

GAS FLARING (PROHIBITION) BILL 2017

ARRANGEMENT OF SECTIONS

1. Prohibition of Flaring or Venting of Gas
2. Producing Fields
3. New Field Developments
4. Authorisation for continued flaring
5. Gas flaring fee
6. Measurement of Gas flaring
7. Reporting
8. Power to enter and carry out investigations, etc.
9. Penalty for flaring or venting of gas without a permit
10. Penalty for failure to install metering equipment
11. Penalty for refusal to furnish return or supply information
12. Power to make regulations
13. Act to apply in Exclusive Zone
14. Miscellaneous Provisions
15. Special Considerations
16. Delegation of the powers of the Minister
17. Power of Review
18. Interpretation
19. Repeals
20. Short title

A BILL

FOR

AN ACT TO PROHIBIT FLARING AND VENTING OF NATURAL GAS IN NIGERIA AND FOR MATTERS CONNECTED THEREWITH

Sponsored by Senator Bassey Albert Akpan

[] Commencement

BE IT Enacted by the National Assembly of the Federal Republic of Nigeria-

1 1. Notwithstanding the provisions of regulation 42 of the
 2 Petroleum (Drilling and Production) Regulations made under the Petroleum
 3 Act [Cap P10.], no Lessee or Licensee shall flare or vent gas within its lease
 4 or license area or from any facility within its control except in accordance
 5 with an Authorisation granted by the Minister pursuant to this Act.

Prohibition of Flaring Venting of Gas

6 2.-(1) Notwithstanding any provisions to the contrary under this
 7 Act, every Lessee or Licensee engaged in the production of oil and gas in
 8 Nigeria as of the date of commencement of this Act shall, within six months
 9 of the commencement of this Act:

Producing Fields

10 (a) submit to the Minister, in the prescribed form, all data relating
 11 to the gas resources and the flaring and venting of gas within its lease or
 12 license area;

13 (b) submit to the Minister for approval, an integrated gas flare
 14 reduction plan that proposes a viable scheme for the sustainable utilization
 15 of all associated gas produced within its lease or license area and shall
 16 include detailed steps and time lines on how it intends to implement the
 17 integrated gas flare reduction plan;

18 (2) The Minister shall consider the integrated gas flare reduction
 19 plan and notify the Lessee or Licensee of its decision thereon within a period
 20 of [sixty (60)] days of the receipt of the plan. -

21 (3) If the Minister approves the integrated gas flare reduction plan,

1 he shall issue an Authorisation to the Lessee or Licensee in accordance with
2 section 4 of this Act and the Lessee or Licensee shall implement the approved
3 integrated gas flare reduction plan in accordance therewith.

4 (4) If a Lessee or Licensee fails to comply with the requirements of
5 sub-section (1) of this section in respect of any field within its Lease or License
6 area, the Minister shall issue a written directive to the Lessee or Licensee to
7 shut in production at such field within the period specified in the directive and
8 production on such field shall remain shut in until the Lessee or Licensee
9 complies with sub-section (3) of this section in a manner satisfactory to the
10 Minister.

11 (5) Failure to comply with a directive issued pursuant sub-section (4)
12 of this section shall constitute a ground for revocation of the Lease or License
13 covering the field in relation to which the non-compliance was committed.

New Field
Development

14 3.-(1) No Lessee or Licensee shall commence any development of
15 any hydrocarbon discovery unless in strict accordance with an integrated oil
16 and gas field development production and utilization plan, which shall be
17 prepared by the Lessee or Licensee and submitted for the prior approval of the
18 Minister.

19 (2) The integrated oil and gas field development production and
20 utilization plan shall be consistent with the policies issued by the Government
21 in respect of gas from time to time and in accordance with such parameters as
22 may be prescribed.

23 (3) The Minister shall consider the integrated oil and gas field
24 development production and utilization plan and notify the Lessee or Licensee
25 of its decision thereon within a period of sixty days of the receipt of the plan.

26 (4) In the event of the refusal of the Minister to approve an integrated oil and
27 gas field development production and utilization plan, the Commission shall
28 notify the company in writing of its decision with its reasons for the
29 disapproval.

1 4.-(1) No operator shall establish a Gas Facility in Nigeria without
2 obtaining authorization from the Minister under this Act for the Design
3 Phase, the Commissioning and the Production phases.

