

NATIONAL ENERGY REFORM BILL, 2015

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# A BILL

## FOR

AN ACT TO ENSURE THAT DIVERSE ENERGY RESOURCES ARE AVAILABLE  
 IN SUSTAINABLE QUANTITIES AND AT AFFORDABLE PRICES IN SUPPORT OF  
 ECONOMIC GROWTH AND POVERTY ALLEVIATION, TAKING INTO ACCOUNT  
 ENVIRONMENTAL MANAGEMENT REQUIREMENTS AND INTERACTIONS  
 AMONGST ECONOMIC SECTORS TO PROVIDE FOR ENERGY PLANNING  
 INCREASED GENERATION AND CONSUMPTION OF RENEWABLE ENERGIES,  
 CONTINGENCY ENERGY SUPPLY AND TO PROVIDE FOR OTHER MATTERS  
 CONNECTED THEREWITH

*Sponsored by Senator Theodore A. Orji*

[ ] Commencement

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

PART I - INTERPRETATIONS AND OBJECTS

1. In this Act, unless the context otherwise requires:

Interpretation

"Board" means the Board of the National Energy Development Institute  
 contemplated in section 8;

"energy carrier" means a substance or system that moves or carries energy in  
 ausable form from one place to another;

"energy data" means energy related statistics, facts, figures, information and  
 records of the energy industry and all other economic sectors;

"energy efficiency" means economical and efficient production and  
 utilisation of an energy earner or resource;

"energy feedstocks" means any substance used or that can be used as a raw  
 material in an industrial process producing energy;

"energy infrastructure" means public and privately owned physical  
 structures which are used for the production, transformation, conversion,  
 transportation or distribution of energy carriers;

1 "energy related sectors" means all sectors which are impacted by or have an  
2 impact on the energy sector;

3 "energy resource" means non-value added material or mineral that can be used  
4 to produce energy or be converted to an energy carrier;

5 "free basic electricity" means a limited free amount of electricity, supply  
6 deemed necessary to support basic energy services of a typical poor household  
7 as determined from time to time;

8 "greenhouse gases" mean gases present in the atmosphere which reduce the  
9 loss of heat into space and thereby contributing to an increase in global  
10 temperatures through a process known as the greenhouse effect;

11 "Integrated Energy Plan" means the national energy plan contemplated in  
12 section 6 approved by the Federal Executive Council and published in the  
13 Gazette by the Minister;

14 "Minister" means the Minister of Power;

15 "prescribed" means prescribed by regulation;

16 "regulation" means any regulation made in terms of this Act;

17 "renewable energy" means energy generated from natural non-depleting  
18 resources including solar energy, wind energy, biomass energy, biological  
19 waste energy, hydro energy, geothermal energy and ocean and tidal energy; and

20 "this Act" includes regulations made in terms of this Act.

Objects of Act

21 2. The objects of this Act are to:

22 (a) ensure uninterrupted supply of energy;

23 (b) promote diversity of supply of energy and its sources;

24 (c) facilitate effective management of energy demand and its  
25 conservation;

26 (d) promote energy research;

27 (e) promote appropriate standards and specifications for the  
28 equipment, systems and processes used for producing, supplying and  
29 consuming energy;

30 (f) ensure collection of data and information relating to energy supply.

1 transportation and demand;

2 (g) provide for optimal supply, transformation, transportation,  
3 storage and demand of energy that are planned, organised and implemented  
4 in accordance with a balanced consideration of security of supply,  
5 economics, consumer protection and a sustainable development;

6 (h) provide for certain safety, health and environment matters that  
7 pertain to energy;

8 (i) facilitate energy access for improvement of the quality of life of  
9 the people;

10 (j) commercialise energy related technologies;

11 (k) ensure effective planning for energy supply, transportation and  
12 consumption and

13 (l) contribute to sustainable development of Nigeria's economy.

14 PART 2 - ENERGY SUPPLY, OPTIMISATION AND UTILISATION

15 3.-(1) The Minister must establish mechanisms to ensure:

16 (a) provision of any data and information reasonably required for  
17 the purposes of conducting analysis required for energy planning from any  
18 person and the time period for the provision of such data and information,  
19 where such data is not already made available to any other public institution;  
20 and

21 (b) connection to any data and information management system, or  
22 any other system within the public administration, for the acquisition of  
23 energy data and information where such data or information is collected by  
24 that public institution.

