71.**-(1) The Environmental Impact Assessment Act, Cap E12, Laws
25 of the Federation of Nigeria, 2004, is repealed.

26 (2) Anything made or done or having effect under the Environmental
27 Impact Assessment Act, Cap E 12 Laws of the Federation of Nigeria, 2004
28 (lithe repealed Act") and having any resulting or continuing effect, shall be
29 treated as from the commencement of this Act, as if it were made or done under
30 this Act.

1 (3) All rights, liabilities and obligations of the repealed Act shall,
2 by virtue of this Act, be deemed to accrue under this Act.

3 **72.** In this Act, unless the context otherwise provides-

Interpretation

4 "Assessment" means the evaluation of the environmental consequences
5 (positive and negative) of a plan, policy, programme or concrete project,
6 prior to decision to move forward with the proposed action as conducted by
7 a proponent, technical panel, Review panel;

8 "assessment by a review panel" means an Environmental Impact
9 Assessment that is conducted by a Review Panel appointed pursuant to
10 section 32 of this Act and that includes a consideration of the factors set out
11 in section 20 of this Act;

12 "environment" means the components of the earth, and includes-

13 (a) land, water and air, including all layers of the atmosphere;

14 (b) all organic and inorganic matter and living organisms; and

15 (c) the interacting natural systems that include components
16 referred to in paragraph (a) and (b) above;

17 "environmental assessment" means, in respect of a project, an assessment of
18 the environmental effects of the project that is conducted in accordance with
19 the provisions of this Act and any regulations made there under;

20 "environmental effect" means, in respect of a project, any change the project
21 may cause to the environment, whether any such change occurs within or
22 outside Nigeria, and includes any effect of any such change on health, social,
23 economic, cultural, physical and biological conditions;

24 "Environmental Impact Assessment (EIA)" means an analytical and
25 management tool that identifies, predicts and evaluates the potential and
26 associated environmental, socio-economic and human health impacts of a
27 'proposed development project or activity in order to mitigate the negative
28 impacts and enhance the positive ones, and in some cases the term
29 Environmental Impact Assessment may be interchangeably used with other
30 terms such as Environmental and Social Impact Assessment ('ESIA') or

1 Environmental, Social and Health Impact Assessment ('ESHIA');

2 "excluded projects" means projects prescribed pursuant to section 15 of this

3 Act;

4 "Federal Authority" means - Ministry, Department or Agency of the Federal

5 Government of Nigeria;

6 "Federal Lands" means-

7 (a) lands that belong to the Federal Government of Nigeria in which

8 Nigeria has a right thereon or has the power to dispose of and all waters on and

9 air space above those lands including-

10 (i) the internal waters of Nigeria within the meaning of the Sea

11 Fisheries Act, Cap. S4, Laws of the Federation of Nigeria, 2004, including the

12 seabed and subsoil below and the airspace above those waters,

13 (ii) the territorial waters of Nigeria as determined in accordance with

14 the Territorial Waters Act, Cap. T 4, Laws of the Federation of Nigeria,

15 including the sea bed and subsoil below and the airspace above the waters,

16 (iii) any fishing zone of Nigeria prescribed under the Sea Fisheries

17 Act;

18 (iv) any exclusive economic zone that may be created by the

19 Government of Nigeria; and

20 (v) the continental shelf, consisting of the seabed and subsoil of the

21 submarine areas that extend beyond the territorial sea throughout the natural

22 prolongation of the land territory of Nigeria to the outer edge of the continental

23 margin or to a distance of two hundred nautical miles from the inner limits as

24 may be prescribed pursuant to an Act of the Federal government; and

25 (b) reserves, surrendered lands and any other lands that are set apart

26 for the use and benefit of Nigerians by the Federal Government of Nigeria and

27 all waters on and airspace above those reserves or surrendered lands;

28 "Post Environmental Impact Assessment Activities" means-

29 (a) verifying the accuracy of the environmental assessment of a

30 project including Environmental Audit (EAU) Post Impact Assessment (PIA),

1 and other specialized studies;