Authorisation for
continued flaring

4 (a) The Design Stage:

5 Every Operator who wants to establish a Gas Facility must submit to the
6 Minister for Authorization, a Field Development Program covering the
7 issues of gas flaring and venting and the environmental statement for
8 development. The Minister may refuse Authorization where the project has
9 a significant negative environmental impact or the Minister may impose
10 conditions to mitigate the adverse effect imposed in the field development
11 authorization.

12 (b) The Commissioning Phase:

13 The Operator wishing to establish a Gas Facility must apply for the
14 Authorization of the Minister two months before the start of production.
15 Such application must include aspects of the project, flaring and venting
16 assumptions and the method of calculations of the flaring and venting
17 volumes. The Minister's authorization will restrict the duration of any
18 flaring and venting to one and three months and specify the maximum gas to
19 be flared and vented on an auditable program prepared by the Operator.

20 (c) The Production Phase:

21 Every operator must apply for authorization to the Minister to flare or vent
22 gas in the 3rd quarter of the preceding year. Such application for consent
23 must include a forecast of volumes for the following flare and vent
24 categories:

25 (i) Base load flare,

26 (ii) Flaring from operational or mode changes,

27 (iii) Emergency shutdown/process trip flares,

28 (iv) Un-ignited vents including an estimated annual average
29 composition of vented streams.

1 (2) The Minister may grant an Authorisation to any Lessee or
2 Licensee -

3 (a) to allow the flaring or venting gas for a period of not more than
4 [one hundred (100) days] -

5 (i) where the flaring is required to safeguard the health and safety of
6 persons in the exploration or production area; or

7 (ii) to prevent damage to the property of any person in the exploration
8 or development area; or

9 (b) to allow the flaring or venting of gas for the period required to
10 implement a gas flaring reduction plan approved by the Minister pursuant to
11 section 2 of this Act which, when completed, will eliminate flaring and venting
12 of gas on such field, provided that such period shall not exceed [(2) years] in the
13 first instance and may upon expiration be extended by the Minister subject to
14 sub-section (2) of section 5 of this Act; and

15 (c) to allow the flaring or venting of gas for a period of not more than
16 [thirty (30)] days to allow for the commissioning of a facility;

17 (3) A Lessee or Licensee may flare or vent gas without an
18 Authorisation granted pursuant to subsection (1) of this section -

19 (a) in the case of an emergency, provided that the Lessee or Licensee
20 shall -

21 (i) not flare or vent gas for more than [forty-eight (48)] continuous
22 hours unless the Department approves. The Director may specify a limit of less
23 than [forty-eight (48)] hours to prevent air quality degradation;

24 (ii) not flare or vent gas from a facility for more than [one hundred and
25 forty-four (144)] hours during any calendar month unless the Director
26 approves;

27 (iii) not flare or vent gas beyond the time required to eliminate an
28 emergency;

29 (iv) within [seven (7)] days from the occurrence of the emergency,
30 submit to the Director a report in the prescribed form detailing the nature and

1 circumstances that caused the emergency situation and action taken or
2 required to eliminate the emergency;

3 (b) during the unloading or cleaning of a well, drill-stem testing,
4 production testing or other well evaluation testing for no more than [forty-
5 eight (48)] cumulative hours per testing operation on a single completion.
6 The Director may allow a less time to prevent air quality degradation or
7 more time if the Lessee or Licensee requires additional time to evaluate
8 reservoir parameters;

9 (c) if it is necessary in connection with the start-up or shut down of
10 a facility;

11 5.-(1) Any Lessee or Licensee that flares or vents gas pursuant to an Gas flaring fee
12 Authorisation granted in accordance with sub-section (1) of section 4 of this
13 Act or in the circumstances described in sub-section (2) thereof, shall pay
14 such fee as the Minister may from time to time prescribe by Regulations for
15 every [1000 standard cubic feet] of gas flared or vented. Provided that, any
16 fee due under this section shall be subject to the same procedure as for
17 payment of royalties to the Federal Government pursuant to the Petroleum
18 Act [Cap P10].

19 (2) Where the Minister grants an extension to an exemption
20 granted pursuant to subsection (2)(b) of section 4 of this Act, the fee payable
21 by the Lessee or Licensee under sub-section (1) of this section shall attract a
22 surcharge on the fee as follows:

23 (a) five (5) percent, during the first year;

24 (b) ten (10) percent, during the second year;

25 (c) fifteen (15) percent during the third year; and

26 (d) twenty (20) percent during the fourth year and for every
27 subsequent year.