25 (2) The Minister may, for the purpose of ensuring optimal  
26 collection of data, subject to observation of confidentiality of information in  
27 the possession of a particular entity permit sharing of information with any  
28 other entity within and outside of the boundaries of Nigeria.

29 (3) The Minister must establish mechanisms to:

30 (a) collect collate and analyse energy data and information;

Provision of data  
and access to  
data sources



1 (b) manage energy data and information; and  
2 (c) avail, in a manner prescribed, energy statistics and energy  
3 information to the public.

4 (4) The Minister must annually publish an analysis:

5 (a) reviewing energy demand and supply for previous year;

6 (b) forecasting energy supply and demand for no less than 20 years:

7 and

8 (c) of plausible energy scenarios of how the future energy demand and  
9 supply landscape could look like under different demand and supply  
10 assumptions.

11 (5) The Minister must publish:

12 (a) models used for data and information analysis;

13 (b) all the assumptions that are underpinning the models  
14 contemplated in subsection (a); and

15 (c) a list of categories of information or data that have been classified  
16 as confidential and the reasons thereof.

Safety, health  
and environment

17 4. The Minister may, after consultation with the Minister of Trade and  
18 Investment the Minister of Labour, Employment and Productivity and the  
19 Minister of Environment to minimise the negative safety, health and  
20 environmental impacts of energy carriers.

Energy access  
by households

21 5.-(1) The Minister must adopt measures that provide for the  
22 universal access to appropriate forms of energy or energy services for all at  
23 affordable prices.

24 (2) The measures contemplated in subsection (1) must take into  
25 account:

26 (a) the safety, health and environmental suitability of such energy;

27 (b) the availability of energy resources;

28 (c) the optimisation of existing energy infrastructure;

29 (d) the need for new infrastructure;

30 (e) the provision of information and training regarding energy and its

- 1 optimal utilisation;
- 2 (f) the sustainability of the energy provision;
- 3 (g) affordability;
- 4 (h) cost effectiveness;
- 5 (i) the commitment to provide free basic electricity to poor
- 6 households; and
- 7 (j) appropriate governance procedures for government sponsored
- 8 programmes.

9 PART 3 - INTEGRATED ENERGY PLANNING

- 10 6.-(1) The Minister must develop and, on an annual basis, review Integrated energy  
11 and publish the Integrated Energy Plan in the Gazette. planning
- 12 (2) The Integrated Energy Plan must deal with issues relating to the
- 13 supply, transformation, transport, storage and demand of energy in a way
- 14 that accounts for:
- 15 (a) security of supply;
- 16 (b) economically available energy resources;
- 17 (c) affordability;
- 18 (d) universal accessibility and free basic electricity;
- 19 (e) social equity;
- 20 (f) employment;
- 21 (g) the environment;
- 22 (h) international commitments;
- 23 (i) consumer protection; and
- 24 (j) contribution of energy supply to socio-economic development.
- 25 (3) The Integrated Energy Plan must:
- 26 (a) take account of plans relating to transport, electricity,
- 27 petroleum, water, trade, macro-economy energy infrastructure
- 28 development, housing, air quality management, greenhouse gas mitigation
- 29 within the energy sector and integrated development plans of local and State
- 30 authorities;

1 (b) inform and be informed by plans from all supply, production and  
2 demand sectors whose plans impact on or are impacted by the Integrated  
3 Energy Plan; and

4 (c) be based on the results of the energy analysis envisaged in sections  
5 3(4)(a) and 3(S).

6 (4) The development of the Integrated Energy Plan must take into  
7 account:

8 (a) sustainable development;

9 (b) optimal use of indigenous and regional energy resources;

10 (c) balance between supply and demand;

11 (d) economic viability;

12 (e) environmental, health, safety and socio-economic impacts; and

13 (f) developmental requirements of the Southern African region.

14 (5) The Integrated Energy Plan must have a planning horizon of no  
15 less than 20 years.

16 (6) The Integrated Energy Plan must:

17 (a) serve as a guide for energy infrastructure investments;

18 (b) take into account all viable energy supply options; and

19 (c) guide the selection of the appropriate technology to meet energy  
20 demand.

