

PETROLEUM INDUSTRY BILL, 2020

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A BILL [EXECUTIVE]

FOR

AN ACT TO PROVIDE LEGAL, GOVERNANCE, REGULATORY AND FISCAL
FRAMEWORK FOR THE NIGERIAN PETROLEUM INDUSTRY, THE
DEVELOPMENT OF HOST COMMUNITIES AND FOR RELATED MATTERS

[] Commencement

ENACTED BY THE National Assembly of the Federal Republic
of Nigeria as follows-

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CHAPTER 1

GOVERNANCE AND INSTITUTIONS

PART I

VESTING AND OBJECTIVES

1. The property and ownership of petroleum within Nigeria and its
territorial waters, continental shelf and Exclusive Economic Zone is vested
in the Government of the Federation of Nigeria.

Vesting of
Petroleum

2. The objectives of this Chapter are to-
(a) create efficient and effective governing institutions, with clear
and separate roles for the petroleum industry;
(b) establish a framework for the creation of a commercially
oriented and profit-driven national petroleum company;
(c) promote transparency, good governance and accountability in
the administration of the petroleum resources of Nigeria; and
(d) foster a business environment conducive for petroleum
operations.

Objectives

PART II

MINISTER OF PETROLEUM

3. The Minister shall-
(a) formulate, monitor and administer government policy in the
petroleum industry;

Powers of the
Minister

- 1 (b) exercise general supervision over the affairs and operations of the
2 petroleum industry in accordance with the provisions of this Act;
- 3 (c) report developments in the petroleum industry to the government;
- 4 (d) represent Nigeria at international organisations on petroleum
5 matters;
- 6 (e) promote an enabling environment for investment in the Nigerian
7 petroleum industry;
- 8 (f) negotiate treaties or other international agreements on matters
9 pertaining to petroleum on behalf of the Government;
- 10 (g) upon the recommendation of the Commission, grant Petroleum
11 Prospecting Licences and Petroleum Mining Leases through the processes
12 established in this Act;
- 13 (h) upon the recommendation of the Commission and pursuant to the
14 provisions of this Act and the Regulations, revoke and assign interests in
15 Petroleum Prospecting Licences and Petroleum Mining Leases;
- 16 (i) delegate in writing to the Chief Executive of the Commission or
17 Authority any power conferred on the Minister by or under this Act;
- 18 (j) upon the recommendation of the Commission or Authority
19 approve the fees for services rendered by the Commission or Authority in
20 Regulations;
- 21 (k) upon the recommendation of the Commission or the Authority,
22 direct in writing the suspension of petroleum operations in any area-
- 23 (i) until arrangements to prevent danger to life or property have been
24 made to his satisfaction, or
- 25 (ii) where in his opinion, a contravention of this Act or any Regulation
26 made under this Act has occurred or is likely to occur.
- 27 (2) The Minister may order a cutback of the levels of crude oil or
28 condensate production in the context of international oil pricing agreements
29 supported by Nigeria.
- 30 (3) The Minister shall have rights of pre-emption of petroleum and

1 petroleum products marketed under any licence or lease in the event of a
2 national emergency under the First Schedule to this Act.

3 (4) The Minister may give general policy directives to the
4 commission on matters concerning upstream petroleum operations and to
5 the authority on matters relating to midstream and downstream petroleum
6 operations in line with the provisions of this Act and the Commission and the
7 Authority shall comply with such directives.

8 (5) The Minister shall cause the general policy directives issued
9 pursuant to sub-section (4) of this section to be published in the Gazette.

10 PART III

11 THE COMMISSION

12 4.-(1) There is established the Nigerian Upstream Regulatory
13 Commission (the "Commission") which shall be a body corporate with
14 perpetual succession and a common seal. Establishment
of the Nigerian
Upstream
Regulatory
Commission

15 (2) The Commission shall have the power to acquire, hold and
16 dispose of property, sue and be sued in its own name.

17 (3) The Commission shall be responsible for the technical and
18 commercial regulation of upstream petroleum operations.

19 5. The objects and functions of the Commission in this Part are
20 limited to upstream petroleum operations. Application of
this Part

21 6. The objectives of the Commission shall be to- Objectives of
the Commission

22 (a) regulate upstream petroleum operations including technical,
23 operational and commercial activities;

24 (b) ensure compliance with all applicable laws and Regulations
25 governing upstream petroleum operations;

26 (c) ensure that upstream petroleum operations are carried out in a
27 manner to minimise waste and achieve optimal government revenues;

28 (d) promote healthy, safe, efficient and effective conduct of
29 upstream petroleum operations in an environmentally acceptable and
30 sustainable manner;

1 (e) ensure efficient, safe, effective and sustainable infrastructural
2 development of upstream petroleum operations;

3 (f) determine, administer and ensure the implementation and
4 maintenance of technical standards, codes, practices and specifications
5 applicable to upstream petroleum operations pursuant to good international
6 petroleum industry practices;

7 (g) implement government policies for upstream petroleum
8 operations as directed by the minister of petroleum and in accordance with this
9 act;

10 (h) promote an enabling environment for investment in upstream
11 petroleum operations;

12 (i) ensure strict implementation of environmental policies, laws and
13 regulations for upstream petroleum operations;

14 (j) ensure the implementation of national policies for upstream
15 petroleum operations; and

16 (k) implement such other policies and objectives as are consistent
17 with the provisions of this act.

Technical regulatory
functions of the
Commission

18 **7.** The technical regulatory functions of the Commission include the
19 following-

20 (a) enforce, administer and implement laws, regulations and policies
21 relating to upstream petroleum operations;

22 (b) ensure compliance with applicable national and international
23 petroleum industry policies, standards and practices for upstream petroleum
24 operations;

25 (c) establish, monitor, regulate and enforce health, safety and
26 environmental measures and standards relating to upstream petroleum
27 operations including-

28 (i) management of petroleum reserves and installations, and

29 (ii) exploration, development and production activities within the
30 onshore, offshore and exclusive economic zone of Nigeria;

- 1 (d) administer, monitor and enforce compliance with the terms and
2 conditions of leases and licences granted and permits and authorisations
3 issued to a company in respect of upstream petroleum operations;
- 4 (e) set, define and enforce approved standards and regulations for
5 design, construction, fabrication, operation and maintenance of plants,
6 installations and facilities used or to be used in upstream petroleum
7 operations including-
- 8 (i) crude oil and natural gas evaluation and management,
9 (ii) upstream natural gas gathering,
10 (iii) natural gas treatment, and
11 (iv) the elimination of natural gas flaring and venting;
- 12 (f) keep public registers of-
- 13 (i) licences and leases granted by the Minister and permits and
14 other authorisations issued by the Commission,
15 (ii) beneficial ownership, and
16 (iii) award, renewal, assignment, amendment, suspension and
17 revocation thereof;
- 18 (g) carry out enquiries, tests, audits or investigations and take other
19 steps to monitor the activities of licensees, lessees or permit holders;
- 20 (h) establish and enforce standards relating to upstream petroleum
21 operations;
- 22 (i) undertake evaluation of national reserves and develop policies
23 for prudent reservoir management practices;
- 24 (j) maintain a Nigerian petroleum industry data bank comprising of
25 materials, information and data acquired by, or submitted to, the
26 Commission in the exercise of its statutory and regulatory functions;
- 27 (k) require lessees, licensees and permit holders to furnish and
28 publish specified information relating to upstream petroleum operations in
29 this Act and the National Data Repository Regulation, 2020;
- 30 (l) supervise and ensure accurate calibration and certification of

- 1 equipment used for metering upstream petroleum operations and issue
2 certificates of quality and quantity for petroleum produced;
- 3 (m) publish reports and statistics on upstream petroleum operations to
4 promote the growth of the petroleum industry;
- 5 (n) advise the Minister on fiscal, operational, technical and other
6 matters to enhance the upstream petroleum operations;
- 7 (o) issue permits and other authorisations as may be necessary for
8 technical activities, including-
- 9 (i) seismic operations,
10 (ii) drilling operations, and
11 (iii) design, construction and operation of facilities for upstream
12 petroleum operations;
- 13 (p) establish special laboratories to provide data storage and testing,
14 quality assurance and certification for upstream petroleum operations;
- 15 (q) perform technical evaluation and assessments regarding
16 submissions made to the Commission by licensees, lessees or permit holders
17 involved in upstream petroleum operations;
- 18 (r) keep records, data and reports obtained from upstream petroleum
19 operations, as may be required under any Act or regulation and give directive to
20 any person, company or entity in that regard;
- 21 (s) manage and administer data regarding unallocated acreage;
- 22 (t) conduct bidding rounds for the award of petroleum prospecting
23 licences and petroleum mining leases pursuant to this act and applicable
24 regulations;
- 25 (u) when requested, provide assistance to parties conducting
26 upstream petroleum operation, where in the sole opinion of the commission
27 such assistance is merited;
- 28 (v) approve field development plans and commercial terms for
29 upstream petroleum operations;
- 30 (w) compute, determine, assess and ensure payment of royalties,

1 rents, fees, and other charges for upstream petroleum operations as
2 stipulated under this Act and any Regulations;

3 (x) establish parameters and codes of conduct for licensees, lessees
4 or permit holders in the upstream petroleum operations;

5 (y) monitor the financial viability of licensees, lessees or permit
6 holders with respect to upstream petroleum operations;

7 (z) develop, maintain and publish a database of upstream
8 petroleum operations; and

9 (aa) perform such other function as may be necessary to give effect
10 to the provisions of this Act.

11 **8.** The commercial regulatory functions of the Commission shall
12 be to-

Commercial
regulatory
functions of the
Commission

13 (a) review and approve the commercial aspects of field
14 development plans and other related upstream petroleum operations;

15 (b) supervise costs and cost control in upstream petroleum
16 operations;

17 (c) review and approve commercial aspects of work programmes
18 and field development plans for all licensees, lessees or permit holders in
19 upstream petroleum operations, including the NNPC and NNPC Limited;

20 (d) develop cost studies and benchmarks for the evaluation of
21 upstream petroleum operations taking into account petroleum industry
22 specific issues, including field size, reservoir depth, location of operations,
23 technology applied, production methods and petroleum quality;

24 (e) implement cutbacks of crude oil or condensate production
25 ordered by the Minister; and

26 (f) make arrangements with NNPC Limited regarding any
27 functions under section 64 of this Act.

28 **9.-(1)** The functions of the Commission with respect to Frontier
29 Basins shall be to-

Functions of the
Commission for
frontier basins

30 (a) promote the exploration of the frontier basins of Nigeria;

1 (b) develop exploration strategies and portfolio management for the
2 exploration of unassigned frontier basins in Nigeria;

3 (c) identify opportunities and increase information about the
4 petroleum resources base within frontier basins in Nigeria;

5 (d) undertake studies, analyse and evaluate unassigned frontier basins
6 in Nigeria.

7 (2) Where data acquired and interpreted under a Petroleum
8 Exploration Licence is, in the judgment of the Commission, requires testing
9 and drilling of identifiable prospects and leads, and no commercial entity has
10 publicly expressed an intention of testing or drilling such prospects, the
11 Commission may engage the services of a competent person to drill or test such
12 prospect and leads on a service fee basis.

13 (3) There shall be maintained, for the purpose of this section, a
14 Frontier Exploration Fund.

15 (4) The Frontier Exploration Fund shall be 10% of rents on petroleum
16 prospecting licences and petroleum mining leases.

17 (5) The Commission shall manage the Frontier Exploration Fund in
18 accordance with regulations made under this Act.

Powers of the
Commission

19 **10.** The Commission shall have power to-

20 (a) enforce the provisions of any-

21 (i) regulation made pursuant hereto, with respect to upstream
22 petroleum operations,

23 (ii) enactments with respect to the upstream petroleum industry made
24 prior to the coming into force of this Act and any Regulations made pursuant to
25 powers given under them; and

26 (iii) regulations, policies or guidelines formerly administered by the
27 department of petroleum resources or the petroleum inspectorate, with respect
28 to upstream petroleum operations;

29 (b) seal up any premises, pursuant to section 217 of this Act, including
30 any facility or plant engaged in upstream petroleum operations, where there

- 1 has been a contravention of this Act or any regulations made under this Act;
- 2 (c) issue guidelines on the generation, use, storage and
3 transportation of radioactive sources and materials, in respect of upstream
4 petroleum operations in consultation with the Nigerian Nuclear Regulatory
5 Authority;
- 6 (d) set standards to promote the adoption of new technologies for
7 upstream petroleum operations;
- 8 (e) require lessees, licensees and permit holders to publish
9 specified and non-proprietary information relating to upstream petroleum
10 operations;
- 11 (f) issue guidelines in accordance with the provisions of this Act or
12 any other regulation in respect of upstream petroleum operations;
- 13 (g) with the approval of the Minister, renew and suspend licences
14 and leases in accordance with provisions of this Act;
- 15 (h) within the jurisdiction of the Commission, have access to-
- 16 (i) areas or rights of way regarding licences, leases or any related
17 offices or buildings where information or data are available for inspection
18 under this Act; and
- 19 (ii) all installations to which this Act applies, including plants and
20 stations of every description, for the purpose of inspecting the operations
21 conducted therein and enforcing the provisions of this Act and any
22 regulations made under it.
- 23 (i) impose on a petroleum prospecting licence, petroleum
24 exploration licence or any petroleum mining lease to which this Act applies,
25 special terms and conditions not inconsistent with this Act at the grant or
26 renewal of the licence or lease;
- 27 (j) subject to section 3(1)(j) of this Act, make regulations
28 pertaining to operations, monitoring, lease management and any other
29 matter in respect of upstream petroleum operations as the Commission may
30 deem necessary after due stakeholder consultation pursuant to section 216

1 of this Act, including regulations related to dispute resolution; and(k) d o
2 such other things as are necessary and expedient for the effective and full
3 discharge of any of its functions under this Act.

Governing Board
of the Commission

4 **11.**-(1) There is established a Governing Board (the “ Board of the
5 Commission”) which shall be responsible for the policy and general
6 administration of the Commission.

7 (2) The Board of the Commission shall consist of the following
8 members-

9 (a) one non-executive chairman;

10 (b) two non-executive commissioners;

11 (c) the chief executive of the Commission (the “Commission Chief
12 Executive”);

13 (d) two other executive commissioners who are responsible for
14 Finance and Accounts and Exploration and Acreage Management;

15 (e) one representative of the Authority not below the rank of director;

16 (f) one representative of the Ministry not below the rank of director;

17 and

18 (g) one representative of the Ministry of Finance not below the rank of
19 director.

20 (3) Appointments to the Board of the Commission under subsection
21 (2) of this section shall be made by the President and be subject to confirmation
22 by the Senate, except for the appointments of ex-officio members under
23 subsection (e), (f) and (g) of this section.

24 (4) A person appointed pursuant to sub-section (2) (a) and (b) of this
25 section shall have at least 15 years post-qualification experience in petroleum
26 or other relevant sector of the economy and shall hold office for a period of 5
27 years and may be re-appointed for a further term of 5 years, on such terms and
28 conditions as may be specified in the letter of appointment.

29 (5) Subject to subsection 0 of this section and section 18(7) of this
30 Act, a commissioner shall hold office for 5 years and may be re-appointed for a

1 further term of 5 years.

2 (6) A non-executive commissioner shall hold office on part-time
3 basis.

4 (7) The Board of the Commission may authorise in writing any
5 commissioner, committee of the Board of the Commission, the Commission
6 Chief Executive or any other officer or employee of the Commission, to
7 exercise any power or carry out any duty or function of the Commission
8 under this Act or regulation made under this Act.

9 (8) The proceedings of the Board of the Commission and other
10 ancillary matters shall be as prescribed by Regulation made under this Act.

11 **12.** The Board of the Commission shall-

Functions of the
Board of the
Commission

12 (a) be responsible for the formulation of policy, supervision and
13 giving strategic direction to the Commission;

14 (b) provide general guidance for the carrying out of the functions
15 of the Commission;

16 (c) review and approve the business, strategic and operating plans
17 of the Commission;

18 (d) consider and approve the annual budget of the Commission
19 before submission to the National Assembly for appropriation;

20 (e) approve the management accounts and audited accounts of the
21 Commission and consider the management letter from the external auditors;

22 (f) determine the terms and conditions of service of employees of
23 the Commission;

24 (g) recommend remuneration, allowances, benefits and pensions
25 of employees of the Commission in consultation with the National Salaries,
26 Incomes and Wages Commission, having regard to the-

27 (i) specialised nature of work to be performed by the Commission;

28 (ii) need to ensure the financial self-sufficiency of the
29 Commission; and

30 (iii) remuneration and allowances paid in the private sector in

1 upstream petroleum operations to individuals with equivalent responsibilities,
2 expertise and skills;

3 (h) structure the Commission into such number of departments as it
4 deems fit for the effective discharge of the functions of the Commission; and

5 (i) carry out such other functions as may be necessary for the efficient
6 and effective administration of the Commission under this Act.

Remuneration
and allowances
of the Board of
the Commission

7 **13.**-(1) Commissioners shall be paid from the funds of the
8 Commission such remuneration and allowances as applicable.

9 (2) The Commission shall comply with the policy and guidelines of
10 the National Salaries, Incomes and Wages Commission regarding
11 remunerations.

Suspension or
removal of
members of the
Board of the
Commission

12 **14.** A member of the Board of the Commission may be suspended or
13 removed from office by the President, where the member-

14 (a) is found to-

15 (i) be unqualified for appointment under section 11 of this Act,

16 (ii) have been unqualified subsequent to his appointment, or

17 (iii) be in breach of conflict of interest provisions in the Companies
18 and Allied Matters Act or any Regulation regarding conflicts of interest passed
19 pursuant to this Act;

20 (b) ceases to be an employee of the ministry or agency he represents
21 on the Board of the Commission;

22 (c) has demonstrated an inability to effectively perform the duties of
23 his office;

24 (d) has been absent from the meeting of the Board of the Commission
25 for 3 consecutive times without the consent of the Chairman or in the case of
26 the Chairman, without the consent of the President, except where good reason
27 is shown for the absence;

28 (e) is found guilty of serious misconduct by a Court or Tribunal of
29 competent jurisdiction; or

30 (f) has, under the law in force in any country-

- 1 (i) been adjudged or declared bankrupt or insolvent and has not
2 been discharged,
3 (ii) made an assignment to or arrangement or composition with his
4 creditors which has not been rescinded or set aside, or
5 (iii) been declared to be of unsound mind.

6 **15.** A non-executive commissioner may resign his appointment by
7 giving two-months' written notice to the President.

Resignation of
a Non-Executive
Commissioner

8 **16.** A vacancy on the Board of the Commission shall occur, where
9 a commissioner-

Vacancy on the
Board of the
Commission

- 10 (a) dies;
11 (b) is removed from office in accordance with section 14 of this
12 Act;
13 (c) resigns from office;
14 (d) completes his tenure of office; or
15 (e) is incapacitated.

16 **17.** A vacancy on the Board of the Commission shall be filled by
17 the appointment of another person in accordance with section 11 of this Act.

Filling of vacancy
on the Board of
the Commission

18 **18.** The Commission Chief Executive is the accounting officer
19 and shall be responsible for the day-to-day running of the affairs of the
20 Commission.

Commission
Chief Executive
and Executive
Commissioners

21 (2) There shall be 6 executive commissioners for the Commission
22 with each responsible for one of the following-

- 23 (a) Exploration and Acreage Management;
24 (b) Development and Production;
25 (c) Health, Safety, Environment and Community;
26 (d) Economic Regulations and Strategic Planning;
27 (e) Corporate Services and Administration; and
28 (f) Finance and Accounts.

29 (3) A person to be appointed as Commission Chief Executive and
30 as an executive commissioner of the Commission shall have extensive

1 managerial, technical or professional knowledge of the upstream petroleum
2 operations with a minimum of 15 years post-qualification experience.

3 (4) The Commission Chief Executive shall be appointed on such
4 terms and conditions as may be set out in the letter of appointment, except as
5 otherwise provided for in this Act.

6 (5) An Executive Commissioner shall be appointed on such terms and
7 conditions as may be set out in the letter of appointment, except as otherwise
8 provided for in this Act.

9 (6) The Commission Chief Executive shall be appointed for an initial
10 term of five years and may be re-appointed for a further term of 5 years, subject
11 to confirmation by the Senate.

12 (7) The President may, not later than 14 days prior to the expiration of
13 the tenure of the Commission Chief Executive or an Executive Commissioner,
14 re-appoint the Commission Chief Executive or Executive Commissioner or
15 appoint another qualified person.

16 (8) A person shall not be appointed as a Commission Chief Executive
17 or an Executive Commissioner, where the person-

18 (a) is likely to be in breach of conflict of interest provisions under the
19 Companies and Allied Matters Act or Regulation made under this Act;

20 (b) has a financial interest in any business connected, directly or
21 indirectly with the petroleum industry;

22 (c) is engaged in any activity for remuneration or otherwise
23 connected with the petroleum industry;

24 (d) is a relative of a person who has an interest or is engaged in any of
25 the activities under paragraphs (a)–(c) of this sub-section, provided that-

26 (i) such person may be appointed Commission Chief Executive or an
27 executive commissioner if he declares his interest and makes appropriate
28 arrangements to ensure the avoidance of a conflict of interest,

29 (ii) the President is satisfied that the interest or activity shall not
30 interfere with the person's impartial discharge of his duties as the Commission

1 Chief Executive or an executive commissioner, or
 2 (iii) the financial interest is terminated prior to the appointment
 3 taking effect; or
 4 (e) has, under the laws in force in any country,-
 5 (i) been adjudged or declared bankrupt or insolvent and has not
 6 been discharged,
 7 (ii) made an assignment to or arrangement or composition with his
 8 creditors, which has not been rescinded or set aside,
 9 (iii) been declared to be of unsound mind,
 10 (iv) been convicted of any criminal offence by a court of competent
 11 jurisdiction except for traffic offences, or
 12 (v) been disqualified or suspended from practising his profession
 13 by the order of a competent authority.