28 6.-(1) Each lessee or licensee shall, prior to the commencement of
29 hydrocarbon production, install on every facility from which gas may be
30 flared or vented, metering equipment for measuring flared or vented gas

Measuring of
Gas flaring

1 volumes, which shall conform to such specifications as the Director may from
2 time to time approve.

3 (2) Lessees or Licensees engaged in the production of oil and gas in
4 Nigeria as of the date of commencement of this Act shall comply with sub-
5 section (1) of this section within [six (6)] months of the commencement of this
6 Act.

7 (3) The Director or an officer authorized by him shall at all times be
8 present when a metering equipment for measuring flared or vented gas
9 volumes is being calibrated, re-calibrated, tested, compared, measured, or
10 weighed against a standard approved by the Director; and any such calibration
11 shall be in accordance with accepted methods and procedures previously
12 agreed to by the Director.

13 (4) If any metering equipment is at any time found to be false or unjust
14 or inaccurate to the extent of more than [one percent] -

15 (a) The metering equipment shall be deemed to have existed in that
16 condition during the period of [three (3) months] prior to the discovery unless
17 the Lessee or Licensee can prove to the reasonable satisfaction of the Director
18 that such error could not have possibly occurred over that period or that the
19 period that has elapsed since the last occasion upon which the appliance was
20 examined or tested, whichever is less; and

21 (b) the amount payable pursuant to section 5 of this Act or any liability
22 arising pursuant to section 9 of this Act in respect of the period during which the
23 appliance is deemed to have so existed shall be adjusted accordingly.

24 (5) The Lessee or Licensee shall not repair, maintain, or make any
25 alterations in the metering equipment or in the method or methods of
26 measurement approved by the Director without first informing the Director or
27 his representative and in every case, any such repairs, maintenance or
28 alterations shall be carried out in the presence of the Director or his
29 representative.

30 (6) The Director or his representative shall have the right to specify

1 the frequency at which all metering equipment shall be calibrated or tested,
2 and notwithstanding any such specification, may test or demonstrate the
3 accuracy of any appliance or equipment at any time, with or without
4 previous notice to the Lessee or Licensee.

5 7.-(1) The Licensee shall in respect of each field within its lease or Reporting
6 license area, in a form from time to time approved by the Director, keep full
7 and accurate records of:

- 8 (a) daily volumes of gas flared or vented;
9 (b) number of hours of flaring and venting;
10 (c) gas composition or the average flared/vented gas density;
11 (d) reasons for flaring or venting;
12 (e) a list of the wells contributing to flaring or venting along with
13 the gas-oil ratio data; and

14 (f) such further particulars and statistics relating to gas flaring or
15 venting as the Director may from time to time require.

16 (2) Lessees or Licensee must keep the records required under sub-
17 section 1 of this section for at least [five (5)] years.

18 (3) The Licensee or Lessee shall furnish within [twenty-one (21)]
19 days after the end of each month to the Director, in a form from time to time
20 approved by the Director, a report containing the information required under
21 with sub-section (1) of this section that is relevant to the preceding [quarter].

22 (4) All records which are required to be furnished under this Act
23 shall be supplied at the expense of the Lessee or Licensee.

24 8. Any person or persons authorised by the Director shall be Power to enter
and carry out
investigations, etc.
25 entitled at all reasonable times to enter into and upon any part of the relevant
26 area (or any other location, premises, structure or business place occupied
27 by the Lessee or Licensee for the purpose of facilitating or carrying out its
28 operations in the relevant area) -

29 (a) to carry out investigations and inspections necessary to ensure
30 that the requirements of this Act are complied with; and

1 (b) to inspect and make abstract or copies of any logs or records which
2 the Lessee or Licensee is required to make or keep in accordance with this Act.

Penalty for flaring
or venting of gas
without a permit

3 9.-(1) Any Licensee or Lessee that flares or vents gas other than as
4 permitted under section 4 of this Act commits an offence under this Act and
5 shall be liable on conviction to a fine equal to [two hundred percent (200%)] of
6 the fee payable under section 5 of this Act for every one thousand standard
7 cubic feet of gas flared in violation of this Act. For subsequent offences, the
8 Lessee or Licensee shall, in addition to any fine imposed under this section, be
9 liable on conviction to forfeiture of the lease or license covering the field or
10 fields in relation to which the offence was committed.