21 (7) Before finalising the Integrated Energy Plan, the Minister must:

22 (a) invite public comments; and

23 (b) duly consider such comments.

24 PART 4 - THE NATIONAL ENERGY DEVELOPMENT INSTITUTE

Establishment of  
the National  
Energy  
Development  
Institute

25 7.-(1) The National Energy Development Institute is here by  
26 established.

27 (2) The functions of the National Energy Development Institute are  
28 to, in respect of:

29 (a) energy efficiency:

30 (i) undertake energy efficiency measures as directed by the Minister;



- 1 (ii) increase energy efficiency throughout the economy;
- 2 (iii) increase the gross domestic product per unit of energy  
3 consumed: and
- 4 (iv) optimise the utilisation of finite energy resources;
- 5 (b) energy research and development:
- 6 (i) direct, monitor, conduct and implement energy research and  
7 technology development in a fields of energy, other than nuclear energy;
- 8 (ii) promote energy research and technology innovation; and
- 9 (iii) provide for:
- 10 (aa) training and development in the field of energy research and  
11 technology development;
- 12 (bb) establishment and expansion of industries in the field of  
13 energy; and
- 14 (cc) commercialisation of energy technologies resulting from  
15 energy research and development programmes;
- 16 (iv) register patents and intellectual property in its name resulting  
17 from its activities;
- 18 (v) issue licenses to other persons for the use of its patents and  
19 intellectual property;
- 20 (vi) publish information concerning its objects and functions;
- 21 (vii) establish facilities for the collection and dissemination of  
22 information in connection with research, development and innovation;
- 23 (viii) undertake any other energy technology development related  
24 activity as directed by the Minister with the concurrence of the Minister of  
25 Science and Technology;
- 26 (ix) promote relevant energy research through cooperation with  
27 any other institution or person equipped with the relevant skills and  
28 expertise within and outside Nigeria;
- 29 (x) make grants to educational and scientific institutions in aid of  
30 research by their staff or for the establishment of facilities for such research;

National Energy  
Development  
Institute Sub-  
Committees for  
specific purposes

1           9.-(1) The Board may establish sub-committees and may appoint any  
2 of its members to join one or more of such sub-committees, which must,  
3 subject to the instructions of the Board, perform those functions of the Board as  
4 the Board may determine.

5           (2) (a) A sub-committee contemplated in subsection (1) consists of  
6 such number of persons including at least one Board member and any  
7 employees of the National Energy Development Institute, as the Board deems  
8 necessary;

9           (b) The Board may at any time dissolve or reconstitute a sub-  
10 committee.

11           (3) If a sub-committee referred to in subsection (1) consists of more  
12 than one member the Board must designate one member as a Chairperson.

13           (4) The National Energy Development Institute may pay the members  
14 of a sub-committee referred to in subsection (1) who are:

15           (a) not in the full-time service of the Government;

16           (b) not employees of the National Energy Development Institute; and

17           (c) not members of the Board, the remuneration and allowances  
18 determined by the Minister, with the concurrence of the Minister of Finance.

19           (5) The Board shall not be discharged from their responsibility from  
20 any function performed in terms of this section by any sub-committee of the  
21 Board.

Meetings of the  
Board of the  
National Energy  
Development  
Institute

22           10.-(1) The meetings of the Board must be held at such times and  
23 places as determined by the Chairperson of the Board.

24           (2) The Chairperson, or in his or her absence the Deputy Chairperson,  
25 may at any time call a special meeting of the Board, which must be held at such  
26 time and place as the Chairperson or the Deputy Chairperson, as the case may  
27 be may direct.

28           (3) The quorum for a meeting of the Board is the majority of its  
29 members.

30           (4) A decision of the Board is taken by resolution of the majority of the

1 members present at any meeting of the Board and, in the event of an equality  
2 of votes on any matter, the person presiding at the meeting in question shall  
3 have a casting vote in addition to his or her deliberative vote as a member of  
4 the Board.

5 (5) No decision taken by or act performed under the authority of the  
6 Board shall be invalid by reason only of:

7 (a) a vacancy on the Board; or

8 (b) the fact that a person who was not entitled to sit as a member of  
9 the Board such as a member at the time when the decision was taken or the  
10 act was authorized if the decision was taken or the act was authorised by the  
11 requisite majority of the members of the Board who were present at the time  
12 and entitled to sit as members.