14 **19.** The Board of the Commission shall determine the number of
 15 persons that shall be employees of the Commission.

Employees of
the Commission

16 **20.**-(1) The employees of the Commission shall be subject to terms
 17 and conditions set out by the Board of the Commission.

Terms and conditions
of service in the
Commission

18 (2) The terms and conditions of service referred to in sub-section
 19 (1) of this section may provide for-

20 (a) the appointment, promotion, dismissal and discipline of
 21 employees;

22 (b) appeals by employees against dismissal or other disciplinary
 23 measures; and

24 (c) the grant of pensions, gratuities and other retirement benefits to
 25 employees.

26 (3) In this section, the term "appointment" include secondment,
 27 transfer and contract appointments.

28 (4) Employees of the Commission shall be "public officers" as
 29 defined in the Constitution.

30 (5) Employment by the Commission shall be subject to the

1 provisions of the Pension Reform Act and officers and employees of the
2 Commission shall be entitled to pension and other retirement benefits as
3 prescribed under the Pensions Reform Act.

4 (6) Nothing in subsection (5) of this section shall prevent the
5 Commission from appointing a person to an office on terms that preclude the
6 grant of pension or other retirement benefits in respect of that office.

Remuneration
and allowances
of employees
of the Commission

7 **21.** The Board of the Commission, in consultation with the National
8 Salaries, Incomes and Wages Commission, shall determine and periodically
9 review the remuneration and allowances payable to the employees of the
10 Commission, having regard to the-

11 (a) specialised nature of work to be performed by the employees of
12 the Commission;

13 (b) need to ensure the financial self-sufficiency of the Commission;
14 and

15 (c) remuneration and allowances paid within the petroleum industry
16 to individuals with equivalent responsibilities, expertise and skills.

Statement of
estimated income
and expenditure
of the Commission

17 **22.**-(1) The Commission shall, not later than 30th of September of each
18 year or such other date that the Minister responsible for Budget and National
19 Planning may determine, prepare and present to the National Assembly, a
20 statement of estimated income and expenditure of the Commission for the next
21 financial year.

22 (2) Notwithstanding the provisions of this section, the Commission
23 may, in each financial year, submit to the National Assembly, supplementary or
24 adjusted statements of estimated income and expenditure of the Commission.

25 (3) The financial year of the Commission shall be a period of 12
26 calendar months commencing on the 1st of January in each year or such other
27 date as the Minister of Finance may determine.

Secretary to the
Commission

28 **23.**-(1) The Board of the Commission shall appoint a Secretary, who
29 shall-

30 (a) be the Legal Adviser to the Commission;

1 (b) attend meetings of the Board of the Commission and keep
2 minutes, corporate records and the common seal of the Commission; and

3 (c) carry out such administrative and other secretarial duties as the
4 Commission Chief Executive and the Board of the Commission may direct.

5 (2) The Secretary shall be a legal practitioner with a minimum of
6 10 years post-qualification experience.

7 **24.**-(1) The Commission shall maintain a Fund (the “Commission Fund of the
8 Fund”) into which money accruing to the Commission shall be paid. Commission

9 (2) The source of the Commission Fund shall be as follows-

10 (a) money appropriated by the National Assembly for the
11 Commission on a first-line charge;

12 (b) fees charged by the Commission for services rendered to
13 licensees, lessees permit holders and other authorisations issued by the
14 Commission;

15 (c) money derived from revenue collection in accordance with
16 government policy;

17 (d) income derived from publications made by the Commission
18 and other related activities, including data sales;

19 (e) fees paid to the Commission for using facilities owned or
20 managed by the Commission; and

21 (f) money accruing to the Commission by way of grants, aids, gifts,
22 testamentary dispositions, endowments and contributions.

23 (3) The Commission Fund shall be applied-

24 (a) to meet approved budgetary obligations of the Commission;

25 (b) to meet administrative and operating cost of the Commission;

26 (c) to pay salaries, wages, fees or other remuneration or
27 allowances, pensions and other retirement benefits payable to employees of
28 the Commission;

29 (d) to acquire and maintain any property acquired by or vested in
30 the Commission;

1 (e) for investments, as provided under the Trustee Investments Act or
2 any other applicable legislation, subject to the approval of Minister responsible
3 for Finance; and

4 (f) in connection with any of the functions of the Commission under
5 this Act.

6 (4) The Commission shall ensure that money accruing from royalties
7 and rents charged under this Act or any subsidiary legislation made pursuant to
8 this Act on royalties and rents are paid into the Federation Account.

9 (5) At the end of each financial year, any money that accrued to the
10 Commission Fund pursuant to subsection (2) of this section, which have not
11 been utilised for the purposes provided under subsection (3) of this section,
12 shall be paid into the Consolidated Revenue Fund.

13 (6) The Commission may accept grants of money or property on such
14 terms and conditions as may be specified by the person or organisation making
15 the grant, provided that-

16 (a) the terms and conditions of the grant are not inconsistent with the
17 objectives and functions of the Commission; or

18 (b) no such grant is accepted from any person or organisation
19 regulated by the Commission.

20 (7) Nothing in subsection (6) of this section or under this Act shall be
21 construed as authorising the Commission Chief Executive, Commissioners,
22 officer or employee of the Commission to accept any grant for their personal
23 use.

24 (8) The Commission shall keep proper accounts of its income and
25 expenditure for each financial year and cause it to be audited within 6 months
26 after the end of each financial year by auditors appointed by the Commission
27 from a list and in accordance with guidelines, supplied by the Auditor-General
28 for the Federation.

29 (9) The Commission shall submit to the Minister-

30 (a) a mid-year report of its operations and finances not later than the

1 31st of August of each year;
2 (b) an annual report of its operations and performance; and
3 (c) an audited financial account for the year, not later than 31st
4 of March of the following year.

5 (10) The Commission shall, not later than the 31st of March of each
6 year-

7 (a) submit to the Minister a summary of its annual report and
8 audited financial accounts; and

9 (b) publish the annual report and audited financial accounts on its
10 website.

11 (11) The provisions of any enactment relating to the taxation of
12 companies or trust funds shall not apply to the Commission.

13 **25.** A Government agency exercising any power or function or
14 taking any action, which may have direct impact on upstream petroleum
15 operations shall notify the Commission prior to-

Notice to thr
Commission

16 (a) issuing any Regulation, guideline, Enforcement Order or
17 directive;

18 (b) exercising any such power or function; or

19 (c) taking any such action.

20 **26.** The Commission shall in carrying out its functions under this
21 Act have special powers to-

Special powers
of the Commission

22 (a) inquire, inspect, examine or investigate any business or activity
23 relating to upstream petroleum operations under this Act, where it believes
24 that illegal upstream petroleum operations are going on;

25 (b) conduct surveillance on crude oil and natural gas installations,
26 premises and vessels where it believes that illegal upstream petroleum
27 operations are going on;

28 (c) enter any upstream wellsite, plant, facility or place-

29 (i) at which crude oil or natural gas is produced, handled or treated,

30 (ii) that is used in connection with any upstream wellsite, plant,

- 1 facility or place where crude oil or natural gas is produced, handled or treated;
- 2 (d) enter at any reasonable time premises containing any records or
- 3 property required to be maintained pursuant to this Act or related to the
- 4 administration of upstream petroleum operations under this Act for the purpose
- 5 of inspecting those records or that property;
- 6 (e) require any person or his agent, representative, partner, director,
- 7 officer or employee engaged in upstream petroleum operations to-
- 8 (i) answer any question that may be relevant to the inquiry, inspection,
- 9 examination or investigation, and
- 10 (ii) provide any required information contained in a computer
- 11 hardware or software or any other data storage, processing or retrieval device
- 12 or system used in connection with the business or activities relating to
- 13 upstream petroleum operations under this Act;
- 14 (f) take any sample or carry out any test or examination as it may
- 15 consider necessary in the performance of its functions;
- 16 (g) use any machinery, equipment, appliance or thing as it may
- 17 consider necessary in the performance of its functions;
- 18 (h) remove for examination and copy anything that may be relevant to
- 19 the inquiry, inspection, examination or investigation, including removing any
- 20 computer hardware or software or any other data storage, processing or
- 21 retrieval device or system;
- 22 (i) in conjunction with the Nigeria Police or other law enforcement
- 23 agencies, arrest with a warrant, any person reasonably believed to have
- 24 committed an offence under this Act; and
- 25 (j) exercise any other power that may be conferred on it under any law
- 26 or regulation.
- 27 (2) An entity, person or agent, representative, partner, director, officer
- 28 or employee of that entity or person under investigation by the Commission
- 29 shall-
- 30 (a) grant access to officers of the Commission with regard to any

1 place, wellsite, plant, facility, upstream machinery, equipment, appliances
2 or things that may be relevant to the investigation; and

3 (b) provide on request, any book, account, record, document,
4 voucher, information and explanation relating to upstream petroleum
5 operations as the officers of the Commission may require;

6 (3) An entity, person or agent, representative, partner, director,
7 officer or employee of that entity or person who fails to comply with sub-
8 section (2) of this section commits an offence and is liable on conviction to-

9 (a) a term of 5 years imprisonment or a minimum fine of
10 N5,000,000; and

11 (b) in the case of a continuous offence, to an additional minimum
12 fine of N100,000 for each day during which the offence continues.

13 (4) The Commission shall in the exercise of its powers under this
14 section avoid undue hindrance of entities and persons engaged in lawful
15 upstream petroleum operations.

16 **27.** The special powers of the Commission under section 26 of this
17 Act shall be performed by the Special Investigation Unit of the Commission
18 or any person authorised by the Commission.

Special
Investigation
Unit

19 **28.** The Commission Chief Executive, a commissioner or any
20 officer of the Commission shall each be indemnified out of the Commission
21 Fund against any liability incurred in defending any proceeding against the
22 Commission or brought against him in his official capacity.

Indemnity of
officers of the
Commission

23 (2) Notwithstanding the provisions of subsection (1) of this
24 section, the Commission shall not indemnify the Commission Chief
25 Executive, a commissioner or any officer of the Commission for any
26 liability incurred as a result of wilful misconduct or gross negligence.

27 PART IV

28 THE AUTHORITY

29 **29.-(1)** There is established the Nigerian Midstream and
30 Downstream Petroleum Regulatory Authority (the "Authority"), which

Establish of the
Nigerian Midstream
and Downstream
Petroleum
Regulatory
Authority

1 shall be a body corporate with perpetual succession and a common seal.

2 (2) The Authority shall have the power to acquire, hold and dispose of
3 property, sue and be sued in its own name.

4 (3) The Authority shall be responsible for the technical and
5 commercial regulation of midstream and downstream petroleum operations in
6 the petroleum industry.

Application of
this Part

7 **30.** The objects and functions of the Authority in this Part are limited
8 to midstream and downstream petroleum operations in the petroleum industry.

Objectives of
the Authority

9 **31.** The objectives of the Authority shall be to-

10 (a) regulate midstream and downstream petroleum operations,
11 including technical, operational, and commercial activities;

12 (b) ensure efficient, safe, effective and sustainable infrastructural
13 development of midstream and downstream petroleum operations;

14 (c) promote healthy, safe, efficient and effective conduct of
15 midstream and downstream petroleum operations in an environmentally
16 acceptable and sustainable manner;

17 (d) promote a competitive market for midstream and downstream
18 petroleum operations;

19 (e) promote the supply and distribution of natural gas and petroleum
20 products in midstream and downstream petroleum operations and the security
21 of natural gas supply for the domestic gas market;

22 (f) ensure compliance with applicable laws and regulations governing
23 midstream and downstream petroleum operations;

24 (g) ensure the efficient, safe, effective and sustainable infrastructure
25 development of midstream and downstream petroleum operations;

26 (h) determine, administer and ensure the implementation and
27 maintenance of technical standards, codes, practices and specifications
28 applicable to midstream and downstream petroleum operations pursuant to
29 good international petroleum practices;

30 (i) implement Government policies for midstream and downstream

1 petroleum operations as directed by the Minister and in accordance with this
2 Act;

3 (j) promote, establish and develop a positive environment for
4 international and domestic investment in midstream and downstream
5 petroleum operations;

6 (k) ensure strict implementation of environmental policies, laws
7 and regulations for midstream and downstream petroleum operations;

8 (l) develop and enforce a framework on tariff and pricing for
9 natural gas and petroleum products; and

10 (m) implement such other policies and objectives as are consistent
11 with the provisions of this Act.

12 **32.** The functions of the Authority shall be to-

Functions of the
Authority

13 (a) regulate and monitor technical and commercial midstream and
14 downstream petroleum operations in Nigeria;

15 (b) regulate commercial midstream and downstream petroleum
16 operations, including-

17 (i) petroleum liquids operations,

18 (ii) domestic natural gas operations, and

19 (iii) export natural gas operations;

20 (c) determine appropriate tariff methodology for-

21 (i) processing of natural gas,

22 (ii) transportation and transmission of natural gas,

23 (iii) transportation of crude oil, and

24 (iv) bulk storage of crude oil and natural gas;

25 (d) setting cost benchmarks for midstream and downstream
26 petroleum operations;

27 (e) provide pricing and tariff frameworks for natural gas in
28 midstream and downstream gas operations and petroleum products based on
29 the fair market value of the applicable petroleum products;

30 (f) advise the Government, government agencies and other

- 1 stakeholders on commercial matters relating to tariff and pricing frameworks;
- 2 (g) develop open access rules applicable to petroleum liquids and
3 natural gas transportation pipelines, terminal facilities and bulk storage
4 facilities;
- 5 (h) regulate the bulk storage, distribution, marketing and
6 transportation pipelines of petroleum products;
- 7 (i) grant, issue, modify, extend, renew, review, suspend, cancel,
8 reissue or terminate licences, permits and authorisations for midstream and
9 downstream petroleum operations;
- 10 (j) monitor and enforce compliance with the terms and conditions of
11 licences, permits and authorisations issued by the Authority;
- 12 (k) keep public registers of-
- 13 (i) licences, permits and other authorisations issued by the Authority,
14 and
- 15 (ii) renewals, assignments, amendments, suspensions or revocations
16 thereof;
- 17 (l) set, define and enforce approved standards and regulations for
18 design, construction, fabrication, operation and maintenance of plants,
19 installations and facilities used or to be used in midstream and downstream
20 petroleum operations;
- 21 (m) carry out enquiries, tests, audits or investigations and take other
22 steps to monitor the midstream and downstream petroleum operations;
- 23 (n) ensure security of supply, development of the markets and
24 competition in the markets for natural gas and petroleum products;
- 25 (o) ensure third party access to facilities under gas processing
26 licences, transportation pipelines and transportation networks and midstream
27 bulk storage facilities, where such facilities are operated for the own account of
28 the owner;
- 29 (p) develop rules for trading in wholesale gas supplies to gas distributors;
- 30 (q) establish customer protection measures in accordance with the

- 1 provisions of this Act;
- 2 (r) publish decisions, directions or determinations of the Authority
3 that have implications for customers and industry participants, together with
4 the reasons for such decisions, directions or determinations which, in the
5 opinion of the Authority, should be published;
- 6 (s) promote the interests of customers with regard to midstream
7 and downstream petroleum operations;
- 8 (t) promote the principles of economic development of
9 infrastructure with regard to midstream and downstream petroleum
10 operations;
- 11 (u) promote competition and private sector participation in
12 midstream and downstream petroleum operations;
- 13 (v) determine the domestic gas demand requirement and the crude
14 oil required for the domestic crude oil supply obligation and ensure that
15 economic and strategic domestic demands are met;
- 16 (w) regulate the supply, distribution, marketing and retail of
17 petroleum products;
- 18 (x) administer and monitor strategic stocks of petroleum products;
- 19 (y) monitor the application of petroleum product prices, pricing
20 formulae and frameworks;
- 21 (z) monitor market behaviour with respect to midstream and
22 downstream petroleum operations;
- 23 (aa) identify, investigate and prevent abuse of dominant positions
24 and restrictive business practice with regard to midstream and downstream
25 petroleum operations;
- 26 (bb) establish, monitor, regulate and enforce technical, health,
27 environmental and safety measures relating to midstream and downstream
28 petroleum operations;
- 29 (cc) develop, specify and monitor technical and safety standards
30 for wholesale marketing, processing plant, retail marketing and bunkering

- 1 of petroleum products;
- 2 (dd) ensure the accuracy of metering pumps and related measurement
3 facilities in midstream and downstream petroleum operations;
- 4 (ee) define and enforce approved standards and guidelines for the
5 design, procurement, construction, operation and maintenance of plants,
6 installations and facilities in the midstream and downstream petroleum
7 operations;
- 8 (ff) establish laboratories to provide data storage and testing, quality
9 assurance and certification of crude oil, natural gas and petroleum products and
10 regulate the activities of third party laboratories used in midstream and
11 downstream petroleum operations;
- 12 (gg) keep and classify records, data and reports as may be prescribed
13 in regulations or guidelines;
- 14 (hh) ensure the promotion of safe and development of midstream and
15 downstream petroleum operations;
- 16 (ii) issue certificates of quality and quantity to exporters of crude oil,
17 LNG and petroleum products;
- 18 (jj) implement and enforce compliance with laws, regulations and
19 policies relating to midstream and downstream petroleum operations;
- 20 (kk) establish parameters and codes of conduct for operators in the
21 midstream and downstream petroleum operations;
- 22 (ll) monitor the financial viability of operators with respect to
23 midstream and downstream petroleum operations;
- 24 (mm) develop, maintain and publish a database of midstream and
25 downstream petroleum operations;
- 26 (nn) monitor and ensure that the quality of petroleum products sold in
27 Nigeria conform to defined specifications;
- 28 (oo) establish, monitor and ensure compliance with the standards for
29 the processing of petroleum products in Nigeria;
- 30 (pp) request information and documents relating to licenced

1 activities, including pricing information and macro economic data from any
2 licensee or permit holder in midstream and downstream petroleum
3 operations;

4 (qq) publish or direct licensees, lessees and permit holders to
5 publish, in the interest of the public, information relating to midstream and
6 downstream petroleum operations in accordance with applicable law or
7 regulation;

8 (rr) determine the domestic base price and the prices applicable to
9 wholesale customers of the strategic sectors and gas distributors; and

10 (ss) perform such other function as may be necessary to give effect
11 to the provisions of this Act.

12 **33.** Subject to section 216 of this Act, the Authority may make
13 Regulations-

Regulations by
the Authority

14 (a) concerning the processing, refining, transmission, distribution,
15 supply, sale and storage of petroleum and petroleum products as well as
16 other midstream and downstream petroleum operations;

17 (b) establishing those midstream and downstream petroleum
18 operations to be subject to a licence or permit from the Authority;

19 (c) establishing the application criteria and procedure for licences
20 and permits for midstream and downstream petroleum operations;

21 (d) establishing the procedure for review and approval of licence
22 and permit applications for midstream and downstream petroleum
23 operations;

24 (e) establishing the duration and conditions of licences and permits
25 for midstream and downstream petroleum operations;

26 (f) concerning those licences and permits already in effect prior to
27 the date of any regulations issued by the authority for midstream and
28 downstream petroleum operations;

29 (g) establishing the conditions and procedures for the transfer,
30 surrender, suspension or revocation of licences and permits for midstream

- 1 and downstream petroleum operations;
- 2 (h) establishing the procedure for the modification of licences and
3 permits for midstream and downstream petroleum operations;
- 4 (i) establishing the penalties and enforcement mechanisms in respect
5 of breaches of the regulations issued by the Authority;
- 6 (j) monitoring processes for midstream and downstream petroleum
7 operations;
- 8 (k) concerning the construction and operation of, and third party
9 access to, infrastructure for midstream and downstream petroleum operations;
- 10 (l) concerning the production, transportation, and sale of
11 petrochemicals and lubricants;
- 12 (m) concerning the national strategic stock;
- 13 (n) establishing tariffs for midstream and downstream petroleum
14 operations;
- 15 (o) concerning domestic natural gas supply and demand;
- 16 (p) concerning natural gas trading and export;
- 17 (q) ensuring the continuity and security of the supply of natural gas,
18 crude oil, and petroleum products to customers;
- 19 (r) concerning rights of way and pertaining to surface rights;
- 20 (s) relating to the retail sale and distribution of petroleum products;
- 21 (t) concerning dispute resolution and customer protection;
- 22 (u) establishing pricing regimes for midstream and downstream
23 petroleum operations;
- 24 (v) establishing fees payable to the Authority subject to section 3(1)(j)
25 of this Act;
- 26 (w) concerning competition and anti-competitive behaviour;
- 27 (x) establishing public and non-public registries in respect of
28 licences, permits and authorisations issued by the Authority, to be maintained
29 by the Authority; and
- 30 (y) any other matters as may be determined by the Authority.