2 "mandatory study" means an environmental assessment that is conducted
3 pursuant to section 23 and that includes a consideration of the factors set out
4 in section 21 of this Act;

5 "mandatory study list" means the list set out in the Schedule to this Act;

6 "mandatory study report" means a report of a mandatory study that is
7 prepared in accordance with the provisions of this Act or any regulations
8 made there under;

9 "mediation" means an Environmental Assessment that is conducted with the
10 assistance of a Mediator appointed pursuant to section 35 of this Act and that
11 includes a consideration of the factors set out in section 13 of this Act; it also
12 means an act of reaching a consensus on a dispute with the assistance of a
13 mediator;

14 "Minister" means, the Federal Minister responsible for environmental
15 matters or his designate;

16 "Ministry" means the Federal Ministry responsible for environmental
17 matters;

18 "mitigation" means, in respect of a project, the elimination, reduction or
19 control of the adverse environmental effects of the project, and includes
20 restitution for any damage to the environment caused by such effects
21 through replacement, restoration, compensation offsets or any other means;

22 "President" means the President, Commander-in-Chief of the Armed Forces
23 of the Federal Republic of Nigeria;

24 "project" includes activities, plans, programmes and policies that a
25 proponent (public or private) proposed to undertake;

26 "proponent" means any person including the executor, contractor, financier,
27 implement or, authority, corporate body or unincorporated body including
28 the Government of the Federation, state or Local Government intending to
29 undertake or authorize the undertaking of any project or activity that may
30 likely, or, to a significant extent affect the environment or have

1 environmental effects in whole or in part;

2 "record" includes any correspondence, memorandum, book, plan, map,
3 drawing, diagram, pictorial or graphic work, photograph, film, microform,
4 sound recording, videotape, machine readable record, and any other
5 documentary material, regardless of physical form or characteristics, and any
6 copy thereof;

7 "screening" includes a process of carrying out an initial environmental
8 examination of a project's proposal by the Ministry in order to categorize it;

9 "screening report" means a report that summarises the results of a screening;

10 "stakeholders" include Government Ministries, Departments and Agencies,
11 members of the public, expert in relevant disciplines and interested groups, the
12 organized private sector, non-governmental organizations, professional
13 bodies, host and project affected communities;

14 "Strategic Environmental Assessment" means a proactive environmental
15 management tool that provides decision-makers and Stakeholders with
16 information on the environmental implications of a policy, plan or programme
17 before major alternatives are chosen and decisions taken. A Strategic
18 Environmental Assessment is the systematic and comprehensive process of
19 examining environmental effects, significant economic and social effects for
20 the purpose of promoting integrated decision making;

21 "Review Panel" an independent body constituted by the Minister to review the
22 report;

23 "life cycle approach" means a tool to review environmental impact of a project
24 throughout the entire life cycle (from cradle to grave);

25 "magnitude" means the degree and extent to which the project changes the
26 environment and usually varies according to project phase; and

27 "impact significance" means evaluation of predicted impacts or residual
28 impacts against selected environmental objectives, regulatory criteria or
29 environmental threshold based on direct and indirect analyses of area affected
30 or area of influence, percentage of resource affected, persistence of impacts,

1 sensitivity of resources, status of resources, regulatory status of resources
2 (protected or endangered), societal value attached to the source e.g. sacred
3 sites and social acceptability of induced changes.

4 73. This Bill may be cited as the Environmental Impact Short Title
5 Assessment Bill, 2018.

6 SCHEDULE

7 [Section 13, 19(a) (ii), 57]

8 MANDATORY STUDY LIST

9 1. Agriculture:

10 (1) Land development schemes covering an area of 100 hectares or
11 more for agricultural production.

12 (2) Agricultural programmes necessitating involuntary
13 resettlement.

14 (3) Development of agricultural estates covering an area of 20
15 hectares or more involving changes in type of agricultural use including
16 animal husbandry, poultry, piggery, dairy production, etc.