13 11.-(1) The Board appoints the Chief Executive Officer of the  
14 National Energy Development Institute.

Chief Executive  
Officer of National  
Energy Development  
Institute

15 (2) The Chief Executive Officer:

16 (a) is responsible for and exercises control over the performance of  
17 the functions of the National Energy Development Institute; and

18 (b) must report on the affairs of the National Energy Development  
19 Institute to the Board as may be required of him or her by the Board.

20 (3) If the Chief Executive Officer is absent or unable to carry out  
21 his or her duties or in the event of a vacancy, the Board may appoint an  
22 employee of the National Energy Development Institute to act as Chief  
23 Executive Officer, and that employee shall, while so acting, have all the  
24 powers and perform all the duties of the Chief Executive Officer.

25 (4) The Chief Executive Officer is appointed for a period of not  
26 more than five years but may be reappointed on the conditions, including  
27 conditions relating to the payment of remuneration and allowances, which  
28 the Board may determine in accordance with a system approved, from time  
29 to time, by the Minister with the concurrence of the Ministers of Finance and  
30 Science and Technology.

1 (5) The Chief Executive Officer must enter into an annual  
2 performance contract with the Board and the Board must assess his or her  
3 performance annually.

National Energy  
Development  
Institute employees  
and conditions  
of service

4 12.-(1) The Chief Executive Officer of the National Energy  
5 Development Institute may on the conditions which must be determined by the  
6 Board appoint the employees of the National Energy Development Institute  
7 whom it deems necessary to assist the National Energy Development Institute  
8 in the performance of its functions.

9 (2) The National Energy Development Institute must pay its  
10 employees such remuneration, allowances, subsidies and other benefits, as the  
11 Board may determine, in accordance with a system approved from time to time  
12 by the Minister, with the concurrence of the Minister of Finance.

13 (3) The National Energy Development Institute may, in addition to  
14 employees referred to in subsection (1), be assisted in the performance of its  
15 functions by officers and employees in the public service who have been placed  
16 at the disposal of the National Energy Development Institute.

17 (4) The Board may, on such conditions as it may deem fit and for a  
18 fixed period of time, second an employee of the National Energy Development  
19 Institute to perform a particular service for the government of any other  
20 country or territory, provided that:

21 (a) such an employee's rights, privileges and benefits by virtue of his  
22 conditions of service as an employee of the National Energy Development  
23 Institute are not adversely affected by such secondment; and

24 (b) such employee consents thereto.

Funding of the  
National Energy  
Development  
Institute

25 13.-(1) The funds of the National Energy Development Institute  
26 consist of:

27 (a) money appropriated by the National Assembly;

28 (b) donations or contributions which the National Energy  
29 Development Institute may receive from any person, body, government or  
30 administration; and



1 (c) money received from any other appropriate source.

2 (2) The National Energy Development Institute must utilise its  
3 funds for defraying expenses in connection with the performance of its  
4 functions.

5 (3) The National Energy Development Institute must utilise its  
6 money in accordance with the Statement of its estimated income and  
7 expenditure contemplated in subsection (4) as approved by the Minister.

8 (4) The Board must in each financial year submit a statement of the  
9 National Energy Development Institutes estimated income and expenditure  
10 during the following financial year to the National Assembly for his or her  
11 approval.

12 (5) The Board may create surplus funds as envisaged by subsection  
13 (5) and deposit such funds as the Minister, acting with the concurrence of the  
14 Minister of Finance, may approve.

15 **14.**-(1) The Chief Executive Officer is the accounting officer  
16 charged with the responsibility of accounting for all money received and  
17 payments made by the South African National Energy Development  
18 Institute.

Accounting and  
auditing at the  
National Energy  
Development  
Institute

19 (2) The accounting officer must cause such records of account to be  
20 kept as are necessary to represent fairly the state of affairs and business of  
21 the National Energy Development Institute and to explain the transaction's  
22 and financial position of the business of the National Energy Development  
23 Institute.