- 1 34.-(1) There is established a Governing Board (the “Board of the
2 Authority”), which shall be responsible for the policy and general
3 administration of the Authority. Governing Board
of the Authority
- 4 (2) The Board of the Authority shall consist of the following
5 members-
- 6 (a) one non-executive chairman;
- 7 (b) two non-executive members;
- 8 (c) the Chief Executive of the Authority (the “Authority Chief
9 Executive”);
- 10 (d) two other executive directors responsible for Finance and
11 Accounts and Transportation and Distribution Infrastructure;
- 12 (e) one representative of the Commission not below the rank of
13 executive commissioner;
- 14 (f) one representative of the Ministry not below the rank of
15 director; and
- 16 (g) one representative of the Ministry of Finance not below the
17 rank of director.
- 18 (3) Appointments to the Board of the Authority under subsection
19 (2) of this section shall be made by the President and be subject to
20 confirmation by the Senate, except for the appointments of ex-officio
21 members under subsection (e), (f) and (g) of this section.
- 22 (4) A person appointed pursuant to subsection (2) (a) and (b) of this
23 section shall have at least 15 years post-qualification experience in
24 Petroleum or other relevant sector of the economy and shall hold office for a
25 period of 5 years and may be re-appointed for a further term of 5 years, on
26 such terms and conditions as may be specified in the letter of appointment.
- 27 (5) Subject to subsection (4) of this section and section 41(3) of this
28 Act, a member of the Board of the Authority shall hold office for 5 years and
29 may be re-appointed for a further term of 5 years.

1 (6) A non-executive Board member shall hold office on part-time
2 basis.

3 (7) The Board of the Authority may authorise in writing any executive
4 director, committee of the Board of the Authority, the Authority Chief
5 Executive or any other officer or employee of the Authority, to exercise any
6 power or carry out any duty or function of the Authority under this Act or
7 Regulation made under this Act.

8 (8) The proceedings of the Board of the Authority and other ancillary
9 matters shall be as prescribed by regulation made under this Act.

Functions of
the Board of
the Authority

10 **35.** The Board of the Authority shall-

11 (a) be responsible for the formulation of policy, supervision and
12 giving strategic direction to the Authority;

13 (b) provide general guidance for the carrying out of the functions of
14 the Authority;

15 (c) review and approve the business, strategic and operating plans of
16 the Authority;

17 (d) consider and approve the annual budget of the Authority before
18 submission to the National Assembly for appropriation;

19 (e) approve the management accounts and audited accounts of the
20 Authority and consider the management letter from the external auditors;

21 (f) determine the terms and conditions of service of employees of the
22 Authority;

23 (g) recommend remuneration, allowances, benefits and pensions of
24 employees of the Authority in consultation with the National Salaries, Incomes
25 and Wages Commission, having regard to the-

26 (i) specialised nature of work to be performed by the Authority,

27 (ii) need to ensure the financial self-sufficiency of the Authority, and

28 (iii) remuneration and allowances paid in the private sector in
29 upstream petroleum operations to individuals with equivalent responsibilities,
30 expertise and skills;

1 (h) structure the Authority into such number of departments as it
2 deems fit for the effective discharge of the functions of the Authority; and

3 (i) carry out such other functions as may be necessary for the
4 efficient and effective administration of the Authority under this Act.

5 **36.** Executive Directors of the Authority shall be paid from the
6 funds of the Commission such remuneration and allowances as applicable.

Remuneration
and allowances
of members of
the Board of the
Authority

7 The Authority shall comply with the policy and guidelines of the National
8 Salaries, Incomes and Wages Commission regarding remunerations.

9 **37.** A member of the Board of the Authority may be suspended or
10 removed from office by the President where the member-

Suspension or
removal of a
member of the
Board of the
Authority

11 (a) is found to-

12 (i) be unqualified for appointment under section 34 of this Act,

13 (ii) have been unqualified subsequent to his appointment,

14 (iii) be in breach of conflict of interest provisions in the Companies
15 and Allied Matters Act or any regulation regarding conflicts of interest
16 passed pursuant to this Act;

17 (b) ceases to be an employee of the ministry or agency he
18 represents on the Board of the Authority;

19 (c) has demonstrated an inability to effectively perform the duties
20 of his office;

21 (d) has been absent from the meeting of the Board of the Authority
22 for 3 consecutive times without the consent of the Chairman or in the case of
23 the Chairman, without the consent of the President, except where good
24 reason is shown for the absence;

25 (e) is found guilty of serious misconduct by a Court or Tribunal of
26 competent jurisdiction; or

27 (f) has, under the law in force in any country-

28 (i) been adjudged or declared bankrupt or insolvent and has not
29 been discharged,

30 (ii) made an assignment to or arrangement or composition with his

	1	creditors which has not been rescinded or set aside, or
	2	(iii) been declared to be of unsound mind.
Resignation of a Non-Executive member of the Board of the Authority	3	38. A non-executive member of the Board of the Authority may resign
	4	his appointment by giving two-months' written notice to the President.
Vacancy on the Board of the Authority	5	39. A vacancy on the Board of the Authority shall occur, where a
	6	member of the Board-
	7	(a) dies;
	8	(b) is removed from office in accordance with section 37 of this Act;
	9	(c) resigns from office;
	10	(d) completes his tenure of office; or
	11	(e) is incapacitated.
Filling of Vacancy on the Board of the Authority	12	40. A vacancy on the Board of the Authority shall be filled by the
	13	appointment of another person in accordance with section 34 of this
Authority Chief Executive and Executive Directors of the Authority	14	Act.
	15	41. -(1) The Authority Chief Executive is the accounting officer and
	16	shall be responsible for the day-to-day running of the affairs of the Authority.
	17	(2) There shall be 7 Executive Directors for the Authority with each
	18	responsible for one of the following-
	19	(a) Processing Systems and Plants;
	20	(b) Transportation and Distribution Infrastructure;
	21	(c) Health, Safety, Environment and Community;
	22	(d) Economic Regulations and Strategic Planning;
	23	(e) Corporate Services and Administration;
	24	(f) Finance and Accounts; and
	25	(g) Midstream Gas Infrastructure Fund.
	26	(3) A person to be appointed as Authority Chief Executive and as an
	27	Executive Director of the Authority shall have extensive managerial, technical
	28	or professional knowledge of the midstream and downstream petroleum
	29	operations with a minimum of 15 years post-qualification experience.
	30	(4) The Authority Chief Executive shall be appointed on such terms

1 and conditions as may be set out in the letter of appointment, except as
2 otherwise provided for in this Act.

3 (5) An Executive Director shall be appointed on such terms and
4 conditions as may be set out in the letter of appointment, except as otherwise
5 provided for in this Act.

6 (6) The Authority Chief Executive shall be appointed for an initial
7 term of five years and may be re-appointed for a further term of 5 years,
8 subject to confirmation by the Senate.

9 (7) The President may, not later than 14 days prior to the expiration
10 of the tenure of the Authority Chief Executive or an Executive Director, re-
11 appoint the Authority Chief Executive or Executive Director or appoint
12 another qualified person.

13 (8) A person shall not be appointed as Authority Chief Executive,
14 where the person-

15 (a) is likely to be in breach of conflict of interest provisions under
16 the Companies and Allied Matters Act or Regulation made under this Act;

17 (b) has a financial interest in any business connected, directly or
18 indirectly with the petroleum industry;

19 (c) is engaged in any activity for remuneration or otherwise
20 connected with the petroleum industry;

21 (d) is a relative of a person who has an interest or is engaged in any
22 of the activities under paragraphs (a)–(c) of this subsection, provided that-

23 (i) such person may be appointed Authority Chief Executive or as
24 an Executive Director if he declares his interest and makes appropriate
25 arrangements to ensure the avoidance of a conflict of interest,

26 (ii) the President is satisfied that the interest or activity shall not
27 interfere with the person's impartial discharge of his duties as the Authority
28 Chief Executive or as an executive director, or

29 (iii) the financial interest is terminated prior to the appointment
30 taking effect; or

- 1 (e) has, under the laws in force in any country,-
2 (i) been adjudged or declared bankrupt or insolvent and has not been
3 discharged,
4 (ii) made an assignment to or arrangement or composition with his
5 creditors, which has not been rescinded or set aside,
6 (iii) been declared to be of unsound mind,
7 (iv) been convicted of any criminal offence by a court of competent
8 jurisdiction except for traffic offences, or
9 (v) been disqualified or suspended from practising his profession by
10 the order of a competent authority.
- 11 **42.** The Board of the Authority shall determine the number of persons
12 that shall be employees of the Authority.
- 13 **43.**-(1) The employees of the Authority shall be subject to terms and
14 conditions set out by the Board of the Authority.
15 (2) The terms and conditions of service referred to in subsection (1) of
16 this section may provide for-
17 (a) the appointment, promotion, dismissal and discipline of
18 employees;
19 (b) appeals by employees against dismissal or other disciplinary
20 measures; and
21 (c) the grant of pensions, gratuities and other retirement benefits to
22 employees.
23 (3) In this section, the term “appointment” include secondment,
24 transfer and contract appointments.
25 (4) Employees of the Authority shall be “public officers” as defined in
26 the Constitution.
27 (5) Employment by the Authority shall be subject to the provisions of
28 the Pensions Reform Act and officers and employees of the Authority shall be
29 entitled to pension and other retirement benefits as prescribed under the
30 Pensions Reform Act.

Employees of
the Authority

Terms and
conditions of
service in the
Authority

1 (6) Nothing in subsection (5) of this section shall prevent the
2 Authority from appointing a person to an office on terms that preclude the
3 grant of pension or other retirement benefits in respect of that office.

4 44.-(1) The Board of the Authority, in consultation with the
5 National Salaries, Incomes and Wages Commission, shall determine and
6 periodically review the remuneration and allowances payable to the
7 employees of the Authority, having regard to the -

Remuneration
and allowances
of employees of
the Authority

8 (a) specialised nature of work to be performed by the Authority;
9 (b) need to ensure the financial self sufficiency of the Authority;
10 and

11 (c) remuneration and allowances paid within the petroleum
12 industry to individuals with equivalent responsibilities, expertise and skills.

Statement of
estimated income
and expenditure
of the Authority

13 45.-(1) The Authority shall, not later than 30th of September of
14 each year or such other date that the Minister responsible for Budget and
15 National Planning may determine, prepare and present to the National
16 Assembly, a statement of estimated income and expenditure of the Authority
17 for the next financial year.

18 (2) Notwithstanding the provisions of this section, the Authority
19 may also, in any financial year, submit to the National Assembly
20 supplementary or adjusted statements of estimated income and expenditure
21 of the Authority.

22 (3) The financial year of the Authority shall be a period of 12
23 calendar months commencing on the 1st of January in each year or such
24 other date as the Minister of Finance may determine.

Secretary to the
Authority

25 46.-(1) The Board of the Authority shall appoint a Secretary, who
26 shall-

27 (a) be the Legal Adviser to the Authority;
28 (b) attend meetings of the Board of the Authority and keep minutes,
29 corporate records and the common seal of the Authority; and

30 (c) carry out such administrative and other secretarial duties as the

Fund of the
Authority

- 1 Authority Chief Executive and the Board of the Authority may direct.
- 2 (2) The Secretary shall be a legal practitioner with a minimum of 10
- 3 years post-qualification experience.
- 4 **47.** The Authority shall maintain a Fund (the “Authority Fund”) into which
- 5 money accruing to the Commission shall be paid.
- 6 (2) The source of the Authority Fund shall be as follows -
- 7 (a) money appropriated by the National Assembly for the Authority
- 8 on a first-line charge;
- 9 (b) fees charged by the Authority for services rendered to licensees,
- 10 lessees permit holders and other authorisations issued by the Authority;
- 11 (c) not more than 1% of the levy prescribed in a Regulation under this
- 12 Act, derived from wholesale price of petroleum products sold in the country;
- 13 (d) income derived from publications made by the Authority and
- 14 other related activities, including data sales;
- 15 (e) fees paid to the Authority for using facilities owned or managed by
- 16 the Authority; and
- 17 (f) money accruing to the Authority by way of grants, aids, gifts,
- 18 testamentary dispositions, endowments and contributions.
- 19 (3) The Authority Fund shall be applied-
- 20 (a) to meet the approved budgetary obligations of the Authority;
- 21 (b) to meet the administrative and operating cost of the Authority;
- 22 (c) to pay salaries, wages, fees or other remuneration or allowances,
- 23 pensions and other retirement benefits payable to employees of the Authority;
- 24 (d) to acquire and maintain any property acquired by or vested in the
- 25 Authority;
- 26 (e) for investments, as provided under the Trustee Investments Act or
- 27 any other applicable legislation, subject to the approval of Minister responsible
- 28 for Finance; and
- 29 (f) in connection with any of the functions of the Authority under this
- 30 Act.

1 (4) At the end of each financial year, any money that accrued to the
2 Authority Fund pursuant to subsection (2) of this section, which have not
3 been utilised for the purposes provided under subsection (3) of this section
4 of this section, shall be paid into the Consolidated Revenue Fund.

5 (5) The Authority may accept grants of money or property on such
6 terms and conditions as may be specified by the person or organisation
7 making the grant, provided that-

8 (a) the terms and conditions of the grant are not inconsistent with
9 the objectives and functions of the Authority; or

10 (b) no such grant is accepted from any Person or organisation
11 regulated by the Authority.

12 (6) Nothing in subsection (6) of this section shall be construed as
13 authorising the Authority Chief Executive, directors, officer or employee of
14 the Authority to accept any grant for their personal use.

15 (7) The Authority shall keep proper accounts of its income and
16 expenditure for each financial year and cause it to be audited within 6
17 months after the end of each financial year by auditors appointed by the
18 Authority from a list and in accordance with guidelines, supplied by the
19 Auditor-General for the Federation.

20 (8) The Authority shall submit to the Minister-

21 (a) a mid-year report of its operations and finances not later than
22 the 31st of August of each year;

23 (b) an annual report of its operations and performance; and

24 (c) an audited financial account for the year, not later than 31st of
25 March of the following year.

26 (9) The Authority shall, not later than the 31st of March of each
27 year-

28 (a) submit to the Minister a summary of its annual report and
29 audited financial accounts; and

30 (b) publish the annual report and audited financial accounts on its

1 website.

Notice to the
Authority

2 (10) The provisions of any enactment relating to the taxation of
3 companies or trust funds shall not apply to the Authority.

4 **48.** A Government agency exercising any power or function or taking
5 any action, which may have direct impact on upstream petroleum operations
6 shall notify the Authority prior to-

7 (a) issuing any regulation, guideline, enforcement order or directive;

8 (b) exercising any such power or function; or

Special powers
of the Authority

9 (c) taking any such action.

10 **49.**-(1) The Authority shall in carrying out its functions under this Act
11 have special powers to-

12 (a) inquire, inspect, examine or investigate any business or activity
13 relating to midstream or downstream petroleum operations under this Act,
14 where it believes that illegal midstream or downstream petroleum operations
15 are going on;

16 (b) conduct surveillance on crude oil and natural gas installations,
17 premises and vessels where it believes that illegal midstream or downstream
18 petroleum operations are going on;

19 (c) enter any midstream or downstream wellsite, plant, facility or
20 place-

21 (a) at which crude oil or natural gas is refined, processed, handled or
22 treated, or

23 (ii) that is used in connection with any midstream or downstream
24 wellsite, plant, facility or place where crude oil or natural gas is refined,
25 processed, handled or treated;

26 (d) enter at any reasonable time premises containing any records or
27 property required to be maintained pursuant to this Act or related to the
28 administration of midstream or downstream petroleum operations under this
29 Act for the purpose of inspecting those records or that property;

30 (e) require any person or his agent, representative, partner, director,

1 officer or employee engaged in midstream or downstream petroleum
2 operations to-

3 (a) answer any question that may be relevant to the inquiry,
4 inspection, examination or investigation, and

5 (b) provide any required information contained in a computer
6 hardware or software or any other data storage, processing or retrieval
7 device or system used in connection with the business or activities relating
8 to midstream or downstream petroleum operations under this Act;

9 (f) take any sample or carry out any test or examination as it may
10 consider necessary in the performance of its functions;

11 (g) use any midstream or downstream machinery, equipment,
12 appliance or thing as it may consider necessary in the performance of its
13 functions;

14 (h) remove for examination and copy anything that may be
15 relevant to the inquiry, inspection, examination or investigation, including
16 removing any computer hardware or software or any other data storage,
17 processing or retrieval device or system;

18 (i) in conjunction with the Nigeria Police or other law enforcement
19 agencies, arrest with a warrant, any person reasonably believed to have
20 committed an offence under this Act; and

21 (j) exercise any other power that may be conferred on it under any
22 law or regulation.

23 (2) An entity, person or agent, representative, partner, director,
24 officer or employee of that entity or person under investigation by the
25 Authority shall-

26 (a) grant access to officers of the Authority with regard to any
27 place, wellsite, plant, facility, midstream or downstream machinery,
28 equipment, appliances or things that may be relevant to the investigation;
29 and

30 (b) provide on request, any book, account, record, document,

1 voucher, information and explanation relating to midstream or downstream
2 petroleum operations as the officers of the Authority may require;

3 (3) An entity, person or agent, representative, partner, director, officer
4 or employee of that entity or person who fails to comply with subsection (2) of
5 this section commits an offence and is liable on conviction to-

6 (a) a term of 5 years imprisonment or a minimum fine of N5,000,000;
7 and

8 (b) in the case of a continuous offence, to an additional minimum fine
9 of N100,000 for each day during which the offence continues.

10 (4) The Authority shall in the exercise of its powers under this section
11 avoid undue hindrance of entities and persons engaged in lawful midstream or
12 downstream petroleum operations.

Special
investigation
unit

13 **50.** The special powers of the Authority under section 49 of this Act
14 shall be performed by the Special Investigation Unit of the Authority or any
15 person authorised by the Authority.

Indemnity of
officers of the
Authority

16 **51.**-(1) The Authority Chief Executive, a director or any officer of the
17 Authority shall each be indemnified out of the Authority Fund against any
18 liability incurred in defending any proceeding against the Authority or brought
19 against him in his official capacity.

20 (2) Notwithstanding the provisions of subsection (1) of this section,
21 the Authority shall not indemnify the Authority Chief Executive, a director or
22 any officer of the Authority for any liability incurred as a result of wilful
23 misconduct or gross negligence.

The midstream
gas infrastructure
fund

24 **52.**-(1) There is established a fund to be known as the Midstream Gas
25 Infrastructure Fund, which shall be-

26 (a) a body corporate with perpetual succession and a common seal;
27 and

28 (b) reside in the Authority as prescribed in accordance with this Act.

29 (2) The Midstream Gas Infrastructure Fund shall have the power to
30 acquire, hold and dispose of property, sue and be sued in its corporate

1 name.

2 (3) There shall be a Governing Council which shall supervise and
3 make investment decisions for the Fund.

4 (4) The Governing Council shall comprise the following members-

5 (a) the Minister, who shall be the Chairman of the Council;

6 (b) representative of the Central Bank of Nigeria not below the
7 rank of a Director;

8 (c) representative of the Ministry of Finance not below the rank of a
9 Director;

10 (d) the Authority Chief Executive;

11 (e) Executive Director Midstream Gas Infrastructure Fund;

12 (f) 2 independent members, who shall be appointed by the Minister
13 of Finance for a period of 4 years and may be reappointed for another 4 years
14 and no more; and

15 (g) the Legal Adviser of the Authority who shall serve as the
16 Secretary to the Governing Council.

17 (5) The Executive Director, Midstream Gas Infrastructure Fund
18 shall-

19 (a) have extensive managerial, technical or professional
20 knowledge of the midstream petroleum operations and or fund management
21 or any other relevant industry with a minimum of 15 years' post-
22 qualification experience; and

23 (b) be responsible for project management and the day-to-day
24 running of the affairs of the Midstream Gas Infrastructure Fund.

25 (6) The members referred to in subsection (4) (f) of this section
26 shall have extensive managerial, technical or professional knowledge of the
27 midstream petroleum operations, fund management or any other relevant
28 industry with a minimum of 15 years post-qualification experience.

29 (7) The source of the Midstream Gas Infrastructure Fund shall be
30 as follows-

1 (a) not more than 1% of the levy prescribed in a regulation under this
2 Act, derived from wholesale price of petroleum products sold in Nigeria and
3 natural gas produced and sold, which shall be collected on wholesale basis;

4 (b) funds and grants accruing from multilateral agencies, bilateral
5 institutions and related sources dedicated partly or wholly for the development
6 of infrastructure for midstream gas operations in Nigeria;

7 (c) interest, if any, payable in respect of money in the Midstream Gas
8 Infrastructure Fund; and

9 (d) any other sum, freely donated or accruing to the Midstream Gas
10 Infrastructure Fund for development of infrastructure in midstream gas
11 operations;

12 (8) The Authority shall ensure the prompt payment of all such sums
13 directly into the Midstream Gas Infrastructure Fund's Account.

14 (9) The levy under subsection (6) (a) of this section shall become due
15 within 21 days of the sale of petroleum products in Nigeria and natural gas
16 produced and sold, and the Minister shall, after consultation with the Council,
17 make regulations for-

18 (a) administration procedures; and

19 (b) penalties for-

20 (i) late payment of the levy,

21 (ii) non-payment of the levy, or

22 (iii) submission of false information in respect of the levy.

23 (10) The purpose of the Fund shall be to make equity investments of
24 Government owned participating or shareholder interests in infrastructure
25 related to midstream gas operations aimed at-

26 (a) increasing the domestic consumption of Natural Gas in Nigeria in
27 projects which are financed in part by private investment; and

28 (b) encouraging private investment.

29 (11) There shall be a Transaction Advisor, who shall be responsible
30 for providing transaction advisory services, including technical and

1 commercial evaluation of proposals, defining project screening criteria and
2 profitability target for projects and any other duty as may be assigned by the
3 Council on behalf of the Fund.

4 (12) The Transaction Advisor shall be selected on need basis
5 through a competitive and transparent criteria specified by the Council and
6 the selection process shall be managed by the Executive Director,
7 Midstream Gas Infrastructure Fund subject to the approval of the Council.

8 (13) The Transaction Advisor shall, in performing his duties under
9 subsection (11) of this section, submit report of his findings and
10 recommendations to the Council.