17 (4) Genetically Modified (IGM') product;

18 2. Airport:

19 (1) Construction of airports and airstrips.

20 (2) Landing strip development in States and National Parks.

21 (3) Construction of helipads, heliports and aerodromes.

22 3. Drainage and Irrigation:

23 (1) Construction of dams, man-made lakes and artificial
24 enlargement of lakes.

25 (2) Drainage of wetland, wild-life habitat or of virgin forests.

26 (3) Irrigation schemes covering an area of 20 hectares or more.

27 (4) River canalization and re-channeling.

28 4. Dredging Activities:

29 (1) In deep offshore waters.

- 1 (2) Sand dredging for commercial purposes or major development
2 projects.
- 3 5. Fisheries:
- 4 Large scale land based aquaculture projects
- 5 6. Forestry:
- 6 (1) Conversion of forest land and conservation areas to other land use
7 covering an area of 10 hectares or more.
- 8 (2) Logging or conversion of forestland or protected areas to other
9 land use within the catchment area of rivers, flood plains and river basins.
- 10 (3) Logging covering an area of 10 hectares or more.
- 11 (4) Conversion of mangrove swamps for industrial, housing,
12 infrastructure or agricultural use.
- 13 (5) Forest Reserves.
- 14 (6) projects with significant impacts on bio-diversity.
- 15 7. Urban Development and Renewal Projects, Parks and Recreation:
- 16 (1) Green or smart city development.
- 17 (2) Housing estates development.
- 18 (3) Theme parks and mega shopping malls or arcades;
- 19 (4) Construction of resort-facilities with hotels of 100 rooms and
20 above.
- 21 (5) Development of tourist-facilities with hotels of 100 rooms and
22 above.
- 23 (6) Development of recreational amenities at waterfront, beaches or
24 beachfronts.
- 25 (7) Construction of new townships.
- 26 (8) Change of use of green areas.

8. Industry:

A	Chemical production	single product or combined products
B	Petrochemical Production or storage facilities	All sizes.
C	Non-ferrous	primary smelting Aluminium - all sizes Copper - all sizes * Others - producing 50 tonnes per day and above of product
D	Non-metallic	Cement for clinker production of 30 tonnes or hour per day and above - Lime production of 50 tonnes per day and above
E	Iron and steel	Require iron ore as raw materials for production greater than 100 tonnes per day; or - Using scrap iron as raw materials.
F	Shipyards and/or Dry Docks	recycling of ship wrecks or parts
G	Pulp and paper industry	

-
- 1 9. Infrastructure:
- 2 (1) Construction of large scale and specialized hospitals.
- 3 (2) Construction of Industrial estates for medium and heavy
- 4 industries.
- 5 (3) Construction and/or Rehabilitation of Expressways.
- 6 (4) Construction and/or Rehabilitation of highways.
- 7 (5) Construction and/or Rehabilitation of drainage and irrigation
- 8 canals.
- 9 (6) Construction of new townships.
- 10 (7) Industrial Parks.
- 11 (8) Bio technology and bio-safety plant (GMO manufacturing).
- 12 10. Reclamation:
- 13 (1) Coastal reclamation of all sizes.
- 14 (2) Land reclamation of all sizes.
- 15 11. Mining:
- 16 (1) Mining.
- 17 (2) Ore processing, including concentrates for aluminum, copper,
- 18 gold, tantalum, tin, lead, zinc and other extractive minerals.
- 19 (3) Dredging (capital and maintenance).
- 20 (4) Bitumen exploration and exploitation.
- 21 (5) Hydraulic fracturing (fracking);
- 22 (6) Coal exploration and exploitation;
- 23 (7) Uranium exploration and exploitation.
- 24 12. Manufacturing:
- 25 (1) Cement and lime production.
- 26 (2) Textiles.
- 27 (3) Electronics or electrical appliances.
- 28 (4) Furniture (large scale).
- 29 (5) Tobacco processing and allied products.
- 30 (6) Automotive plants including battery manufacturing, brake pads