24 (3) The accounting and compilation of annual financial statements  
25 of the Development Institute must be done in accordance with the provisions  
26 of the Management Act National Energy Public Finance

27 **15.**-(1) Subject to subsections (5) and (6), the rights in all  
28 discoveries and inventions and in all improvements in respect of processes,  
29 apparatus and machines made by:

Discoveries  
inventions and  
improvements

30 (a) employees of the National Energy Development Institute or



1 officers and employees in the public service who have been placed at the  
2 disposal of the Energy Research and Development Division of the National  
3 Energy Development Institute in terms of section 12(3);

4 (b) persons assisting the rational Energy Development Institute with  
5 any investigation or research;

6 (c) persons to whom contracts including bursaries or grants-in-aid  
7 have been granted by the National Energy Development Institute, vests in the  
8 National Energy Development Institute.

9 (2) The National Energy Development Institute may make the  
10 discoveries, inventions and improvements referred to in subsection (1)  
11 available for use in the public interest subject to the conditions and the payment  
12 of fees or royalties that the National Energy Development Institute may  
13 determine.

14 (3) In respect of the rights in any discovery, invention or improvement  
15 that are contemplated in subsection (1), the National Energy Development  
16 Institute may award to the person responsible for the discovery, invention or  
17 improvement such bonus as it deems fit, or make provision for financial  
18 participation by him or her in the profit derived from such discovery, invention  
19 or improvement to such extent as the Minister may determine with the  
20 concurrence of the Minister of Finance.

21 (4) National Energy Development Institute may apply for a patent in  
22 respect of any discovery, invention or improvement contemplated in  
23 subsection (1), and shall for the purposes of the Patents Act, be regarded as the  
24 assignee of the discoverer or inventor in question.

25 (5) Unless it is otherwise agreed, the rights in a discovery, invention or  
26 improvement made by the National Energy Development Institute in the  
27 course of an investigation for or on behalf of another person, government or  
28 administration shall vest with the National Energy Development Institute.

29 (6) The provisions of this section shall not apply in respect of a  
30 discovery or an invention or improvement referred to in subsection (1) which,

1 in the opinion of the Minister was made by the person concerned otherwise  
2 than:

3 (a) in the course of his employment as an employee of the National  
4 Energy Development Institute;

5 (b) during the performance of functions in respect of which he or  
6 she has been placed at the disposal of the National Energy Development  
7 Institute in terms of section 12(3);

8 (c) in the course of any investigation or research while assisting the  
9 National Energy Development Institute; or

10 (d) in the course of any research in respect of which he or she  
11 receives a bursary or grant-in-aid from the National Energy Development  
12 Institute, which is not connected with such employment, functions,  
13 investigation or research

14 Part 5 - Security Of Supply

15 16.-(1) The Minister may, in a prescribed manner, for the purposes  
16 of ensuring security of supply, direct any state-owned entity to acquire,  
17 maintain, monitor and manage national strategic energy feed stocks and  
18 carriers.

Acquisition and  
maintenance of  
national strategic  
energy feed stocks  
and carriers

19 (2) The nominated federal body must perform the functions  
20 contemplated in subsection (1) in accordance with the relevant published  
21 security of supply strategies or policies.

22 (3) The strategies or policies contemplated in subsection (2) may  
23 contain but not be limited to:

24 (a) the minimum level of energy carrier or energy feedstock for the  
25 production of an energy carrier;

26 (b) the conditions under which:

27 (i) the strategic energy feedstocks and carriers may be built; and

28 (ii) withdrawals may be made from such strategic energy feed  
29 stocks and carriers;

30 (c) cost and benefit analysis;

1 (d) funding mechanism for such energy feedstock or carrier; and  
2 (e) obligations to be imposed, on producers of energy feed stocks, to  
3 supply to the nominated federal body the requisite energy feedstock, in a  
4 manner prescribed by regulation.

5 (4) Before finalising the strategy or policy, the Minister must:

6 (a) invite public comments on such strategy or policy; and

7 (b) duly consider such comments.

Investment in  
and maintenance  
of Energy  
Infrastructure

8 17. The Minister may, for the purposes of ensuring security of supply,  
9 direct any federal body, in a prescribed manner, to:

10 (a) undertake security of supply measures;

11 (b) provide for adequate investment in energy infrastructure;

12 (c) invest in critical energy infrastructure; and

13 (d) ensure upkeep of all critical energy infrastructure.