11 (14) The Midstream Gas Infrastructure Fund shall be managed as
12 follows-

13 (a) the Council shall at the beginning of every financial year,
14 approve the Midstream Gas Infrastructure Fund's programme of action with
15 its cost implications and the Accountant General of the Federation shall
16 release the approved amount for that financial year;

17 (b) the money in the Midstream Gas Infrastructure Fund's Account
18 that is not utilised as prescribed under this Act shall be held or invested as the
19 Council may direct;

20 (c) an annual statement of the Midstream Gas Infrastructure Fund
21 shall be prepared and submitted to the Council and Minister of Finance after
22 3 months of the end of the financial year to which they relate; and

23 (d) a certified annual audited accounts of the Midstream Gas
24 Infrastructure Fund, together with a report on the operations of the
25 Midstream Gas Infrastructure Fund, shall be submitted to the Council within
26 6 months of the end of the financial year to which they relate.

27 (15) Earnings, interest and other income accruing from the equity
28 investment made pursuant to subsection (10) shall be paid directly to the
29 Midstream Gas Infrastructure Fund's Account.

30 (16) The Midstream Gas Infrastructure Fund shall not be subject to

1 the provisions of the Fiscal Responsibility Act, Infrastructure Concession
2 Regulatory Commission Act and the Public Procurement Act, but shall comply
3 with the Midstream Gas Infrastructure Fund procurement and fiscal
4 regulations made under this Act.

5 PART V

The Nigerian
National Petroleum
Company Limited

6 THE NIGERIAN NATIONAL PETROLEUM COMPANY LIMITED

7 **53.**-(1) The Minister shall within 6 months from the commencement
8 of this Act, cause to be incorporated under the Companies and Allied Matters
9 Act, a limited liability company, which shall be called Nigerian National
10 Petroleum Company Limited (NNPC Limited).

11 (2) The Minister shall at the incorporation of NNPC Limited, consult
12 with the Minister of Finance to determine the number and nominal value of the
13 shares to be allotted, which shall form the initial paid-up share capital of NNPC
14 Limited and the Government shall subscribe and pay cash for the shares.

15 (3) Ownership of all shares in NNPC Limited shall be vested in the
16 Government at incorporation and held by the Ministry of Finance Incorporated
17 on behalf of the Government.

18 (4) The Ministry of Finance Incorporated in consultation with the
19 Government, may increase the equity capital of NNPC Limited.

20 (5) Shares held by the Government in NNPC Limited are not
21 transferable, including by way of sale, assignment, mortgage or pledge unless
22 approved by the Government.

23 (6) Notwithstanding any provision to the contrary in the Companies
24 and Allied Matters Act and except by way of security, any sale or transfer of
25 shares of NNPC Limited shall be at a fair market value and subject to an open,
26 transparent and competitive bidding process.

27 (7) NNPC Limited and any of its subsidiaries shall conduct their
28 affairs on a commercial basis without recourse to government funds and their
29 memorandum and articles of association shall state these restrictions.

Transfer of
assets and
liabilities

30 **54.**-(1) The Minister and the Minister of Finance shall determine the

1 assets, interests and liabilities of NNPC to be transferred to NNPC Limited
2 or its subsidiaries and upon the identification, the Minister shall cause such
3 assets, interests and liabilities to be transferred to NNPC Limited.

4 (2) Assets, interests and liabilities of NNPC not transferred to
5 NNPC Limited or its subsidiary under subsection (1) of this section, shall
6 remain the assets, interests and liabilities of NNPC until they become
7 extinguished or transferred to the Government.

8 (3) NNPC shall cease to exist after its remaining assets, interests
9 and liabilities other than its assets, interests and liabilities transferred to
10 NNPC Limited or its subsidiaries under subsection (1) of this section shall
11 have been extinguished or transferred to the Government.

12 (4) Bonds, hypothecations, securities, deeds, contracts,
13 instruments, documents and working arrangements with regards to assets,
14 interests or liabilities transferred to NNPC Limited or any of its subsidiary
15 under subsection (1) of this section and which remains subsisting before the
16 date of transfer shall, beginning from the date of transfer be effective and
17 enforceable against or in favour of NNPC Limited.

18 (5) Any pending action or proceeding brought by or against NNPC
19 before the transfer date with regard to assets, interests or liabilities
20 transferred to NNPC Limited under subsection (1) of this section may be
21 enforced or continued by or against NNPC Limited as the successor of
22 NNPC.

23 (6) Notwithstanding the provisions of subsection (5) of this
24 section-

25 (a) an action or proceeding shall not be commenced against NNPC
26 Limited, its subsidiary, director, officer, employee or agent with regard to
27 asset, interest or liability of NNPC Limited, where the time for commencing
28 the action or proceeding would have expired had such asset, interest or
29 liability not been transferred to NNPC Limited or its subsidiaries; and

30 (b) the transfer of asset, interest and liability of NNPC to NNPC

1 Limited under subsection (1) of this section shall not create or be deemed to
2 have created a new cause of action in favour of a-

3 (i) creditor of NNPC, or

4 (ii) party to a contract, agreement or arrangement with NNPC that
5 was entered into before the date of transfer.

6 (7) For the purpose of this section and the Second Schedule to this
7 Act, “assets, interests and liabilities” means tangible, intangible, real or
8 personal property, rights and obligation, in each case of all types.

Appointment
of NNPC limited
as agent of NNPC

9 **55.**-(1) The Minister shall upon incorporation of NNPC Limited,
10 consult with the Minister of Finance to appoint NNPC Limited as agent of
11 NNPC for the purpose of managing the process of winding down the assets,
12 interests and liabilities of NNPC.

13 (2) Subject to the appointment under subsection (1) of this section, the
14 NNPC Limited shall have the power to deal with the applicable assets, interests
15 and liabilities of NNPC and may enter into contract with third parties on such
16 assets, interests and liabilities.

17 (3) Pursuant to the appointment under subsection (1) of this section,
18 NNPC shall-

19 (a) not deal with the applicable assets, interests and liabilities;

20 (b) at the request of NNPC Limited execute and deliver any document
21 and do such other acts or things as may be required by NNPC Limited with
22 regard to any asset, interest or liability referred to under subsection (1) of this
23 section; and

24 (c) pay a nominal fee of one United States Dollar (\$1) to NNPC
25 Limited as administrative charges on the applicable assets, interests and
26 liabilities to which NNPC Limited has been appointed under subsection (1) of
27 this section.

28 (4) The cost of winding down the assets, interests and liabilities of
29 NNPC shall be borne by the Government.

30 (5) A cause of action shall not arise in tort, contract or otherwise

1 between NNPC and NNPC Limited in respect of the applicable assets,
2 interests or liabilities to which NNPC Limited has been appointed as agent
3 under subsection (1) of this section.

Subsistence of
guarantee

4 **56.** Any guarantee granted or issued by the Government with
5 regard to the transfer of liability of NNPC to NNPC Limited under section
6 54 of this Act shall be enforceable against the Government as if such liability
7 was a liability of NNPC, provided that such guarantee was effective prior to
8 such transfer.

9 **57.**-(1) Upon incorporation of NNPC Limited pursuant to section
10 53 of this Act, employees of NNPC shall be deemed to be employees of
11 NNPC Limited on terms and condition not less favourable than that enjoyed
12 prior to the transfer of service and shall be deemed to be service for
13 employment related entitlements as specified under any applicable law.

Transfer of
employees and
conditions of
service

14 (2) NNPC Limited shall continue to fulfil the statutory obligations
15 of NNPC in relation to the pension scheme of employees of NNPC prior to
16 the date of incorporation of NNPC Limited.

The Board of
NNPC limited

17 **58.** There shall be a Board of the NNPC Limited which shall
18 perform its duties in accordance with the provisions of this Act, the
19 Companies and Allied Matters Act and the articles of association of NNPC
20 Limited.

21 **59.**-(1) Except as set out in this section, the composition of the
22 NNPC Limited Board shall be determined in accordance with the provisions
23 of the Companies and Allied Matters Act and its Articles of Association.

Composition of
the Board of
NNPC limited

24 (2) The Board of NNPC Limited shall be appointed by the
25 President and composed of the following members-

- 26 (a) a non-executive chairman;
27 (b) the Chief Executive of NNPC Limited;
28 (c) the Chief Financial Officer of NNPC Limited;
29 (d) a representative of the Ministry of Petroleum, not below the
30 rank of a Director;

1 (e) a representative of the Ministry of Finance, not below the rank of a
2 Director; and

3 (f) two non-executive members with at least 15 years post-
4 qualification experience in Petroleum or any other relevant sector of the
5 economy.

6 (3) A person to be appointed as the Chief Executive of NNPC Limited
7 shall have extensive managerial, technical and professional knowledge in the
8 petroleum or other relevant industry with at least 15 years' post-qualification
9 experience.

10 (4) In the absence of the chairman, the members of the Board of
11 NNPC Limited may appoint a non-executive member of the Board to act as
12 alternate Chairman.

13 (5) The provisions of this section shall apply where NNPC Limited
14 remains wholly-owned by the Government and where NNPC Limited is not
15 wholly owned by Government, the composition of the Board of NNPC Limited
16 shall be determined by the shareholders of NNPC Limited in accordance with
17 the provisions of the Companies and Allied Matters Act and the articles of
18 association of NNPC Limited.

19 **60. Committees of the Board of NNPC limited**

20 -(1) The Board of NNPC Limited shall, within 3 months of the incorporation of
21 NNPC Limited, develop formal and transparent process for the creation of its
22 committees and nomination of members of the Board to the committees.

23 (2) The mandate, composition and procedures of each committee of
24 the Board of NNPC Limited shall be comprehensive and open for inspection by
25 the shareholders of NNPC Limited.

26 (3) The Board of NNPC Limited shall nominate non-executive
27 members of the Board capable of exercising independent judgement to its
28 committees where there is likelihood of conflict of interest.

29 (4) The Board of NNPC Limited shall have committees for-

30 (a) ensuring the integrity of financial and non-financial reporting;

1 (b) the nomination of Board members and key executives;
 2 (c) remuneration of members of the Board of NNPC Limited; and
 3 (d) any other committee as the Board of NNPC Limited may
 4 consider appropriate.

Application of
 principle of
 corporate
 governance

5 **61.**-(1) Members of the Board of NNPC Limited shall discharge
 6 their responsibilities in accordance with the highest standards, practices and
 7 principles of corporate governance.

8 (2) The Board of NNPC Limited shall, upon request by one or more
 9 of shareholders holding not less than 10% of the voting interests in NNPC
 10 Limited, provide a comprehensive written explanation of any action or
 11 decision taken by the Board of NNPC Limited to its shareholders, provided
 12 that the Board of NNPC Limited may withhold the explanation if permitted
 13 under a duty of confidentiality NNPC Limited owed to any third party.

Annual audit of
 NNPC limited

14 **62.**-(1) NNPC Limited shall ensure that an annual audit of NNPC
 15 Limited is conducted by an independent, competent, experienced and
 16 qualified auditor.

17 (2) The auditor of NNPC Limited shall provide an external and
 18 objective assurance to the Board and shareholders of NNPC Limited that the
 19 financial statements of NNPC Limited fairly represent the financial position
 20 and performance of NNPC Limited.

21 (3) Where the auditor of NNPC Limited is unable to provide the
 22 assurance required under subsection (2) of this section, the Board shall
 23 immediately convene an extraordinary general meeting of the company to-

24 (a) notify the shareholders of NNPC Limited; and
 25 (b) consider any action that may be necessary in that regard.

Responsibilities
 of the Board of
 NNPC limited

26 **63.**-(1) The Board of NNPC Limited shall, in addition to its
 27 responsibilities under the Companies and Allied Matters Act and its articles
 28 of association-

29 (a) be responsible for the strategic guidance and determining the

- 1 business structure of NNPC Limited;
- 2 (b) be responsible for the approval of the annual budget of NNPC
3 Limited;
- 4 (c) act in good faith and exercise due diligence and care in the best
5 interests of NNPC Limited, the shareholders and the sustainable development
6 of Nigeria;
- 7 (d) apply the highest ethical standards in performing its duties, taking
8 into account the interests of its stakeholders and the fiduciary duty of the
9 directors to NNPC Limited;
- 10 (e) make decisions guided by commercial and technical
11 considerations that represents good international petroleum industry practices;
- 12 (f) determine and report to the shareholders of NNPC Limited on key
13 performance indicators on at least annual basis;
- 14 (g) review and guide corporate strategy, major plan of action, risk
15 policy and business plan;
- 16 (h) set performance objectives for NNPC Limited, the Board of
17 NNPC Limited, members of NNPC Limited's management and individual
18 business units and subsidiaries of NNPC Limited;
- 19 (i) monitor NNPC Limited's corporate performance;
- 20 (j) oversee major capital expenditures, acquisitions and divestitures;
- 21 (k) monitor the effectiveness of NNPC Limited's governance
22 practices and propose and implement changes;
- 23 (l) select, compensate, monitor and replace management executives
24 and oversee succession plan;
- 25 (m) align key executive and Board of NNPC Limited remuneration
26 with the longer term interests of NNPC Limited, its shareholders and
27 stakeholders;
- 28 (n) monitor and address potential conflicts of interest of management
29 and members of the Board of NNPC Limited and breach of fiduciary duty by
30 members of the Board of NNPC Limited;

1 (o) ensure the integrity of NNPC Limited's accounting and
2 financial reporting systems, including audit of NNPC Limited's accounts by
3 independent third party;

4 (p) ensure that appropriate system of control is in place for risk
5 management, financial and operational control and compliance with
6 applicable law and relevant standards;

7 (q) oversee the process of disclosure and communications to
8 shareholders and the public; and

9 (r) determine the dividend policy of NNPC Limited, ensure
10 sustained growth and a sound financial base for NNPC Limited .

11 (2) The provisions of this section shall be incorporated into the
12 memorandum and articles of association of-

13 (a) NNPC Limited at the time of its incorporation; and

14 (b) each of the NNPC Limited's wholly-owned subsidiaries as if
15 references in this section to 'NNPC Limited' were references to such wholly-
16 owned subsidiary.

Objects of NNPC
limited

17 **64.** The objects of NNPC Limited shall include the following-

18 (a) carry out petroleum operations on a commercial basis;

19 (b) to lift and sell royalty oil and profit oil for commercial fees,
20 payable by Government, at the request of the Commission and pay the
21 corresponding revenue to accounts indicated by the Commission;

22 (c) at the request of the Commission carry out test marketing to
23 ascertain the value of crude oil and report to the Commission;

24 (d) be vested with the rights to natural gas under production sharing
25 contracts entered into prior to the effective date;

26 (e) upon the request of the Commission, act as agent of the
27 Commission for the management of production sharing contracts for a fee,
28 based on the profit oil share or profit gas share to Government under such
29 contracts between NNPC Limited and the Commission;

30 (f) with respect to any joint operating agreement in which NNPC is

1 a party on the effective date assume the working interest held by NNPC
2 irrespective of whether such licence or lease is converted pursuant to section 92
3 of this Act;

4 (g) engage in the development of renewable resources in competition
5 with private investors;

6 (h) promote the domestic use of natural gas through development and
7 operation of large-scale gas utilization industries;

8 (i) maintain the role of NNPC, where companies elect not to convert
9 pursuant to Section 92 of this Act;

10 (j) carry out task requested by the Commission or Authority on a fee
11 basis; and

12 (k) carry out such other tasks as may be determined by the Board of
13 NNPC Limited.

Establishment
of incorporated
joint venture
companies

14 **55.**-(1) NNPC Limited and other parties to joint operating agreements
15 in respect of upstream petroleum operations, may on a voluntary basis
16 restructure their joint operating agreement as a joint venture carried out by way
17 of a limited liability company, each referred to as an “incorporated joint
18 venture company” (IJV), based on the principles established in the Second
19 Schedule to this Act.

20 (2) The incorporated joint venture companies referred to in
21 subsection (1) of this section shall not be subject to the provisions of the Fiscal
22 Responsibility Act and the Public Procurement Act.

23 CHAPTER TWO - ADMINISTRATION

24 PART I

25 GENERAL ADMINISTRATION

Objectives

26 **66.** The objectives of Chapter 2 are to-

27 (a) promote the exploration and exploitation of petroleum resources
28 in Nigeria for the benefit of the Nigerian people;

29 (b) promote the efficient, effective and sustainable development of
30 the petroleum industry;

1 (c) promote the safe and efficient operation of the transportation
2 and distribution infrastructure for the petroleum industry;

3 (d) provide the framework for developing third party access
4 arrangements to petroleum infrastructure;

5 (e) encourage and facilitate both local and foreign investment in
6 the petroleum industry;

7 (f) promote transparency and accountability in the administration
8 of petroleum resources in Nigeria;

9 (g) develop, where appropriate, competitive markets for the sale
10 and distribution of petroleum and petroleum products;

11 (h) promote safe and affordable access to petroleum and petroleum
12 products in Nigeria;

13 (i) promote the processing of petroleum within Nigeria and the
14 development of fuel and chemical industry and other related value-added
15 products and activities;

16 (j) create a conducive business environment for operations in the
17 petroleum industry;

18 (k) promote the liberalisation of the downstream petroleum
19 industry;

20 (l) establish an orderly, fair and competitive commercial
21 environment within the petroleum industry; and

22 (m) ensure that petroleum operations are conducted in a manner
23 that protects the health and safety of persons, property and the environment.

24 (2) The provisions of Chapter 2 of this Act shall apply to-

25 (a) activities within or associated with petroleum operations and
26 the petroleum industry; and

27 (b) persons conducting such activities.

28 **67.** The administration and management of petroleum resources
29 and their derivatives shall be conducted in accordance with this Act and the
30 principles of good governance, transparency and sustainable development

1 of Nigeria.

2 PART II

Administration
of acreage and
vesting data

3 ADMINISTRATION OF UPSTREAM PETROLEUM OPERATIONS

4 **68.**-(1) Title to any data and its interpretation relating to upstream
5 petroleum operations are vested in the Government of the Federation of
6 Nigeria and shall be administered by the Commission.

7 (2) The Commission shall administer any acreage for upstream
8 petroleum operations in Nigeria.

9 (3) Where a significant petroleum discovery is made in a frontier
10 basin, the Minister may, on the recommendation of the Commission, reclassify
11 all or part of the basin from frontier acreages to a general onshore area and the
12 fiscal terms applicable to onshore under this Act shall apply to-

13 (a) new licences and leases in the basin after reclassification; and

14 (b) any existing lease upon renewal, provided that it shall not be
15 applied to Licences and Leases existing at the moment of reclassification.

National grid
system

16 (4) The Commission may issue a permit for the collection of
17 geological samples for scientific research.

18 **69.**-(1) The Commission shall, after consultation with the Surveyor-
19 General of the Federation, adopt a national grid system for acreage
20 management.

21 (2) The grid system referred to under subsection (1) of this section
22 shall be based on the UTM system or any other projection system in use by the
23 office of the Surveyor-General of the Federation.

24 (3) The Commission shall establish a system for numbering of
25 parcels, which shall allow for subdivision and aggregation of the parcels.

26 (4) The basic unit of the grid system shall be a parcel of one square
27 kilometer, subject to adjustment of the zones and national boundary.

28 (5) The Commission may further subdivide parcels into equal units of
29 one hectare or such sub-units as the Commission may deem
30 appropriate. The national grid system referred to under subsection (1) of

1 this section shall be used for the administration of upstream petroleum
2 operations, including-

- 3 (a) the definition of licence and lease areas;
- 4 (b) relinquishments;
- 5 (c) bid procedures;
- 6 (d) identification of well locations;
- 7 (e) petroleum conservation measures; and
- 8 (f) other regulatory and acreage management procedures.

9 (7) Any current boundary of a licence or lease, which does not
10 conform with the new national grid system shall remain unaltered and be
11 apportioned in parcels.

Licences and
leases

12 **70.**-(1) There shall be the following Licences and Leases under this
13 Act-

14 (a) petroleum exploration licence, which may be granted to
15 qualified applicants to explore petroleum on a speculative and non-
16 exclusive basis;

17 (b) petroleum prospecting licence, which may be granted to
18 qualified applicants to carry out petroleum exploration operations on an
19 exclusive basis; and

20 (c) petroleum mining lease, which may be granted to qualified
21 applicants to search for, win, work, carry away and dispose of crude oil,
22 condensates and natural gas.

23 (2) A licence or lease may be granted under this Act only to a
24 company incorporated and validly existing in Nigeria under the Companies
25 and Allied Matters Act.

Petroleum
exploration licence

26 **71.**-(1) The Commission shall be responsible for granting of
27 petroleum exploration licences.

28 (2) The holder of a petroleum exploration licence shall have non-
29 exclusive right to carry out petroleum exploration operations within the area
30 provided for in the licence.

1 (3) A petroleum exploration licence shall be for 3 years and may be
2 renewable for additional period of 3 years subject to fulfilment of prescribed
3 conditions, but shall not include any right to win, extract, work, store, carry
4 away, transport, export or otherwise treat petroleum discovered in or under the
5 licence area.

6 (4) A Petroleum Exploration Licence may cover an area that includes
7 Petroleum Prospecting Licence or Petroleum Mining Lease, provided that the
8 holders of such licences or leases, shall have no obligation to purchase the
9 results of any survey conducted under the petroleum exploration licence.

10 (5) A petroleum exploration licence granted in respect of frontier
11 acreages may include a provision permitting the Licensee to select, based on
12 the result of his exploration work and be granted one or more petroleum
13 prospecting licences prior to the termination of the Licence containing the
14 fiscal provisions stipulated in Chapter Four of this Act.