11 (2) In addition to the penalty specified in sub-section (1) of this
12 section, the Minister may order the withholding of all or part of any
13 entitlements of any offending person towards the cost of completion or
14 implementation of a desirable gas utilization scheme, or the repair or
15 restoration of any reservoir in the field in accordance with good oil-field
16 practice.

Penalty for
failure to install
metering
equipment

17 10. The failure or neglect of the lessee or licensee to install metering
18 equipment pursuant to the provisions of section 6 of this Act shall be an offence
19 under this Act and the Lessee or Licensee shall be liable on conviction to a fine
20 not less than \$[.] If the offence is a continuing one, the convicted Lessee or
21 Licensee shall, in addition, be liable to a fine of \$[.] in respect of each day
22 during which the offence continues.

Penalty for refusal
to furnish return
or supply
information

23 11. Any person who:
24 (a) fails or refuses to supply a return or to supply information to the
25 Minister or the Director, which is required under this Act, at the time and in the
26 manner prescribed;
27 (b) who furnishes a false or incomplete return;
28 (c) supplies false or incomplete information; or
29 (d) wilfully delays or obstructs the Minister, the Director, their
30 respective officers, an inspector or police officer in the exercise of the powers

1 or duties conferred or imposed on the Minister or the Director under this Act;
 2 (c) or conceals, fails or refuses, without reasonable cause, to supply
 3 information required by the Minister or the Director or any duly empowered
 4 lawful authority at the time and in the manner prescribed or when required to
 5 do so, commits an offence and liable to a fine not exceeding \$[.] or to
 6 imprisonment for a period not exceeding one year or to both fine and
 7 imprisonment.

8 12. The Minister may make regulations prescribing anything Power to make
 9 requiring to be prescribed for the purposes of this Act and such regulations regulations
 10 as are necessary to give proper effect to the provisions of this Act.

11 13. The provisions of this Act shall apply to the Exclusive Zone as Act to apply in
 12 they apply to land as defined in section 1 of the Petroleum Act [Cap P10]. Exclusive Zone

13 14. The Minister shall be answerable to the National Assembly for Miscellaneous
 14 failure, refusal, and or neglect to shut down or implement the penalties or Provisions
 15 any field, group of fields, or facility which contravenes the provision of this
 16 Act.

17 15. -(1) All infrastructural projects undertaken to support gas flare Special
 18 out will be entitled to 5 years corporate tax exemption and other concessions Consideration
 19 as may be granted by the Federal Government.

20 (2) All projects aimed at producing for the Nigerian market shall
 21 enjoy the following waivers:

22 (a) 5 year corporate tax exemption;

23 (b) land or equivalent of the cost of the land in tax deductions from
 24 VAT; and

25 (c) all projects employing above 200 Nigerians or at least 40 per
 26 cent Nigerian equity ownership shall enjoy tax write off for insurance policy
 27 premium for 5 years after commissioning.

28 16. The powers conferred on the Minister by this Act may be Delegation of
 29 exercised by any one duly authorized by the Minister to do so. Minister

Power of Review	1	17. The Minister's powers granted under this Act shall be reviewed
	2	and re- appraised after every two years.
Interpretation	3	18. In this Act, unless the context otherwise requires-
	4	"Director" means the Director, Department of Petroleum Resources;
	5	"Exclusive Zone" has the same meaning assigned thereto in the Exclusive
	6	Economic Zone Act [Cap. E17.];
	7	"Gas flaring" means any flaring of natural gas associated with the process of oil
	8	production, and includes continuous production flaring but excludes safety
	9	flaring and non-continuous production flaring; Analogous expressions, such as
	10	"gas flare", "flaring of gas", "flare gas" shall have the same meaning as "gas
	11	flaring";
	12	"Licensee" means the holder of an Oil Prospecting Licence;
	13	"Lessee" means the holder of an Oil Mining Lease;
	14	"Minister" means the Minister charged with responsibilities for matters
	15	relating to Petroleum.
Repeals	16	19. The Associated Gas Re-Injection Act [Cap 25.] is hereby
	17	repealed.
Short title	18	20. This Bill may be cited as the Gas Flaring (Prohibition) Bill, 2017.

EXPLANATORY MEMORANDUM

This Bill seeks to make provisions for the prohibition of the flaring and venting of natural gas in any oil and gas production operation in Nigeria and for other matters connected therewith.