14 PART 6 - GENERAL PROVISIONS

Regulations

15 18.-(1) The Minister may, after consultation with Ministers whose  
16 areas of responsibility will be affected by the proposed regulations, without  
17 derogating from his or her general regulatory powers, by notice in the Gazette  
18 make regulations regarding:

19 (a) the publication of energy statistics or information;

20 (b) the type, manner and form of energy data and information that  
21 must be provided by any person;

22 (c) the form and manner of the link between the energy database and  
23 information system to any other system within the public administration;

24 (d) minimum contributions to national energy supply from renewable  
25 energy sources;

26 (e) the nature of the sources that may be used for renewable energy  
27 contributions to the national energy supply;

28 (f) measures and incentives designed to promote the production,  
29 consumption, investment, research and development of renewable energy :

- 1 (g) minimum levels of energy efficiency in each sector of the  
2 economy;
- 3 (h) steps and procedures necessary for the application of energy  
4 efficiency technologies and procedures;
- 5 (i) labelling for energy efficiency purposes of household  
6 appliances, devices and motor vehicles;
- 7 (j) prohibition of the manufacture, or importation or sale of  
8 electrical and electronic products and fuel burning appliances for reasons of  
9 poor energy efficiency;
- 10 (k) standards and specifications for energy carriers;
- 11 (l) energy efficiency standards for specific technologies,  
12 processes, appliances, devices, motor vehicles and buildings;
- 13 (m) holding of strategic energy feedstock's and carriers, including  
14 financing mechanisms for such stocks;
- 15 (n) energy conservation measures to be used during energy  
16 shortage which may include but not limited to the amount of energy to be  
17 saved, the duration from such measures and penalties associated with non-  
18 compliance to such measures;
- 19 (o) measures to ensure adequate provision of energy-related  
20 infrastructure;
- 21 (p) measures to ensure operating reliability of all key energy  
22 infrastructure, to the minimum standards as may be determined by the  
23 Minister;
- 24 (q) measures to promote security of supply through access to  
25 common infrastructure by any party, where not provided for under any other  
26 enactment or law;
- 27 (r) the prohibition of disposal methods of certain fuels or post-  
28 combustion residues;
- 29 (s) the safe, healthy and sustainable use of energy, standards and  
30 specifications not elsewhere legislated or regulated, for:



- 1 (i) the composition, colouring, labelling and form of energy carriers;  
2 (ii) low-smoke fuels;  
3 (iii) the prohibition of the sale or combustion of polluting fuels;  
4 (iv) cooking, heating, lighting and other energy consuming household  
5 appliances;  
6 (v) transport of energy carriers;  
7 (vi) the storage and packaging of energy carriers; and  
8 (vii) any other energy-consuming appliance in all sectors of the  
9 economy.

10 (t) any other matter that may be prescribed, determined or  
11 provided for by regulation in terms of this Act.

12 (2) Before promulgating regulations, the Minister must:

- 13 (a) invite public comments on such regulations; and  
14 (b) duly consider such comments.

Offences and  
penalties

15 **19.-(1)** A person who contravenes or fails to comply with any provision  
16 of this Act, shall be guilty of an offence and be liable on conviction to:

- 17 (a) a fine not exceeding five million Naira;  
18 (b) imprisonment for a period not exceeding five years; or  
19 (c) both such fine and such imprisonment.

20 (2) The Minister may, by a notice in the Gazette amend the amount  
21 referred to in subsection (1) in order to counter the effect of inflation.

Short Title

22 **20.-(1)** This Bill may be cited as the National Energy Reform Bill,  
23 2015.



## EXPLANATORY MEMORANDUM

This Bill seeks to ensure that diverse energy resources are available in sustainable quantities and at affordable prices to the economy in support of economic growth and poverty alleviation, taking into account environmental management requirements and interactions amongst economic sectors; to provide for energy planning, increased generation and consumption of renewable energies, contingency energy supply, holding of strategic energy feedstocks and carriers, adequate investment in appropriate upkeep and access to energy infrastructure to provide measures for the furnishing of certain data and information regarding energy demand, supply and generation; to establish an institution to be responsible for promotion of efficient generation and consumption of energy and energy research.