15 (6) The Commission shall have sole right and title over any acquired
16 raw and interpreted data obtained by a licensee pursuant to a petroleum
17 exploration licence, provided that the licensee shall be entitled to grant a data
18 use licence to a third party subject to a written authorisation by the
19 Commission, which shall not be unreasonably withheld.

20 (7) A Licensee is entitled to a fee from a third party for data use
21 licence granted under subsection (6) of this section and shall remit to the
22 Commission any agreed portion of the fee due to the Commission.

23 (8) Exploration activities conducted pursuant to a petroleum
24 exploration licence shall be monitored and administered by the Commission in
25 accordance with regulations made under this Act.

26 (9) The Commission shall have sole right and title over all acquired
27 and interpreted data from existing speculative survey agreements entered into
28 with the Department of Petroleum Resources on behalf of the Government
29 prior to the effective date.

30 **72.**-(1) The holder of a petroleum prospecting licence shall, subject to

1 the fulfilment of obligations imposed by this Act, have-

2 (a) exclusive right to drill exploration wells and non-exclusive
3 right to carry out petroleum exploration operations within the area
4 provided for in the Licence; and

5 (b) right to carry away and dispose of crude oil or natural gas
6 won or extracted during the drilling of exploration wells as a result of
7 production tests,
8 subject to the fulfilment of obligations imposed by this Act.

9 (2) A holder of the petroleum prospecting licence shall not be
10 granted an extension except as prescribed under sections 78(4), 78(9) and
11 79(6) of this Act.

12 (3) Where a holder of a petroleum prospecting licence fails to
13 fulfil any term or condition of the licence, it shall not, except as provided
14 in the Licence, give the Minister a right of claim against the Licensee or
15 be deemed a breach of the Licence, if the failure arises from force
16 majeure.

17 (4) Where there is any delay by a Licensee in the fulfilment of
18 any term or condition of a petroleum prospecting licence caused by force
19 majeure, the period of such force majeure shall be added to the period
20 fixed for the fulfilment of the applicable term or condition, provided that
21 such period shall not exceed 3 years in total after which, the licence may
22 be terminated by the Commission or the licensee.

23 (5) The Minister shall, on the recommendations of the
24 Commission, grant a petroleum prospecting licences to a qualified
25 applicant.

Bidding process

26 **73.**-(1) Subject to the provisions of sections 71(5), 74(3), 81(1)
27 and 93(2) of this Act, petroleum prospecting licence or petroleum mining
28 lease shall only be granted-

29 (a) based on a fair, transparent and competitive bidding process;
30 and

1 (b) in compliance with the provisions of this Act, regulations made
2 under this Act and licensing round guidelines issued by the Commission for
3 each licensing round.

4 (2) The Commission may periodically publish a licensing round plan.

5 (3) Subject to the provisions of this Act, the Minister may, on the
6 recommendation of the Commission, grant a petroleum prospecting licence or
7 petroleum mining lease to a winning bidder in accordance with section 74 of
8 this Act, provided that the winning bidder has complied with the requirements
9 of the bid invitation.

Award process

10 (4) The Minister shall inform the Commission of his decision within
11 90 days of the application for licence or lease and where he fails to inform the
12 Commission within the stipulated time, the licence or lease shall be deemed
13 granted.

14 **74.**-(1) The grant of a petroleum prospecting licence or a petroleum
15 mining lease on a previously appraised area of a petroleum prospecting licence
16 or a surrendered, relinquished or revoked petroleum mining lease in, under or
17 upon the territory of Nigeria, shall be by an open, transparent, competitive and
18 non-discriminatory bidding process conducted by the Commission pursuant to
19 section 73(3) of this Act.

20 (2) The winning bidder shall be determined on the basis of the
21 following bid parameters-

22 (a) a single bid parameter, which shall be based on any one of the
23 following parameters-

24 (i) a signature bonus to be paid in full prior to the granting of the
25 licence or lease by or on behalf of the winning bidder;

26 (ii) a royalty interest;

27 (iii) a profit split or profit oil split;

28 (iv) a work programme commitment during the initial exploration
29 period; or

30 (v) any other parameter as may be defined specific to a bid round; and

1 (b) a combination of the bid parameters specified in paragraph (a)
2 of this subsection, based on a points system assessable by the bidder in such
3 a manner that the bidder with the highest aggregate number of points shall be
4 the winning bidder.

5 (3) Notwithstanding the bidding parameters prescribed in
6 subsection (2) of this section, where there is a bilateral or multi-lateral
7 agreement between Nigeria and another country, the Government may, for
8 strategic purposes and in return for substantive benefits to the nation, direct
9 the Commission to negotiate and award a petroleum prospecting licence or
10 petroleum mining lease to a qualified investor identified in the agreement or
11 treaty.

12 (4) A signature bonus payable in respect of any licence or lease
13 awarded pursuant to sub-section (3) of this section shall be based on a
14 transparent method for evaluating the acreage.

15 (5) The Commission shall call for bids in accordance with a
16 procedure published on its website and in at least two international financial
17 newspapers and two national newspapers with wide coverage.

18 (6) Where the Commission calls for bids pursuant to this section, it
19 shall prescribe a technical, legal, social, economic and financial
20 requirement, including the minimum experience and capacity for an
21 applicant in a regulation or guideline, and the applicant shall be chosen in
22 accordance with the regulation or guideline.

23 (7) The bids received based on the bid parameters prescribed in
24 subsection (2) of this section through an open, transparent and competitive
25 bidding process, shall include an electronic bidding process, open to public
26 and conducted in the presence of representatives of the Nigerian Extractive
27 Industry Transparency Initiative, the Ministry of Finance and the Ministry
28 of Petroleum Resources

29 **75.** The licensing round guidelines shall be accompanied with the

- 1 model licence for the petroleum prospecting licence or model lease for the
2 petroleum mining lease for the bid round and shall include the-
- 3 (a) licence or lease acreages, the term and minimum work
4 obligations;
- 5 (b) requirements to be fulfilled by the bidders and the pre-
6 qualification criteria, as the case may be;
- 7 (c) bid parameter;
- 8 (d) list of documents required and criteria for the evaluation of
9 technical capacity, financial competence and legal status of interested parties,
10 including technical and financial assessment of the bid; and
- 11 (e) details and cost for the acquisition of relevant data and studies.
- 12 **76.** The model licence or model lease for each bid round shall reflect
13 the conditions of the licensing round guidelines for the bid round and shall in
14 all circumstances include the following clauses-
- 15 (a) description of the acreage;
- 16 (b) term of the licence or lease;
- 17 (c) minimum work programme and minimum level of investment;
- 18 (d) details of guarantees to be provided by the Licensee or Lessee
19 regarding the performance of its licence or lease obligations;
- 20 (e) details of obligations regarding relinquishment, decommissioning
21 and abandonment;
- 22 (f) rules for the resolution of disputes, including arbitration,
23 mediation, conciliation or expert determination;
- 24 (g) applicable sanctions in the event of failure by the Licensee or
25 Lessee to comply with the terms and conditions of the licence or lease; and
- 26 (h) such other clauses as the Commission may deem necessary.
- 27 **77.**-(1) A petroleum prospecting licence for onshore and shallow
28 water acreages shall be for a duration of not more than 6 years, comprising of
29 an initial exploration period of 3 years and an optional extension period of 3
30 years.

Model licence
and model lease

Duration and area
of petroleum
prospecting
licence

1 (2) A petroleum prospecting licence for deep offshore and frontier
2 acreages shall be for a duration of not more than 10 years, comprising of an
3 initial exploration period of 5 years and an optional extension period of 5
4 years.

5 (3) The area provided for in a petroleum prospecting licence shall
6 not exceed-

7 (a) 350 square kilometres for any onshore or shallow water
8 acreages;

9 (b) 1,000 square kilometres for any deep offshore acreages; and

10 (c) 1,500 square kilometres for any frontier acreages.

Work commitment,
commercial
discovery and
significant gas
discovery

11 **78.**-(1) A petroleum prospecting licence shall contain a
12 requirement that the Licensee commit to a work programme and such other
13 terms and conditions as the Commission shall determine.

14 (2) A licensee shall, during the initial exploration period and the
15 optional extension period provided for in a petroleum prospecting licence,
16 commit to drill at least one exploration well to a minimum depth specified in
17 the licence for each period, except for frontier acreages, where the work
18 program during the initial exploration period may only consist of
19 geophysical work.

20 (3) Where a licensee makes a discovery during the initial
21 exploration period or the optional extension period provided for in the
22 applicable petroleum prospecting licence, the licensee shall inform the
23 Commission within 90 days of the discovery if he considers that the
24 discovery merits appraisal or is of no interest to him.

25 (4) Where a licensee considers that a discovery merits appraisal,
26 the Licensee shall submit to the Commission within 180 days for approval-

27 (a) a commitment to an appraisal programme of not more than 2
28 years with a scope and nature permitting the licensee to declare a
29 commercial discovery, where the result of the appraisal is positive; and

30 (b) the appraisal area, not larger than the outer boundary of the

1 discovery, as determined by the licensee and a zone of not more than 2
2 kilometres surrounding the outer boundary; provided that the appraisal area
3 does not extend beyond the area provided for in the applicable petroleum
4 prospecting licence.

5 (5) A licensee shall, upon the approval of the appraisal programme
6 and appraisal area by the Commission, promptly carry out the committed
7 appraisal programme and the Commission shall act on the appraisal
8 programme within 60 days after its submission.

9 (6) Where the Commission fails to act on the appraisal programme
10 referred to under subsection (5) of this section within 60 days, the appraisal
11 shall be deemed approved.

12 (7) The provisions of section 88(3) of this Act shall apply to any
13 appraisal area under subsections (5) and (6) of this section.

14 (8) The licensee shall, upon the completion of the appraisal program-

15 (a) declare a commercial discovery;

16 (b) declare a significant gas discovery; or

17 (c) inform the Commission that the discovery is of no interest to the
18 licensee.

19 (9) Where a significant gas discovery has been declared, the licensee
20 shall be entitled to retain the area of such significant gas discovery for a
21 retention period as may be determined by the Commission, which shall not be
22 more than 10 years from the day the declaration was made.

23 (10) The retention area of a significant gas discovery shall continue to
24 subsist pursuant to a petroleum prospecting licence until the expiration of the
25 period under subsection of this section or declaration of a commercial
26 discovery by the licensee.

27 (11) The Commission shall approve an area of a significant gas
28 discovery which shall not be larger than the outer boundary of the discovery
29 declared by the licensee, including a zone of not more than 2 kilometres
30 surrounding the outer boundary; provided that such area shall not extend

1 beyond the area described in the applicable petroleum prospecting licence.

2 (12) The provisions of section 88(3) of this Act shall apply to any
3 Retention Area.

4 (13) Where, upon the expiry of the Retention Period determined
5 pursuant to subsection (9) of this section, the licensee has not declared a
6 Commercial Discovery, the area declared pursuant to subsection (9) of this
7 section shall be immediately relinquished by the Licensee.

8 (14) Upon the relinquishment of the retention area with the latest
9 expiry date referred to in subsection (13) of this section, the applicable
10 petroleum prospecting licence shall expire.

11 (15) Where a Licensee declare a discovery of no interest pursuant
12 to subsection (3) or (8) of this section, the Commission may require the
13 relinquishment of the parcels that cover the structure of such discovery.

14 (16) A commitment by a licensee under this section shall be
15 supported by a bank guarantee, letter of credit or performance bond issued
16 by a bank acceptable to the Commission for an amount determined by the
17 Commission.

18 (17) The licensee shall in each calendar year present an annual
19 work program and status report as prescribed by regulations for approval by
20 the Commission and such program shall as a minimum, contain the
21 committed work.

22 **79.**-(1) Where a licensee under a petroleum prospecting licence
23 declares a commercial discovery under section 78(8)(a) of this act, the
24 licensee shall within 2 years of the declaration, submit to the Commission a
25 field development plan with regard to the commercial discovery together
26 with a commitment to carry out the work described in the field development
27 plan.

28 (2) The Commission shall evaluate the technical and commercial
29 terms of the field development plan and shall only approve the field
30 development plan where-

Commercial
discovery and
field development
plan

- 1 (a) it meets the technical standards required for petroleum operations
2 based on good international petroleum industry practices;
- 3 (b) the location of the measurement point, measurement processes
4 and equipment are acceptable to the Commission;
- 5 (c) it results in the maximum recovery of crude oil, natural gas and
6 condensates from the applicable reservoirs;
- 7 (d) it meets the health, safety and environmental standards, as
8 determined by the Commission;
- 9 (e) it provides for the efficient and commercial use of facilities for
10 midstream petroleum operations;
- 11 (f) it does not involve excessive capital or operating expenditures;
- 12 (g) it includes an approved Nigerian content plan pursuant to the
13 Nigerian Oil and Gas Industry Content Development Act, 2010;
- 14 (h) it includes an environmental management plan in a form that
15 complies with section 102 of this Act;
- 16 (i) it includes a decommissioning and abandonment plan and a
17 decommissioning and abandonment fund that complies with sections 232 and
18 233 of this Act;
- 19 (j) it provides for the elimination of routine natural gas flaring;
- 20 (k) it does not relate to upstream petroleum operations that are in
21 conflict with domestic gas delivery obligation;
- 22 (l) it includes-
- 23 (i) a detailed programme for the recruitment and training of Nigerians
24 in all phases of petroleum operations handled directly by the licensee or
25 through agents and contractors of the licensee; and
- 26 (ii) provision for scholarship schemes, internships, continuous
27 professional development and other training requirements;
- 28 (m) it complies with the obligations to host communities under
29 Chapter 3 of this Act; and
- 30 (n) it includes a development period sufficient to construct any

1 required infrastructure and the development of the Field.

2 (3) Where the development of a commercial discovery requires
3 construction of facilities for midstream petroleum operations in a manner
4 integrated with the upstream petroleum operations, a licensee may submit
5 the development plan as a single integrated project, which may be reviewed
6 by the Commission and the Authority.

7 (4) Where a single project is submitted, the Commission and
8 Authority shall-

9 (a) review the project based on their regulatory responsibilities;
10 and

11 (b) cooperate to review and decide on the project.

12 (5) Where a Licensee does not submit a field development plan and
13 work commitment within the period set forth in subsection (1) of this
14 section, the area containing the commercial discovery shall be relinquished.

15 (6) Where the licensee has submitted a field development plan for
16 the field, the licence shall continue until the process for the grant of a Lease
17 has been completed or the Commission has decided not to grant the Lease.

18 (7) Where the licensee establishes and secures approval for an
19 appraisal area or declares a commercial discovery, a petroleum prospecting
20 licence shall, where required, be extended until the-

21 (a) grant of the petroleum mining lease; or

22 (b) decline of the approval for the appraisal area or commercial
23 discovery.

24 (8) Notwithstanding the provisions of section 78(10) of this Act,
25 the holder of the retention area shall within 2 years after declaring a
26 commercial discovery, submit to the Commission a field development plan
27 that complies with the requirements in subsection (2) of this section.

28 (9) The Commission shall give its final decision to approve or
29 disapprove a Field development plan within 180 days after the submission
30 of the Field development plan in compliance with the requirements in

1 subsection (2) of this section and a Lease shall be granted upon the approval of
2 the Field development plan.

3 (10) Where the Commission fails to respond to the field development
4 plan within 180 days, the plan shall be deemed approved.

5 (11) A commitment by a Licensee under this section shall be
6 supported by a bankguarantee, letter of credit or performance bond issued by a
7 bank acceptable to the Commission for an amount determined by the
8 Commission.

9 (12) Upon approval of a field development plan, no material
10 modification shall be made except in accordance with the approval provisions
11 set out in subsection (2) of this section and the submission and approval of an
12 amended Field development plan.

13 (13) Upon the granting of one or more petroleum mining leases, the
14 annual work program and status report referred to under section 78(17) of this
15 Act shall include the program and report for each Lease.

Unitisation

16 **80.**-(1) A licensee or lessee shall promptly notify the Commission of
17 any petroleum reservoir which extends beyond the boundaries of its licence or
18 lease area.

19 (2) The Commission may, for the purpose of ensuring optimum
20 recovery of petroleum from a petroleum reservoir, require all petroleum
21 operations relating to commercial discovery to be carried out by a licensee or
22 lessee on the basis of a unitised development of the applicable commercial
23 discovery, where-

24 (a) the petroleum reservoir covered by an area to which a licence or
25 lease relates extends beyond the boundaries of such area into an area to which
26 another licence or lease relates and in respect of which a different person is the
27 licensee or lessee; and

28 (b) at least one licensee or lessee has made a declaration of a
29 commercial discovery.

30 (3) The Commission may, upon receipt of a notification under

1 subsection (1) of this section direct the applicable Licensee or Lessee to
2 enter into a unit agreement to develop the petroleum reservoir as a unit,
3 within a period of time to be determined by the commission, which shall not
4 be less than 2 years.

5 (4) The unit agreement referred to in subsection (3) of this section
6 shall be approved by the Commission and shall-

7 (a) be based on terms agreed by the parties and in a form that
8 conforms with good international petroleum industry practices; and

9 (b) contain terms and conditions as may be required by a
10 Regulation issued by the Commission pursuant to subsection (9).

11 (5) A unit agreement shall, in addition to the requirements of
12 subsections (3) and (4) of this section-

13 (a) be based on reliable technical, operational and economic
14 considerations;

15 (b) set out the proposed operator of the applicable unit; and

16 (c) set out technical information regarding the petroleum reservoir
17 subject to unitisation, including structure mapping, net pay and such other
18 engineering and geophysical information as may be required by a regulation
19 issued by the Commission pursuant to subsection (9) of this section.

20 (6) Where the applicable Licensees or Lessees are unable to reach
21 agreement within the time limit imposed by the Commission pursuant to
22 subsection (3) of this section, the Commission may, in compliance with
23 subsections (4) and (5) of this section, impose a fair and equitable terms and
24 conditions of a unit agreement to the licensees or lessees.

25 (7) Where a petroleum reservoir extends beyond the boundaries of
26 the licence or lease into an adjacent area which is not covered by a licence or
27 lease, the Commission may-

28 (a) extend the boundaries of the licence or lease to include the
29 entire petroleum reservoir within such licence or lease, provided that the
30 licensee or lessee submits to the commission a field development plan that

1 includes the additional adjacent area acceptable to the Commission; or

2 (b) conduct a bid round for the adjacent area in accordance with the
3 licensing round guidelines and the provisions of this Act.

4 (8) Where a petroleum reservoir unitised pursuant to this section is
5 able to continue in production after the expiration of one or more licences or
6 leases relating to the petroleum reservoir, the Commission may grant an
7 extension of the term of the licence or lease.

Petroleum mining
leases

8 (9) The Commission may from time to time issue regulations in
9 relation to unitisation.

10 **81.**-(1) A petroleum mining lease shall be granted for each
11 commercial discovery of crude oil or natural gas or both, to the licensee of a
12 petroleum prospecting licence who has-

13 (a) satisfied the conditions imposed on the licence or the licensee
14 under this act; and

15 (b) received approval for the applicable field development plan from
16 the Commission.

17 (2) A petroleum mining lease shall be granted pursuant to the
18 provisions of sections 70(2) and 74 of this act, where a prospective lease area
19 contains petroleum field with suspended wells or continuing commercial
20 production, where the corresponding petroleum mining lease has been revoked
21 or has expired.

22 (3) A petroleum mining lease granted pursuant to subsection (2) of
23 this section may include an appraisal phase.

24 (4) A licensee shall subject to subsection (7) of this section, propose
25 that a separate petroleum mining lease be granted for each commercial
26 discovery to which a petroleum prospecting licence relates prior to the
27 expiration of the applicable petroleum prospecting licence.

28 (5) Notwithstanding any grant of a petroleum mining lease pursuant
29 to subsection (4) of this section, the applicable petroleum prospecting licence
30 shall continue for the remaining area to which that licence relates for the

1 duration provided for in that licence.

2 (6) The area to which a petroleum mining lease relates and derived
3 from a petroleum prospecting licence shall be proposed by the licensee,
4 based on an independent engineering report, which shall not be binding on
5 the Commission.

6 (7) The Commission shall approve the proposed area, which shall
7 contain every parcel within the outer boundary of the field based on oil-
8 water contacts or other reservoir limits, including a zone surrounding the
9 boundary consisting of all parcels that are in whole or in part within one
10 kilometre of such outer boundary; provided that such area shall not contain
11 parcels-

12 (a) outside the original licence area from which the lease is derived;

13 (b) in areas relinquished by the licensee; or

14 (c) in an existing petroleum mining lease.

15 (8) The Commission may approve modification of an area of a
16 petroleum mining lease to include further parcels as are appropriate, based
17 on the criteria prescribed under subsections (6) and (7) of this section, where
18 during the period provided for in a petroleum prospecting licence, the outer
19 boundary of the commercial discovery changes due to further-

20 (a) drilling or other exploration activities; or

21 (b) petroleum discoveries in deeper or shallower formations.

22 (9) Where two or more petroleum mining leases derived from the
23 same petroleum prospecting licence constitute a single field based on an
24 interpretation by the Commission of geological or petroleum engineering
25 data showing that the field is a single field, the leases shall be considered as a
26 single lease, notwithstanding that their boundaries do not join with another
27 lease, provided the granting date of the single lease shall be the date of the
28 first lease that was granted.

29 (10) A petroleum mining lease shall not consist of an area that is
30 less than one parcel or where a parcel has been subdivided pursuant to

Exclusive right
to conduct operations

1 section 69(5) of this act, less than one subdivision of such parcel.

2 **82.**-(1) A lessee under a petroleum mining lease shall have the
3 exclusive right to carry out upstream petroleum operations with respect to the
4 formations under the lease area as defined in the lease.