- 1 and lining manufacturing and automotive testing centers and other
2 accessories.
- 3 (7) Beverages including fruit, vegetable, soda or soft drinks, etc.
4 (8) Breweries and distilleries.
5 (9) Tanneries.
- 6 13. Ports and Harbours:
7 (1) Construction of ports and harbours.
8 (2) Ports and harbours expansion.
9 (3) Construction or expansion of jetties.
10 (4) Construction and expansion of dry ports or dock yard.
11 (5) Construction of inland ports.
- 12 14. Petroleum:
13 (1) Seismic operations (land and swamps).
14 (2) Oil and gas field developments onshore, near shore, offshore
15 and deep offshore-
16 (a) development well drilling, or
17 (b) construction of crude oil production, tank farm and terminal
18 facilities including floating production, storage and offloading (FPSOs).
19 (3) Laying of crude oil and gas delivery line, flow-line and
20 pipeline.
21 (4) Hydrocarbon processing facilities -
22 (a) oil refineries and petrochemicals;
23 (b) Liquefied Natural Gas, Natural Gas Liquids or Gas
24 Compression & Processing (GC&P) Plants;
25 (c) liquefied petroleum gas (above 20,000 litres);
26 (d) blending plants.
27 (4) Construction of petroleum product depots.
28 (5) Bioremediation activities.
29 15. Power Generation and Transmission:

-
- 1 (1) Construction of steam generated power stations burning fossil
2 fuels.
- 3 (2) Construction of dual fired (natural gas or diesel) power plants.
4 (3) Dams and hydroelectric power schemes.
5 (4) Construction of single or combined cycle power stations.
6 (5) Construction of nuclear-fueled power stations.
7 (6) Construction of renewable energy plants.
8 (7) Wastes to energy plants.
9 (8) Construction of transmission lines.
- 10 16. Quarries:
11 Quarrying of rocks and stones.
- 12 17. Railways:
13 (1) Construction of rail routes and ancillary facilities.
14 (2) Rehabilitation of rail routes.
15 (3) Expansion of rail routes.
- 16 18. Telecommunication:
17 (1) Construction of Base Transceiver Stations (' BTS') and ancillary
18 facilities.
19 (2) Laying of telecommunication cables.
20 (3) Laying of Information and Communications Technology ('ICT')
21 utilities duct and cables.
- 22 19. Marine Environment Marine activities and services.
- 23 20. Waste Treatment and Disposal:
24 (1) Toxic and hazardous waste, including-
25 (a) incineration plants;
26 (b) medical waste incinerators;
27 (c) recovery plants (off-site);
28 (d) waste water treatment plants (off-site);
29 (e) engineered landfill facilities;
30 (f) waste storage and transfer facilities (off-site);

- 1 (g) e-waste recycling or treatment facilities; and
- 2 (h) Thermal Desorption Unit (TDU).
- 3 (2) Municipal solid waste, including -
- 4 (a) incineration plants;
- 5 (b) composting plant;
- 6 (c) recovery or recycling plant;
- 7 (d) municipal solid waste landfill facilities; and
- 8 (e) integrated waste management facilities.
- 9 (3) Municipal sewage, including -
- 10 (a) waste water treatment plants;
- 11 (b) sewers; and
- 12 (c) port reception facilities and marine out falls.
- 13 (4) Waste recycling facilities.
- 14 21. Water Supply:
- 15 (1) Construction of dam or impounding reservoir.
- 16 (2) Groundwater extraction for industrial agricultural or urban
- 17 water supply.
- 18 (3) Installation of industrial and commercial water treatment and
- 19 sanitation facilities.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Environmental Impact Assessment Act, Cap. E12, Laws of the Federation of Nigeria, 2004; and Enact the Environmental Impact Assessment Act, 2018, to set out general principles, procedures and methods to enable the prior consideration of Environmental Impact Assessment on certain public or private projects.