5 (2) A lessee under a petroleum mining lease shall have the right to
6 continue to explore in the lease area.

7 (3) A petroleum mining lease for conducting upstream petroleum
8 operations shall only be granted on the basis of a commitment from the
9 applicable lessee to-

10 (a) develop and produce the commercial discovery of crude oil or
11 natural gas in the area to which the lease relates in accordance with the
12 applicable development plan; or

13 (b) restart or continue petroleum production in the area to which such
14 lease relates.

15 (4) The Commission shall, during the term of a petroleum mining
16 lease-

17 (a) verify the implementation of the work commitments by the
18 applicable lessee and its compliance with the applicable development plan;

19 (b) monitor capital and operating costs incurred by the applicable
20 lessee; and

21 (c) ensure that upstream petroleum operations at all times are carried
22 out to conform with the standards required by this Act and by regulation made
23 under this Act.

Confidentiality

24 **83.**-(1) A licensee or lessee shall for each petroleum prospecting
25 licence or petroleum mining lease provide a yearly summary of royalties, fees,
26 taxes, profit oil shares and other payments to Government within 6 months
27 after each calendar year to the Commission and the Accountant General of the
28 Federation.

29 (2) The Commission shall define the required detail and classification
30 of the summary under subsection (1) of this section and the summaries shall be

1 non-confidential and published on the website of the Commission.

2 (3) The text of any existing contract, Licence or Lease and any
3 amendment or side letter with NNPC shall-

4 (a) not be confidential;

5 (b) be published on the website of the Commission within one year
6 after the effective date; and

7 (c) be provided to the Commission by a contractor of NNPC,
8 licensee or lessee within 1 year after the Effective Date.

9 (4) A contractor, licensee or lessee who does not or partially
10 provides the Commission with the required information referred to in
11 subsection (3) of this section, within the stipulated time contravenes the
12 provisions of this Act and is liable to an administrative penalty of the sum of
13 US \$10,000 for every day the default subsists.

14 (5) The text of any new licence, lease or contract or amendment to
15 it shall not be confidential and shall be published by the Commission
16 immediately following the granting or signing of such texts.

17 (6) A licensee or lessee who obtained geological, geophysical,
18 geochemical and other technical petroleum data during upstream petroleum
19 operations as determined by the Commission shall immediately provide the
20 data to the National Data Repository of the Commission.

21 (7) The data referred to in subsection (6) of this section shall not be
22 confidential, except for a period of confidentiality of exploration data,
23 which shall not exceed-

24 (a) 5 years or the period until the relinquishment date of the area,
25 whichever is lower; or

26 (b) such other period as prescribed in the National Data Repository
27 Regulations, 2020.

28 (8) Data in the National Data Repository of the Commission shall
29 be accessible to any interested person under such terms as may be
30 determined by the Commission.

1 **84.**-(1) Unless prohibited by this Act or regulation under this Act,
2 where the Commission grants a licence or lease, a licensee or lessee may enter
3 into a contract with a third party for the exploration, prospecting, production or
4 development of crude oil or natural gas or both, in respect of any licence or
5 lease held by the licensee or lessee.

6 (2) The Commission shall develop a model licence and model lease,
7 which may contain an obligation to comply with contractual provisions in a
8 model contract attached to the licence or lease.

9 (3) The model licence and model lease referred to under subsection
10 (2) of this section shall comply with the provisions of this Act and may contain
11 the following additional contractual provisions-

12 (a) a production sharing contract for the exploration, development
13 and production of petroleum on terms under which the financial risk-bearing
14 party shall recover costs from a share of production as established in the
15 contract from the applicable area;

16 (b) a profit sharing contract which is a production sharing contract
17 whereby the profit oil is provided in cash to Government;

18 (c) a risk service contract for the exploration, development and
19 production of petroleum on terms under which the financial risk-bearing party
20 shall recover costs by a payment in cash or in kind from petroleum produced
21 from the applicable area;

22 (d) a concession agreement for exploration, development and
23 production of petroleum, which may include an incorporated or
24 unincorporated joint venture with NNPC Limited; and

25 (e) any contract being a variation of the contracts pursuant to
26 paragraphs (a), (b) (c) or (d), of this subsection or a contract which, at the time,
27 is an internationally recognised form of contract for the exploration and
28 production of petroleum.

29 (4) The power to enter into contracts pursuant to subsection (1) of this
30 section shall not confer on any licensee or lessee the right to assign an interest

1 in any licence or lease, except in accordance with the provisions of this Act.

2 **85.** A licence or Lease described under section 84(2) of this Act
3 shall not be granted by the Commission unless the appropriate model
4 contract is attached to the licence or lease and the licensee or lessee is the
5 contractor.

Duration and
renewal of leases
and licences

6 **86.**-(1) A petroleum mining lease granted under section 81 of this
7 Act shall be for a maximum period of 20 years, which term shall include the
8 development period prescribed pursuant to subsection (4) of this section.

9 (2) Where a petroleum mining lease does not initiate regular
10 commercial production within the development period prescribed pursuant
11 to subsection (4) of this section, the Lease may be revoked by the
12 Commission at the end of the development period.

13 (3) Where a petroleum mining lease is revoked under subsection
14 (2) of this section, the applicable acreage shall vest in the Government and
15 be controlled and administered by the Commission, which may be subject to
16 a new petroleum mining lease granted in accordance with section 81 of this
17 Act.

18 (4) The development period for a petroleum mining lease granted
19 pursuant to section 81 of this Act shall be the period established in the Field
20 development plan under section 79(2)(n) of this Act and where development
21 period is not stipulated, the development period shall be-

22 (a) 5 years for an onshore lease; and

23 (b) 7 years for a Lease in shallow water or deep offshore or a lease
24 in a frontier acreage.

25 (5) An acreage in respect of an expired or revoked petroleum
26 mining lease under this Act shall be subject to a new bidding process
27 pursuant to section 73 of this Act, unless the term of the petroleum mining
28 lease is extended under this Act.

29 (6) A petroleum mining lease which continues to produce in paying
30 quantities may be renewed by the Commission in accordance with section

1 87 of this Act for one or more successive additional terms, of not more than 20
2 years each, provided that-

3 (a) the field continues to produce in paying quantities; and

4 (b) all rents, royalties, taxes and other applicable fiscal obligations
5 stipulated under this Act shall continue, subject to section 87 of this Act.

6 (7) a petroleum mining lease which ceases to produce in paying
7 quantities for a period of not less than 180 days may, except for force majeure
8 or any other reason acceptable to the Commission, be revoked by the
9 Commission.

10 (8) A lessee of a petroleum mining lease who intends to suspend
11 production for more than 180 days and to resume production at a later date,
12 shall submit to the Commission a specific shut-in plan and a commitment to
13 restart production in accordance with the shut-in plan/

Conditions for
renewal of
petroleum mining
leases

14 **87.**-(1) A lessee of a petroleum mining lease may, not less than 12
15 months before the expiration of the lease, apply in writing to the Commission
16 for a renewal, of leased area or any part of it.

17 (2) A petroleum mining lease shall be renewed by the Commission
18 where it is satisfied that the Lessee -

19 (a) has fulfilled its obligations relating to the development of the
20 Lease area;

21 (b) has fully met all payments requirement under this Act or any other
22 enactment in respect of royalties, rents, taxes and fees relating to the petroleum
23 mining lease;

24 (c) is not in default of any obligation or condition relating to the
25 Lease; and

26 (d) has discharged all operational obligations in compliance with
27 applicable rules and regulations.

28 (3) The renewal referred to under subsection (2) of this section shall
29 be on terms and conditions determined by the Commission and the Lessee shall
30 pay a renewal bonus of an amount specified by the Commission based on the

1 percentage of the market value on the renewal date prescribed in the
2 regulation made under this Act.

Relinquishment

3 (4) The Commission may, in public interest, change, impose or add
4 new lease conditions, which shall be published in the Official Gazette.

5 **88.**-(1) Prior to the expiration of the initial exploration period of 3
6 years or of the optional extension period of 3 years under section 77(1) of
7 this Act, a licensee shall relinquish every area that is not an appraisal area,
8 retention area or lease area based on parcels or sub-parcel under section 69
9 of this Act.

10 (2) Prior to the expiration of the initial exploration period of 5 years
11 or of the optional extension period of 5 years under section 77(2) of this Act,
12 a licensee shall relinquish every area that is not an appraisal area, retention
13 area or lease area on parcel or sub-parcel under section 69 of this Act.

14 (3) Every appraisal area or retention area shall be retained as
15 provided for under this act and the petroleum prospecting licence shall be
16 extended until the related petroleum mining lease has been granted or
17 denied.

18 (4) A Licensee of a petroleum prospecting licence may voluntarily
19 relinquish parcels and sub-parcels under section 69 of this Act, provided that
20 the-

21 (a) licensee has complied with the obligation in the petroleum
22 prospecting licence; and

23 (b) shape of a relinquished block shall be approved by the
24 Commission to maintain acreage of shape that is viable for award in future
25 licensing round.

26 (5) After 10 years of the commencement of a petroleum mining
27 lease-

28 (a) the applicable Lessee shall relinquish all parcels which do not
29 fall within the boundary of a producing field under this Act; and

30 (b) any formation deeper than the deepest producing formation

1 shall be relinquished, and the deep rights shall vest in the Government.

2 (6) Upon the expiration of any significant gas discovery retention
3 period in respect of a petroleum prospecting licence, every area relating to the
4 significant gas discovery retention area shall be relinquished, unless the
5 applicable licensee has declared a commercial discovery in such significant
6 gas discovery retention area.

7 (7) An area or zone relinquished pursuant to this section, shall be
8 vested in the Government and administered by the Commission and the
9 relinquishments shall be in a north-south, east-west direction and defined in a
10 rectangular or square shaped compact unit.

11 (8) Any rent paid in respect of an area or zone that is relinquished
12 pursuant to this section shall not be refundable and such relinquishment shall
13 be without prejudice to any obligation or liability imposed by or incurred under
14 the applicable Licence or Lease.

Surrender of
licence or lease

15 **89.**-(1) Notwithstanding the provisions of this Act on relinquishment,
16 a holder of a petroleum prospecting licence, petroleum exploration licence or
17 petroleum mining lease may surrender part or the whole of the licenced or
18 leased area or any zone, provided that the licensee or lessee has-

19 (a) complied with obligations imposed by or incurred under the
20 applicable licence or lease; and

21 (b) given 3 months' notice in writing to the Commission prior to the
22 surrender.

23 (2) Any rent or fee paid prior to a surrender pursuant to subsection (1)
24 of this section shall not be refundable and the licence or lease surrendered shall
25 be without prejudice to any obligation or liability imposed by or incurred under
26 the applicable Licence or Lease.

Rights of way
relating to
upstream petroleum
operations

27 **90.** Subject to applicable law and terms and conditions prescribed by
28 the Commission, a holder of a petroleum prospecting licence, petroleum
29 exploration licence or petroleum mining lease is entitled with the approval of

1 the Commission to a right of way for the laying, operation and maintenance
 2 of gathering lines, telephone lines, power lines and other similar lines
 3 through or across the areas the holder may require.

Rights of way
 reserved for the
 Commission

4 **91.**-(1) Subject to subsection (2) of this section, the Commission
 5 may reserve in accordance with applicable law, a right of way, easement or
 6 other right over an area to which a petroleum prospecting licence, a
 7 petroleum exploration licence or a petroleum mining lease, which the
 8 Commission considers necessary for the laying, operation and maintenance
 9 of pipelines, telephone lines and power lines and any right of way or other
 10 right reserved shall continue for the benefit of any person to whom the
 11 Commission may subsequently grant the same.

12 (2) Where a holder of a petroleum prospecting licence, petroleum
 13 exploration licence or petroleum mining lease is of the opinion that a
 14 reservation made by the Commission pursuant to subsection (1) of this
 15 section affects the health, safety or environment of a person, the licensee or
 16 lessee may object to the reservation in writing and the Commission shall
 17 reconsider the reservation in light of the objection.

18 (3) The holder of a petroleum prospecting licence, a petroleum exploration
 19 licence or a petroleum mining lease shall-

20 (a) be entitled to enter and remain on the land that is the subject of
 21 the Licence or Lease and do such things that are not prohibited by applicable
 22 law or under the Licence or Lease; and

23 (b) comply with applicable law relating to town or country
 24 planning or regulating the construction, alteration, repair or demolition of
 25 buildings, or providing for similar matters, which relates to the carrying out
 26 of operations authorised by the Licence or Lease.

Voluntary
 conversion of an
 oil prospecting
 licence to a
 petroleum
 prospecting licence
 or oil mining lease
 to petroleum
 mining lease

27 **92.**-(1) A holder of an existing oil prospecting licence or oil mining
 28 lease may enter into a voluntarily conversion contract under this Act.

29 (2) A licensee or lessee under a conversion contract shall benefit
 30 from applicable fiscal incentives where the licensee or lessee complies with

1 the provisions of this Act.

2 (3) Where a holder of an existing oil prospecting licence or oil mining
3 lease who wishes to enter into a voluntarily conversion contract under this Act,
4 the conversion contract shall contain a termination clause of all outstanding
5 arbitration and court cases related to the respective oil prospecting licence or
6 oil mining lease and for the avoidance of doubt-

7 (a) any stability provisions or guarantees provided by NNPC in
8 respect of oil prospecting licences or oil mining leases to be converted shall be
9 null and void; and

10 (b) the incentive provisions contained in sections 11 and 12 of the
11 Petroleum Profit Tax Act shall not apply.

12 (4) A conversion contract shall be concluded at a date ("Conversion
13 Date") which is the earlier of-

14 (a) 18 months from the effective date; and

15 (b) the expiration date of the oil mining lease or date of conversion of
16 the oil prospecting licence to an oil mining lease.

17 (5) Prior to the conversion date, the terms applicable to the oil
18 prospecting licence or oil mining lease prior to the effective date shall continue
19 to apply.

20 (6) Where a holder of an existing oil prospecting licence or oil mining
21 lease does not enter into a conversion contract prior to the conversion date, the
22 terms and conditions applicable to the oil prospecting licence or oil mining
23 lease prior to the effective date of this Act shall continue to apply to the oil
24 prospecting licence or oil mining lease, subject to the provisions of section
25 311(2)(b) and 303(1) of this Act.

Relinquishment
upon renewal or
conversion of
an oil mining
lease

26 (7) Where an oil prospecting licence is converted, the term of years
27 included in such licence shall apply to the converted petroleum prospecting
28 licence.

29 **93.**-(1) A holder of oil mining lease, including oil mining lease that is
30 subject to production sharing contract, shall at the renewal date applicable to

1 the oil mining lease or at the conversion date, designate each area and zone
2 of the oil mining lease as areas and zones-

3 (a) which, in the opinion of the holder, merit appraisal and for
4 which the holder of the oil mining lease is prepared to present an appraisal
5 program pursuant to section 78 of this Act;

6 (b) in respect of which the holder is prepared to make a declaration
7 of a commercial discovery pursuant to section 78 of this Act and submit a
8 field development plan to the Commission pursuant to section 79 of this Act;

9 (c) in respect of which the holder is prepared to make a declaration
10 of a significant gas discovery pursuant to section 78 of this Act and submit
11 an application for approval of a retention area;

12 (d) in respect of which development is underway based on prior
13 approvals; and

14 (e) in respect of which regular commercial production is occurring.

15 (2) Where the total acreage selected pursuant to subsection (1) of
16 this section is less than 40% of the area to which the applicable oil mining
17 lease applies, the holder may select additional areas covered by the oil
18 mining lease for conversion to a petroleum prospecting licence in such a
19 manner that the total of all areas selected shall not be more than 40% of the
20 oil mining lease area.

21 (3) Any selected area pursuant to subsection (2) of this section shall
22 be based on parcels.

23 (4) Areas and zones subject to an oil mining lease and not selected
24 by the holder pursuant to subsections (1) and (2) of this section shall be
25 relinquished by the holder.

26 (5) The relinquishment date for the purpose of subsection (4) of
27 this section shall be the renewal date or the conversion date.

28 (6) Subject to section 94 of this Act on the applicable
29 relinquishment date, the Commission shall convert the applicable oil
30 mining lease in respect of each area and zone-

1 (a) designated by a holder pursuant to subsection (a), (b), (c) or (2) of
2 this section into a petroleum prospecting licence in accordance with section 78
3 of this Act, with fiscal terms as applicable under Chapter Four of this Act for
4 new acreage and with the relinquishment date being the effective date for such
5 petroleum prospecting licence;

6 (b) selected pursuant to subsection (c) and (e) of this section, into
7 petroleum mining leases, with fiscal terms as applicable under section
8 267(1)(a), (b) and (e) of this Act to the lease, provided that for-

9 (i) production sharing contracts for the determination of the profit oil
10 sliding scale based on cumulative production, the total production from all
11 petroleum mining leases shall be applicable, and

12 (ii) Royalty purposes, the production of each petroleum mining lease
13 shall be the basis.

14 (7) Where a Licensee of an oil prospecting licence, including any oil
15 prospecting licence that is subject to a production sharing contract, voluntarily
16 opts to convert its Licence to a petroleum prospecting licence pursuant to
17 Section 92 of this Act, it shall select as provided in subsection (1) of this section
18 the areas and zones indicated in this subsection upon the conversion date and
19 the Commission shall convert the applicable oil prospecting licence of the
20 areas and zones-

21 (a) designated by a holder pursuant to subsection (a), (b) and (c) of
22 this section as areas to be continued under the petroleum prospecting licence
23 pursuant to the provisions of this Act, with fiscal terms as applicable under
24 Chapter Four of this Act for new acreage;

25 (b) selected pursuant to subsection and (e) of this section shall be
26 converted into petroleum mining leases with fiscal terms as applicable under
27 section 267(1)(a), (b) and (e) of this Act, applicable to these leases, provided
28 that-

29 (i) with respect to production sharing contracts for the determination
30 of the profit oil sliding scale based on cumulative production, the total

1 production from all petroleum mining leases shall be applicable, and

2 (ii) Royalty purposes, the production of each petroleum mining
3 lease shall be the basis; and

Marginal field

4 (c) the remaining area shall continue as exploration area under the
5 petroleum prospecting licence.

6 **94.**-(1) Notwithstanding the rights and obligations conferred under
7 the applicable farm-out agreement, an existing and producing marginal field
8 shall be granted a separate petroleum mining lease, which shall benefit from
9 the terms for new acreage under Chapter Four of this Act.

10 (2) A discovery declared as a marginal field prior to 1st january,
11 2020 and is not producing shall be converted to petroleum prospecting
12 licence and shall benefit from the terms for new acreage under Chapter Four
13 of this Act.

14 (3) Where the discovery has been transferred to Government, the
15 Commission is entitled to offer the petroleum prospecting licence in a bid
16 round pursuant to section 74 of this Act.

17 (4) Within 3 years of the effective date, any discovery of marginal
18 field that has not been transferred to Government, shall be subject to the
19 following process and the holder of the oil mining lease-

20 (a) present a development plan for the field; or

21 (b) with the consent of the Commission and on terms and
22 conditions as the Commission may approve under regulations, farm out the
23 discovery; or

24 (c) relinquish the field in accordance with the provisions of this
25 Act.

26 (5) The consent of the Commission to the farm-out of a marginal
27 field under subsection (b)(b) of this section shall, amongst others, be subject
28 to the farmee presenting a field development plan over a period of time
29 agreed with the Commission and a regulation made under this Act.

30 (6) The failure of the farmee to present a field development plan to

1 the Commission within the prescribed period shall attract a penalty prescribed
2 in the Regulations.

3 (7) A discovery relinquished under subsection (c) of this section shall
4 be vested in the Government and be administered by the Commission.

5 (8) For the purposes of this section-

6 (a) "marginal field" means a Field or discovery which has been
7 declared a Marginal Field prior to 1st January 2020; and

8 (b) "farm-out" means an agreement between the holder of a
9 petroleum mining lease or petroleum prospecting licence and a third party,
10 which permits the third party to explore, prospect, win, work and carry away
11 any petroleum encountered in a licence or lease area during the validity of the
12 licence or lease.

Assignment,
mergers, transfers
and acquisitions

13 **95.**-(1) A holder of a petroleum prospecting licence or petroleum
14 mining lease shall not assign, novate or transfer his licence or lease or any right,
15 power or interest without prior written consent of the Minister.

16 (2) The consent of the Minister under subsection (1) of this section
17 shall be granted upon the recommendation of the Commission.

18 (3) For the purpose of subsection (1) of this section, a change of
19 control in the holder of a Licence or lease under subsection (1) of this section
20 shall be deemed to be an assignment.

21 (4) A licensee or lessee wishing to assign, novate or otherwise transfer
22 its interest pursuant to subsection (1) of this section, shall make an application
23 for approval of the transfer of a licence or lease to the Commission in the format
24 prescribed by the Commission, and be accompanied with any other
25 information that may be pursuant to any regulations published by the
26 Commission hereunder

27 (5) Notwithstanding the provisions of subsection (1) of this section, a
28 holder of a licence or lease under subsection (1) of this section, may by way of
29 security, wholly or partly assign, pledge, mortgage, charge or hypothecate its
30 interests under the applicable licence, lease or grant a security interest in

1 respect of the interest, provided that the consent of the Commission shall be
2 obtained.

3 (6) The Commission shall within 60 days of the receipt, act on the
4 application of the licensee or lessee. Where no response on the
5 application has been received within 60 working days from the receipt of the
6 recommendation of the Commission, the consent of the Minister under
7 subsection (1) of this section shall be deemed to have been granted.

8 (8) Where the consent of the Minister is granted in respect of the
9 application for a transfer, the Commission shall promptly record the transfer
10 in the appropriate register.

11 (9) The Commission shall communicate the refusal or approval of
12 an application for an assignment, novation or transfer of a licence or lease in
13 writing to the applicant.

14 (10) Where the application for an assignment or a transfer of a
15 petroleum prospecting licence or petroleum mining lease is refused, the
16 Commission shall inform the applicant of the reasons for the refusal and
17 may give reasonable time within which further representations may be made
18 by the applicant or by third parties in respect of the application.

19 (11) The Minister may grant consent to an assignment, novation or
20 transfer of a petroleum prospecting licence or petroleum mining lease,
21 subject to the following terms and conditions the Commission may consider
22 appropriate, that the proposed transferee-

23 (a) is a company incorporated in Nigeria;

24 (b) is of good reputation and standing;

25 (c) has sufficient technical knowledge, experience and financial
26 resources to enable it effectively carry out all responsibilities of a licensee or
27 lessee under the licence or lease; and

28 (d) shall comply with the Federal Competition and Consumer
29 Protection Act, 2018.

30 (12) The Commission shall make regulation to prescribe for

1 payment of fees as a condition for any transaction under subsection (1) of this
2 section, which fee shall be based on a percentage of the value of the transaction
3 and shall not be taxable.

4 (13) The consummation and details of any transaction to which
5 subsection (1) of this section applies shall be-

6 (a) fully disclosed to the Federal Inland Revenue Service by the
7 parties to the transaction; and

8 (b) published in the gazette by the Commission.

9 (14) For the purposes of this section, “change of control” means any
10 person or persons acting jointly or in concert, to acquire direct or indirect
11 beneficial ownership of a percentage of the voting power of the outstanding
12 voting securities of the holder, by contract or otherwise, that exceeds 50% at
13 any time.

Grounds for
revocation of
licence or lease

14 (15) A holder of a petroleum exploration licence shall not assign,
15 novate or transfer his licence or lease or any right, power or interest without
16 prior written consent of the Commission.

17 **96.**-(1) Upon receipt of the written recommendation of the
18 Commission for revocation, the Minister may revoke a petroleum prospecting
19 licence, petroleum exploration licence or petroleum mining lease, where the
20 applicable licensee or lessee-

21 (a) fails to conduct petroleum operations in accordance with good
22 international petroleum industry practices, the provisions of this Act and any
23 other relevant legislation;

24 (b) interrupts production for a period of over 180 consecutive days
25 without justification or as provided for in the applicable licence, lease or
26 approved development plan, provided that an event of *force majeure* shall be an
27 acceptable justification for interruption;

28 (c) fails to fulfil the terms and conditions of the applicable licence or
29 lease or the approved field development plan;

30 (d) fails to pay to Government, as they become due, rents, royalties,

- 1 taxes or other payments or production shares under this Act;
- 2 (e) fails to furnish any reports or data on operations as required by
- 3 law;
- 4 (f) assigns, novates or otherwise transfers any interest in the
- 5 applicable licence or lease other than in accordance with section 95 of this
- 6 Act;
- 7 (g) has obtained an interest, in the applicable licence or lease based
- 8 on false representation or contrary to corrupt practices and money
- 9 laundering Laws;
- 10 (h) is declared by a court of competent jurisdiction to be insolvent,
- 11 bankrupt or is liquidated, in each case except as part of a solvent plan or
- 12 scheme of re-organisation, amalgamation or arrangement;
- 13 (i) has failed to comply with environmental obligations required by
- 14 applicable law or by the provisions of the applicable Licence or Lease;
- 15 (j) is owned wholly or in part, directly or indirectly or is controlled
- 16 by a former or serving public official or member of the Government, who
- 17 obtained his interest in the applicable licence or lease other than as permitted
- 18 by applicable law;
- 19 (k) where the applicable licensee or lessee does not submit and
- 20 advance a field development plan and work commitment pursuant to
- 21 sections 78 and 79 of this Act;
- 22 (l) fails to abide by any expert determination, arbitration award or
- 23 judgment arising from the dispute resolution provisions set forth in a
- 24 licence, lease or this Act;
- 25 (m) fails to comply with domestic crude oil supply or domestic gas
- 26 delivery obligations under this Act and any subsidiary regulation; or
- 27 (n) fails to comply with the host communities obligations under
- 28 this Act.
- 29 (2) Subsection (j)(j) of this section shall apply to a former public

Notice of default
prior to revocation

1 official or member of Government only where the applicable interest was
2 acquired while the public official was in office or was a member of the
3 Government.

4 **97.**-(1) Prior to the revocation of a petroleum prospecting licence or
5 Petroleum Mining Lease by the Minister pursuant to section 96 of this Act, the
6 Commission shall-

7 (a) serve a notice of default on the applicable licensee or lessee stating
8 the grounds upon which the Commission may recommend a revocation of the
9 licence or lease to the Minister; and

10 (b) provide the licensee or lessee with a remediation period of not less
11 than 60 days within which to remedy the default.

12 (2) Where the Commission is satisfied with the remedy provided by
13 the licensee or lessee pursuant to subsection (1)(b) of this section, the
14 revocation process shall terminate.

15 (3) Where, at expiration of the remediation period provided under
16 subsection (1)(b) of this section, the default persist, the licence or lease may
17 subject to the provisions of section 99 of this Act, be revoked in accordance
18 with section 96 of this Act.

19 (4) A notice of default shall be-

20 (a) sent by the Commission to the last known address of the licensee
21 or lessee or its legal representative in Nigeria; or

22 (b) published in the gazette or on the website of the Commission,

23 (c) each of which shall constitute sufficient notice to the Licensee or
24 Lessee of the notice of default.

25 (5) Revocation of a petroleum prospecting licence or petroleum
26 mining lease shall be without prejudice to any-

27 (a) liability or obligation which the licensee or lessee may have
28 incurred in favour of the Commission, the Government or any third party; or

29 (b) claim, which the Commission, the Government or any third party
may make against the licensee or lessee.

1 (6) A revocation decision shall be published in the gazette and the
2 Commission shall amend relevant registers maintained by it to reflect the
3 revocation.

Administration of
a revoked producing
lease

4 **98.**-(1) Within 30 days of the revocation of a petroleum mining
5 lease or any partial interest in the lease which is producing in paying
6 quantities, the Minister shall, on the recommendation of the Commission,
7 appoint an interim operator to ensure petroleum operations continue from
8 the areas and zones subject to the petroleum mining lease based on good
9 international oil field practices.

10 (2) The interim operator appointed pursuant to subsection (1) of
11 this section shall serve for a period to be determined by the Commission and
12 the related contract shall be on a service fee basis.

13 (3) During the tenure of an interim operator, the Commission may
14 conduct a fair, transparent and competitive bidding process for the grant of
15 one or more petroleum mining leases in respect of the areas and zones
16 subject to the revoked petroleum mining lease or any partial interest in the
17 petroleum mining lease.

Power of
revocation of
participating or
shareholders
interest

18 **99.**-(1) Where two or more persons are holders of a petroleum
19 prospecting licence or petroleum mining lease and one or more of the
20 grounds for revocation set forth in section 96 of this Act applies to not all of
21 the holders, the Minister-

22 (a) may, in accordance with section 96 of this Act, revoke the
23 participating or shareholders interest of the holder or holders to which the
24 grounds apply; and

25 (b) shall not revoke the interests of the other holder or holders to
26 which the grounds do not apply.

27 (2) A holder to which the grounds apply under subsection (1) (a) of
28 this section is referred to as a “defaulting holder” and a holder to which the
29 grounds do not apply under subsection (1) (b) of this section is referred to as
30 a “non-defaulting holder”.

1 (3) Upon a revocation of an interest pursuant to subsection (1) (a) of
2 this section, the rights of the defaulting holder shall cease without prejudice to
3 any obligation or liability incurred or imposed on the defaulting holder under
4 the terms and conditions of the licence or lease prior to the time of the
5 revocation.

6 (4) The interests of each non-defaulting holder shall not be affected by
7 a revocation of the interest pursuant to subsection (1) (b) of this section and the
8 non-defaulting holders shall take such measures as provided for under the joint
9 operating agreement or shareholder agreement to redistribute the revoked
10 participating or shareholder interest to the non-defaulting holders or third
11 parties.

12 (5) Where subsection (1) of this section applies, an assignment to a
13 third party may require the approvals stipulated under this Act and any
14 replacement of the operator will require the approval of the Commission.

15 (6) The Minister may revoke a licence or lease, where a non-
16 defaulting holder under subsection (1) (b) of this section, fails to-

17 (a) take responsibility for the payment of rents, royalties, taxes,
18 production shares, profit shares or other contractual payments to Government
19 of the defaulting holder under the licence or lease; or

Fees

20 (b) comply with any other obligation under the licence or lease in a
21 manner that may result in the revocation of the licence or Lease pursuant to
22 section 96 of this Act.

23 **100.**-(1) A holder of a petroleum prospecting licence, petroleum
24 exploration licence or petroleum mining lease shall pay to the Government
25 royalties, fees, rents and production or profit shares in the amount and time as
26 prescribed under this Act and regulations made by the Commission.

27 (2) Where royalties, fees, rents, production or profit shares or other
28 required payment to Government due under this section remains unpaid for a
29 period of 30 days after the date when it becomes due for payment, it shall be
30 considered as a debt to the Commission with interest accruing at a daily rate to

1 be provided for in a regulation issued by the Commission.

2 (3) The Commission may, after the 30 days period referred to under
3 subsection (2) of this section and until the debt is repaid, together with
4 accrued and unpaid interest-

5 (a) enter into and upon any land, property or premises owned,
6 possessed or occupied by the holder of the licence or lease;

7 (b) seize, distrain and sell any petroleum, petroleum products,
8 engines, machinery, tools, implements or other effects belonging to the
9 holder of the Licence or Lease, and the costs incurred by the Commission in
10 connection with the seizure, distress and sale shall be added to the debt; and

11 (c) out of money arising from the sale of any item referred to in
12 subsection (b) of this section, pay off the debt and any surplus shall be paid
13 by the Commission to the holder of the licence or lease.

14 (4) Payment to Government referred to under this section shall not
15 be waived or discounted.

16 **101.-(1)** A licensee or lessee shall not enter upon, occupy or
17 exercise any of the rights or powers conferred by its licence or lease in
18 relation to any-

19 (a) area held to be sacred, the question as to whether the area is
20 sacred or not shall be decided by the customary court of the area, where
21 necessary;

22 (b) part of the following relevant areas, except it obtains a written
23 permission from and subject to conditions as may be imposed by the
24 Commission, any part-

25 (i) set apart for, used or appropriated or dedicated to public
26 purposes;

27 (ii) occupied for the purposes of the government of the Federation
28 or a State;

29 (iii) situate within a township, town, village, market, burial ground
30 or cemetery;

Damage to
protected and
venerated objects

1 (iv) which is the site of or is within 50 yards of any building,
2 installation, water reservoir, dam, public road or tramway or which is
3 appropriated for or situate within 100 metres of any railway; or

4 (v) of the land under cultivation;

5 (c) any part consisting of privately owned or legally occupied land
6 other than private land falling under paragraph (b) except permission in writing
7 to do so has been obtained by the licensee or lessee from the Commission,
8 which may grant permission if the licensee or lessee has-

9 (i) given previous notice in writing to the Commission specifying by
10 name or other sufficient designation and by quantity, the land proposed to be
11 occupied and the purpose for which it is required; and

12 (ii) paid or tendered to the person in lawful occupation or and the
13 owner or owners of the land fair and adequate compensation; and

14 (d) dispute under sub-paragraph 0 of this subsection as to who is in
15 lawful occupation or the owner of any land or as to the amount of any
16 compensation payable, the Licensee or Lessee, pending the determination of
17 the dispute, shall deposit with the Federal High Court with jurisdiction over the
18 matter such sum as shall be determined by the Federal High Court to be
19 reasonable compensation payable to the rightful owner or occupier of the
20 land.

21 (2) A person shall not, in the course of petroleum operations-

22 (a) injure or destroy any tree or object which is-

23 (i) of commercial value, or

24 (ii) the object of veneration to the people resident within the Licence
25 or Lease area;

26 (b) damage or destroy any building or property; or

27 (c) disturb or damage the surface of the land or any other rights to any
28 person who owns or is in lawful occupation of the surface area covered by the
29 Licence or Lease.

30 (3) A licensee or lessee who causes damage pursuant to subsection (2)

1 of this section shall pay fair and adequate compensation to the persons or
2 communities directly affected by the damage or injury.

3 (4) The amount of compensation payable under subsection (2) of
4 this section shall be determined by the Commission and prescribed by
5 regulation made under this Act.

6 (5) Where a licensee or lessee fails to pay compensation pursuant
7 to subsections (3) and (2) of this section within 30 days, the Commission
8 may apply sanctions in accordance with regulations made under this Act.

Environmental
management

9 **102.-(1)** A licensee or lessee who engages in upstream and
10 midstream petroleum operations shall within-

11 (a) 1 year of the effective date; or

12 (b) 6 months after the grant of the applicable Licence or Lease,
13 submit for approval an environmental management plan in respect of
14 projects which require environmental impact assessment to the Commission
15 or Authority, as the case may be.

16 (2) The environmental management plan under subsection (1) of
17 this section shall be in accordance with the regulations made under this Act.

18 (3) The Commission or Authority, as the case may be, shall
19 approve the environmental management plan, where-

20 (a) it complies with subsection (2) of this section; and

21 (b) the applicant has the capacity or has provided for the capacity to
22 rehabilitate and manage negative impacts on the environment.

23 (4) The Commission or Authority, as the case may be, shall in
24 considering the environmental management plan, take into account the
25 policy thrust of the Government regarding environmental protection and
26 management practices.

27 (5) The Commission or Authority, as the case may be, may request
28 for additional information from the licensee or lessee and may direct that the
29 environmental management plan be adjusted in a manner the Commission
30 or Authority may require.

Financial
contribution for
remediation of
environmental
damage

1 (6) The Commission or Authority, as the case may be, may after its
2 approval of an environmental management plan and after engagement with the
3 operator of a licence or lease, call for an amendment of the environmental
4 management plan.

5 (7) Chemicals shall not be utilised for upstream petroleum operations,
6 except the Commission grants an applicable permit and approval.

7 **103.**-(1) As a condition for the grant of a licence or lease and prior to
8 the approval of the environmental management plan by the Commission or
9 Authority, a licensee or lessee shall pay a prescribed financial contribution to
10 an environmental remediation fund established by the Commission or
11 Authority, as the case may be, for the rehabilitation or management of negative
12 environmental impacts with respect to the licence or lease.

13 (2) In determining the amount of the financial contribution the
14 Commission or Authority, as the case may be, shall take into consideration the
15 size of the operations and the level of environmental risk that may exist.

16 (3) The financial contribution to an environmental remediation fund
17 under subsection (1) of this section shall be subject to audit by the licensee or
18 lessee, in accordance with guidelines that the Commission or Authority may, as
19 the case may be, issue.

20 (4) Where licensee or lessee fails to rehabilitate or manage or is
21 unable to undertake the rehabilitation or management of any negative impact
22 on the environment, the Commission or Authority, as the case may be, may,
23 upon written notice to the holder, apply the fund under subsection (1) of this
24 section to rehabilitate or manage the negative environmental impact.

25 (5) A licensee or lessee shall, pursuant to subsections (1) and (2) of
26 this section assess its environmental liability annually and increase its financial
27 contribution to the satisfaction of the Commission or Authority, as the case may
28 be.

29 (6) Where the Commission or Authority, as the case may be, is not
30 satisfied with the assessment and financial contribution referred to in this

1	section, the Commission or Authority, as the case may be, may appoint an	Gas flaring penalties
2	independent assessor to conduct the assessment and determine the financial	
3	contribution.	
4	104. -(1) A licensee, lessee or operator that flares or vents natural	
5	gas, except-	
6	(a) in the case of an emergency;	
7	(b) pursuant to an exemption granted by the Commission; or	
8	(c) as an acceptable safety practice under established regulations,	
9	commits an offence under this Act and shall be liable to a fine as prescribed	
10	by the Commission in regulations under this Act.	
11	(2) A fine due under this section shall be paid in the same manner	
12	and be subject to the same procedure for the payment of royalties to the	
13	Government by companies engaged in the production of petroleum.	Prohibition of flaring or venting of natural gas
14	(3) A fine paid pursuant to this section shall not be eligible for cost	
15	recovery or be tax deductible.	Measurement of flared natural gas
16	105. A Licensee or Lessee shall pay a penalty prescribed pursuant	
17	to the Flare Gas (Prevention of Waste and Pollution) Regulations.	
18	106. -(1) A licensee shall, prior to the commencement of petroleum	
19	production, install metering equipment conforming to the specifications	
20	prescribed on every facility from which natural gas may be flared or vented	
21	as the Commission or the Authority may prescribe in a regulation.	
22	(2) A licensee or lessee who fails or refuses to install metering	
23	equipment pursuant to subsection (1) of this section commits an offence	Exemption
24	under this Act and is liable to a fine as the Commission or the Authority may	
25	prescribe under a regulation.	
26	107. The Commission or the Authority may grant a permit to a	
27	Licensee or Lessee to allow the flaring or venting of natural gas for a specific	
28	period-	Natural gas flare elimination plan
29	(a) where it is required for facility start-up; or	
30	(b) for strategic operational reasons, including testing.	

Domestic crude
oil supply
obligations

1 **108.** Notwithstanding any provision to the contrary under this Act, a
2 licensee or lessee producing natural gas shall, within 12 months of the effective
3 date, submit a natural gas flare elimination and monetisation plan to the
4 Commission, which shall be prepared in accordance with regulations made by
5 the Commission under this Act.

6 **109.**-(1) The supply of crude oil and condensates for the domestic
7 market shall, subject to subsection (2) of this section, be on a willing supplier
8 and willing buyer basis.

9 (2) The Commission may issue regulations or guidelines on the
10 mechanism for the imposition of a domestic crude oil supply obligation on
11 lessees of upstream petroleum operations, where in its opinion, the domestic
12 market results in shortages or inadequate supplies of crude oil and condensates
13 for holders of crude oil refining licences.

14 (3) The Authority shall, upon request by the Commission, promptly
15 supply to the Commission the crude oil requirements of refineries in operation.

16 (4) The Commission shall ensure that the domestic crude oil supply
17 obligation contains the following-

18 (a) crude oil may only be sold to holders of crude oil refining licences,
19 whose refineries are in operation;

20 (b) the supply of crude oil shall be commercially negotiated between
21 the lessee and the crude oil refining licensee, having regard to the prevailing
22 international market price for similar grades of crude oil; and

Domestic gas
delivery obligations

23 (c) holders of crude oil refining licences shall provide payment
24 guarantees as required by the applicable lessee and payment for crude oil
25 purchased pursuant to obligations shall be in US dollars.

26 **110.**-(1) Subject to subsection (2) of this section, the Commission
27 shall, by a Regulation or guideline made under this Act-

28 (a) prescribe and allocate the domestic gas delivery obligation on a
29 lessee before 1st March of each year based on the domestic gas demand
30 requirements determined or updated pursuant to section 173 of this Act; and

1 (b) ensure compliance by every Lessee with a domestic gas
2 delivery obligation.

3 (2) A lessee may, on a voluntary basis, conclude contracts with
4 wholesale customers of the strategic sectors or with wholesale gas suppliers
5 supplying the sectors for delivery of marketable natural gas to the customers
6 or suppliers and notify the Commission of the contracts, provided that where
7 the volume of the contract is equal to or higher than the domestic gas
8 delivery obligation for the lessee, the lessee shall-

9 (a) be deemed to have fulfilled its domestic gas delivery
10 obligation;

11 (b) not be a producer client of the gas aggregator; and

12 (c) inform the gas aggregator.

13 (3) A lessee who has complied with its domestic gas delivery
14 obligation or may wish to supply wholesale customers who are not part of
15 the strategic sectors may deliver further supplies of marketable natural gas
16 to the domestic market on a willing seller and willing buyer basis.

17 (4) A wholesale gas supplier may, on a voluntary basis and
18 following the procedure stipulated under subsection (2) of this section-

19 (a) enter into a contract with a lessee or wholesale customer of the
20 strategic sectors for the delivery of marketable natural gas to the customers;
21 and

22 (b) inform the Commission of the contracts.

23 (5) The Commission shall require a lessee producing natural gas to
24 carry out works and operations which may be required to increase
25 production and to dedicate specific volume of the natural gas produced
26 towards the requirements of the domestic market.

27 (6) The volume of natural gas to be dedicated by a lessee towards
28 the domestic gas delivery obligation shall be based on an allocation system
29 among lessees as determined by the Commission upon consultation with the
30 Authority with consideration of supporting infrastructure availability.

1 (7) A lessee shall be obliged to deliver the volume of natural gas
2 prescribed under subsection (6) of this section to a wholesale customer
3 determined by the domestic gas aggregator and at a location indicated by the
4 domestic gas aggregator pursuant to section 156 of this Act.

5 (8) Subject to the provisions of subsection (7) of this section, a lessee
6 who fails to comply with the domestic gas delivery obligation shall incur a
7 penalty of US\$ 3.50 per MMBtu not delivered, provided that, where the lessee
8 has signed a gas purchase and sale agreement with a wholesale supplier of the
9 strategic sectors, the penalty for failure to deliver shall be as stated in that
10 agreement.

11 (9) The penalty amount of US\$ 3.50 per MMBtu referred to under
12 subsection (8) of this section may be adjusted as the Commission may prescribe
13 in a regulation made under this Act.

14 (10) A lessee shall not incur a penalty prescribed under subsection (8)
15 of this section, where it can establish that its failure to comply is as a result of-

16 (a) force majeure;

17 (b) the inability of a purchaser to accept allocated natural gas
18 volumes;

19 (c) the inability to transport the allocated natural gas for reasons
20 beyond the control of the lessee; or

21 (d) the failure of a purchaser to pay for allocated natural gas volumes.

22 (11) The Commission shall discontinue the imposition of domestic
23 gas delivery obligations, where the Authority has determined that the natural
24 gas market has attained full market status.

25 (12) Upon being allocated the volumes to be supplied under the
26 domestic gas supply obligation pursuant to subsection (1) of this section, the
27 lessee shall submit a marketable natural gas production and supply plan
28 consistent with these obligations to the Authority.

29 (13) A producer-customer of the domestic gas aggregator shall pay
30 compensation to customer-client for any loss suffered as a result of default to

1 supply marketable natural gas in accordance with a gas purchase order
2 issued by the domestic gas aggregator.

3 (14) A Lessee who does not comply with the domestic gas delivery
4 obligation as directed by the Commission shall-

5 (a) in addition to the penalties provided under subsection (8) of this
6 section, not be entitled to supply natural gas to any midstream gas export
7 operations; and

8 (b) where the lessee is supplying natural gas to midstream gas
9 export operations, the Commission may impose other sanctions as are
10 prescribed in the Regulation made under this Act.

11 (15) An approval for the supply of natural gas for export projects
12 shall, from the effective date, be subject to prior compliance by the lessee
13 with its domestic gas delivery obligation.

14 PART III

15 GENERAL ADMINISTRATION OF MIDSTREAM AND DOWNSTREAM

16 PETROLEUM OPERATIONS

Matters relating
to licence
applications

17 **111.**-(1) The Authority may grant, renew, modify or extend
18 individual Licences or permits, provided that, where it relates to the
19 establishment of refineries the licence shall be issued by the Minister on the
20 recommendation of the Authority.

21 (2) The Authority shall only grant a licence for midstream or
22 downstream petroleum operations, where-

23 (a) it meets the technical standards required for petroleum
24 operations based on good international petroleum industry practices;

25 (b) the location and size of the area occupied by the facilities or
26 right of way is acceptable to the Authority;

27 (c) it meets the health, safety and environmental standards, as
28 determined by the Authority; and

29 (d) it provides for the efficient and economic use of facilities and
30 pipelines.

- 1 (3) The Authority shall only grant a licence for midstream petroleum
2 operations where-
- 3 (a) it does not involve excessive capital or operating expenditures;
- 4 (b) it includes an acceptable environmental management plan
5 pursuant to section 102 of this Act;
- 6 (c) it includes a decommissioning and abandonment plan and a
7 decommissioning and abandonment fund that complies with sections 232 and
8 233 of this Act;
- 9 (d) it provides for the elimination of routine natural gas flaring;
- 10 (e) it does not relate to midstream petroleum operations that would
11 conflict with a licence already granted; and
- 12 (f) it includes-
- 13 (i) a detailed programme for the recruitment and training of Nigerians
14 in all phases of petroleum operations handled directly by the licensee or
15 through agents and contractors of the licensee; and
- 16 (ii) provision for scholarship schemes, internships, continuous
17 professional development and other training requirements;
- 18 (4) An application for the grant, renewal or extension of a licence or
19 permit shall-
- 20 (a) be made to the Authority in the form and manner prescribed by
21 regulation;
- 22 (b) be accompanied by the payment of a prescribed fee, where
23 applicable, together with information or documents as prescribed in the
24 regulations under this Act; and
- 25 (c) include a decommissioning and abandonment plan, where the
26 licence contemplates the construction of pipelines, storage tanks, processing or
27 other facilities.
- 28 (5) The Authority may furnish an applicant for the grant, renewal or
29 extension of a licence or permit, with non-confidential information as may
30 necessary to facilitate the filing of the application.

1 (6) An applicant for a licence or permit, who is an affiliate of a body
2 corporate that has applied for or holds any other licence or permit shall
3 disclose such relationship to the Authority in its application.

4 (7) The Authority shall consider information presented in respect
5 of an application for a licence or permit, including representations from
6 interested parties in favour of or against the granting, extension or renewal
7 of the licence or permit and shall inform the applicant of its decision within
8 90 days of the application.

9 (8) Where the Authority has decided to grant a licence or permit, it
10 shall publish a notice of its decision in the form and manner prescribed in
11 regulations issued by the Authority.

12 (9) Where the Authority decline an application, it shall inform the
13 applicant of its refusal of the application, reasons for the refusal and may
14 state a reasonable time within which the applicant may make further
15 representations.

16 (10) The Authority shall consider any representation made by an
17 applicant for a licence or permit on the refusal of an application.

18 (11) The Authority shall not consider further application or
19 representation made by an applicant in respect of a refusal of an application
20 previously considered and rejected by the Authority.

21 (12) An applicant that is not satisfied with the reasons given by the
22 Authority for refusal of an application may apply to the Federal High Court
23 for a judicial review.

Advertisement
of licence
applications

24 **112.**-(1) The Authority shall publish a notification of any
25 application made for the grant of a licence or renewal under this Part in a
26 manner prescribed by a regulation under this Act.

27 (2) Upon the publication of the notification of the application
28 referred to under subsection (1) of this section, interested parties may
29 comment or make representations to the Authority in respect of the
30 application in accordance with the time prescribed by regulation under this

	1	Act.
Licensing regulations	2	(3) Upon the grant or renewal of a Licence, the Authority shall publish
	3	notification of the grant or renewal in the form and manner prescribed by
	4	regulation under this Act.
	5	113. -(1) The Authority shall make regulations and guidelines for the
	6	grant or renewal of licence under Chapter Two.
	7	(2) The Authority shall in consultation with the Commission ensure
	8	the implementation of the domestic crude oil supply obligation and domestic
	9	gas delivery obligation.
	10	(3) The Authority shall ensure third party access to facilities and
	11	pipelines for midstream and downstream petroleum operations.
	12	(4) The Authority shall encourage third party investment in facilities
Conditions in licences or permits	13	and pipelines for midstream and downstream petroleum operations.
	14	(5) The Authority may make regulations on tariffs, which shall be
	15	consistent with the tariff methodology set out in this Act.
	16	114. -(1) Conditions in a licence or permit issued pursuant to this Act
	17	may require the holder of a licence or permit to-
	18	(a) comply with any directions of the Authority in relation to matters
	19	specified in the licence or permit;
	20	(b) undertake or refrain from anything specified in the licence or
	21	permit;
	22	(c) secure the approval of the Authority prior to undertaking anything
	23	specified in the licence or permit;
	24	(d) comply with relevant industry codes, standards and market rules;
	25	(e) undertake its activities subject to the prescribed tariffs or tariff
	26	methodology;
	27	(f) provide relevant information to the Authority;
	28	(g) prepare and submit to the Authority true, fair and sufficient annual
	29	statements in such form, and particulars as the Authority may require;
	30	(h) make available to the Authority such books as may be requested

- 1 by authorised officers of the Authority;
- 2 (i) impose restrictions on the disposal of assets;
- 3 (j) adhere to undertakings made within a business plan submitted
- 4 as part of the application process;
- 5 (k) prepare and submit to the Authority such information and
- 6 periodical reports as the Authority may require;
- 7 (l) publish terms of access to its transportation or distribution
- 8 pipeline or petroleum liquids or gas transportation networks as the case may
- 9 be; or
- 10 (m) operate its licence or permit and related facilities, if any,
- 11 according to the standard of a reasonable and prudent operator.
- 12 (2) The duration of a licence or permit shall be specified by
- 13 regulations made under this Act and the conditions applicable to the licence
- 14 or permit may cease to have effect or be modified in accordance with terms
- 15 specified in the licence or permit.
- 16 (3) A licence or permit of the same class granted by the Authority,
- 17 shall contain similar conditions representing standard conditions for that
- 18 class and any difference in the conditions in the licence or permit shall only
- 19 be for good reasons, which shall be published in the gazette.
- 20 (4) Subject to the provisions of this Act, the Authority shall have
- 21 power to include special conditions specific to a particular licence or permit
- 22 or to a holder of the licence or permit, provided that the special conditions
- 23 are designed to meet specific circumstances and shall not be a disadvantage
- 24 to another holder of a licence or permit.
- 25 (5) The Authority may specify in a licence or permit a date on
- 26 which activities shall commence.
- 27 (6) The Authority may provide that an activity be exclusive for all
- 28 or part of the period of the licence or permit for a-
- 29 (a) specific purpose;
- 30 (b) specified geographical area and route; or

1 (c) combination of paragraphs (a) and (b) of this subsection.

2 **115.**-(1) A Licence or Permit shall be issued subject to compliance by
3 the applicant with the provisions of the Land Use Act Cap L5 Laws of the
4 Federation of Nigeria 2004 in respect of compensation for acquisition of land
5 for midstream and downstream petroleum operations.

General
non-discrimination
provisions

6 (2) The Governor of a State of which land is required for carrying out
7 operations or activities subject to a licence or permit may issue a certificate of
8 occupancy pursuant to the Land Use Act in respect of the land and in
9 accordance with existing state law.

Assignment or
transfer of licence
or permit

10 **116.** A holder of a licence or permit shall not discriminate against
11 customers, classes of customers or their related undertakings in respect of
12 access, Tariffs, prices, conditions or standards of service, except for justifiable
13 and identifiable differences regarding matters such as quantity, transmission
14 distance, length of contract, load profile, interruptible supply or other
15 distinguishing features approved by the Authority.

16 **117.**-(1) A holder of a licence or permit shall not, without the prior
17 written consent of the Authority, assign or transfer its Licence or Permit or any
18 right or obligation arising from the licence or permit.

19 (2) An application for assignment or transfer of a licence or permit
20 shall be made to the Authority, which may require the applicant to publish a
21 notice of the application in the form, manner and time prescribed by regulation
22 under this Act.

23 (3) The Authority shall, in the determination of whether a licence or
24 permit is to be assigned or transferred-

25 (a) follow the same procedure with appropriate modifications;

26 (b) apply the same rules and criteria;

27 (c) consider the same issues as if the party to whom the Licence or
28 Permit is being assigned or transferred is applying for a new Licence; and

29 (d) consider the representations made to it by third parties in respect
30 of the application.

1 (4) The Authority shall, subject to subsection (3) of this section,
2 communicate in writing, its approval or refusal of an application for
3 assignment or transfer of a licence or permit within the time prescribed by
4 regulation under this Act.

5 (5) Where the Authority does not approve or refuse an application
6 and fails to communicate its decision to an applicant for the assignment or
7 transfer of a licence or permit within the prescribed time, the application
8 shall be deemed to be approved.

9 (6) Where the Authority refuses the grant of an application for an
10 assignment or a transfer of a licence or permit, it shall communicate to the
11 applicant the reason for the refusal and shall give reasonable time within
12 which further representation may be made by the applicant or by a third
13 party in respect of the application.

14 (7) Where the Authority grant consent to an assignment or transfer
15 of a licence or permit, it shall notify the applicant in writing, subject to any
16 condition it may consider appropriate.

Suspension and
amendment of
conditions in a
licence or permit

17 **118.-(1)** The Authority may suspend or amend the
18 conditions applicable to a licence or permit or include additional conditions
19 subject to subsection (2) of this section.

20 (2) The Authority shall not suspend or amend any condition
21 applicable to a licence or permit or include additional conditions to a licence
22 or permit unless it gives the holder-

23 (a) a written notice of its intention and a draft copy of the proposed
24 suspension or amendment; and

25 (b) an opportunity to make a written submissions to the Authority
26 within the time specified by regulation.

27 (3) The procedure for the suspension or amendment of a condition
28 in a licence or permit shall be as prescribed by the Authority in a regulation
29 under this Act.

Surrender of
licence or permit

1 (4) A holder of a licence or permit who is dissatisfied with the decision
2 of the Authority to suspend or amend a condition in a licence or permit may
3 apply to the Federal High Court against the decision.

4 **119.**-(1) The holder of a licence or permit may, upon an application in
5 the form, manner and meeting any conditions prescribed by the Authority in a
6 regulation made under this Act surrender the licence or permit, where-

7 (a) the licenced or permitted activity is no longer required;

8 (b) the licenced or permitted activity is not economically justifiable;

9 (c) another qualified person is willing and able to assume the rights
10 and obligations of the holder of the licence or permit in accordance with the
11 requirements and objectives of this Act; and

12 (d) applicable, the holder of the licence or permit has complied with
13 the requirements of the law in respect of relinquishment, decommissioning and
14 abandonment of installations and reclamation of land.

15 (2) A holder of the licence or permit who has commenced activities
16 and has ongoing operations shall, except a shorter period is stipulated in the
17 licence or permit, give the Authority a minimum of 12 months' notice in writing
18 of its intention to cease its activities.

Grounds for the
revocations of
a licence or permit

19 (3) The form and procedure to be followed in surrendering a licence or
20 permit under subsection (2) of this section shall be as prescribed by regulation.

21 **120.**-(1) Notwithstanding the provisions of Chapter Two of this Act, a
22 licence or permit may be revoked, where-

23 (a) the holder becomes insolvent, bankrupt, enters into an agreement
24 or composition with its creditors or takes advantage of any enactment for the
25 benefit of the debtors or goes into liquidation, except as part of a scheme for an
26 arrangement or amalgamation;

27 (b) upon the transformation or dissolution of the company or
28 corporation, except it is for the purpose of amalgamation or reconstruction,
29 provided that the prior written consent of the Authority has been obtained;

30 (c) a holder of a licence or permit fails to commence activity within

1 the timeframe prescribed in the licence or permit;

2 (d) the holder of a licence or permit fails to comply with applicable
3 laws and Regulations on terms and conditions of its licence or permit;

4 (e) the holder interrupts midstream or downstream petroleum
5 operations for a period of more than 180 consecutive days without
6 justification as provided for in the licence or permit, the acknowledgement
7 of an event of force majeure, shall be an acceptable justification for
8 interruption;

9 (f) the holder assigns or transfers any interest in the licence or
10 permit without obtaining the prior written consent of the Authority;

11 (g) the holder has acquired the licence or permit based on false
12 representation or contrary to corrupt practices and money laundering Laws;

13 (h) the holder has failed to comply with environmental obligations
14 as required by law or the provisions of the licence or permit;

15 (i) the holder is owned wholly or in part, directly or indirectly or is
16 controlled by a former or serving public official or member of the
17 Government, who obtained his interest in the applicable licence or lease
18 other than as permitted by applicable law; and

19 (j) the holder fails to abide by any expert determination, arbitration
20 award or judgment arising from the dispute resolution provisions set forth in
21 a licence or this Act.

22 (2) Subsection (1)96(j) of this section shall apply to a former public
23 official or member of Government only where the applicable interest was
24 acquired while the public official was in office or was a member of the
25 Government.

Notice of default
prior to revocation

26 **121.-(1)** Prior to a decision by the Authority to revoke a licence or
27 permit pursuant to section 120 of this Act, the Authority shall-

28 (a) serve a notice of default on the holder setting forth in reasonable
29 detail the default of the holder; and

30 (b) give the holder 60 days within which to remedy the default.

1 (2) Where the Authority is satisfied with the remedy of the holder
2 pursuant to subsection (1)(b) of this section, the revocation process shall
3 terminate.

4 (3) Where, at the expiration of 60 days, the holder fails to remedy the
5 default, the licence or permit shall be terminated.

6 (4) A notice of default shall be-

7 (a) sent by the Authority to the last known address of the holder of
8 licence or permit or its legal representative in Nigeria; or

9 (b) published in the gazette or on the website of the Authority,

10 each of which shall constitute sufficient notice to the holder of licence or permit
11 of the notice of default.

12 (5) Revocation shall be without prejudice to any-

13 (a) liabilities which the holder may have incurred, or

14 (b) claim, which the Authority, the Government or any third party
15 may make against the holder of licence or permit.

Tariff principles

16 (6) A revocation decision shall be published in the gazette and the
17 Authority shall amend relevant registers maintained by it to reflect the
18 revocation.

19 **122.**-(1) The Authority shall, in exercising its powers of commercial
20 regulations, be guided by the following principles in designing a pricing
21 framework for transportation, distribution and processing petroleum-

22 (a) tariffs for transportation, distribution and processing of petroleum
23 shall be on a cost-reflective basis;

24 (b) tariffs charged shall permit a reasonable return for licensees on
25 their investments;

26 (c) tariffs shall not discriminate between customers with similar
27 characteristics pursuant to section 116 of this Act; and

28 (d) tariffs shall be determined in US Dollars or other foreign currency
29 as applicable with a view to attracting foreign investment to midstream and
30 downstream petroleum operations, provided that payments of the tariffs may

1 be made in the respective foreign currency or equivalent value of naira at the
2 open market rate published by the Central Bank of Nigeria as applicable
3 under the regulations.

4 (2) The tariff methodology for tariffs related to new gas
5 transportation pipelines, gas distribution networks and facilities requiring a
6 gas processing licence shall include the following-

7 (a) tariffs shall be determined in US dollars, but may be paid in
8 naira, where the applicable exchange rate shall be based on the Securities
9 and Exchange Commission over the counter market rate or any successor
10 rate;

11 (b) the capital costs may be recovered in equal installments over a
12 period as determined by the Authority;

13 (c) the after tax rate of return on equity shall be 20% on a nominal
14 basis and the rate of return shall apply during construction;

15 (d) where short pipelines connecting producers or consumers to a
16 gas transport pipeline or gas transport pipeline network and in other justified
17 cases, the Authority may approve that capital costs be based on 100% equity,
18 otherwise a reasonable debt or equity ratio shall apply;

19 (e) where a debt or equity ratio applies pursuant to paragraph (d) of
20 this subsection, the cost of any interest and financing charges shall be
21 recovered;

22 (f) operating costs, including allocation for overhead and profit
23 margin on operating costs, shall be recovered and the costs shall be adjusted
24 for inflation;

25 (g) line losses and gas energy use shall be taken into account;

26 (h) any applicable tax, levy and duty shall be recovered;

27 (i) where capital costs have been fully recovered, the Tariff shall no
28 longer include the items under paragraphs (b), (c) and (d) of this subsection;
29 and

30 (j) Tariffs shall be based on the estimated actual throughput as

1 estimated by the Authority, notwithstanding the capacity of the gas
2 transportation pipeline, gas distribution network or processing plant.

3 (3) The Authority may by regulation modify or provide further detail
4 on the provisions of subsection (2) of this section and establish more favorable
5 tariffs for credit worthy shippers willing to commit to long term ship-or-pay
6 agreements facilitating the financing of the respective pipelines or plants.

7 (4) The Authority may approve negotiated tariffs where one or more
8 wholesale customers connect with a pipeline to a transportation network or
9 transportation pipeline or in other cases where justified in the opinion of the
10 Authority.

Tariff methodology

11 **123.**-(1) Tariffs charged by licensees for the use of any facility or
12 infrastructure licenced by the Authority for use in midstream and downstream
13 petroleum operations shall be set according to one or more tariff
14 methodologies adopted by the Authority for a particular set of licences, in
15 conformity with the applicable fiscal regime, provided that the tariff
16 methodologies shall-

17 (a) allow an operator to recover reasonable cost incurred,
18 benchmarked against industry best practice and a reasonable return on the
19 capital invested in the business;

20 (b) ensure the efficiency of the business;

21 (c) ensure the continued improvement of the quality of services;

22 (d) avoid discrimination between customers with similar
23 characteristics, such as similar size or similar consumption profile pursuant to
24 section 116 of this Act ;

25 (e) in case of distribution licences, ensure efficient charges relating to
26 petroleum product or natural gas supply covering billing, metering and other
27 services;

28 (f) avoid economic distortions and ensure a competitive market for
29 the sale and distribution of petroleum products and natural gas in Nigeria; and

30 (g) avoid cross-subsidies among different categories of consumers.

1 (3) Tariffs may differentiate between credit worthy shippers
2 willing to make long term ship-or-pay agreements facilitating the financing
3 of the pipeline or plant and other shippers or users.

4 (3) Except for the tariff methodology established in section 122 (2)
5 of this Act, the Authority shall, prior to establishing a tariff methodology,
6 initiate and conduct a stakeholders' consultation in the manner specified in
7 subsection (5) of this section to consult applicants, operators, consumers,
8 prospective customers, consumers associations, associations of prospective
9 customers and any other persons with interest in the subject matter of the
10 proposed tariff methodology.

11 (4) The Authority may, in establishing a Tariff
12 methodology, take into consideration the submissions of the stakeholders'
13 consultation referred to in subsection (3) of this section.

14 (5) Prior to holding a stakeholders' consultation referred to in
15 subsection (3) of this section, the Authority shall publish in at least two
16 national newspapers with wide coverage and on its website, notice of-

17 (a) the stakeholders' consultation;

18 (b) its invitation to licensees and stakeholders to participate in the
19 stakeholders' consultation;

20 (c) the venue and period during which the stakeholders'
21 consultation is to be held;

22 (d) the nature of the matter to which the stakeholders' consultation
23 relates;

24 (e) the matters upon which the Authority would require
25 submissions;

26 (f) the form in which licensees and stakeholders are to make
27 submissions to the Authority on the subject matter of the stakeholders'
28 consultation;

29 (g) the period of notice for the commencement of the stakeholders'
30 consultation, which shall not be less than 21 days; and

1 (h) the address or addresses to which the submissions may be sent.

2 (6) Notwithstanding the requirements under subsection (3) of this
3 section, the Authority may, due to the exigency of the circumstances, establish
4 a tariff methodology without conducting a stakeholders' consultation, where it
5 considers it necessary to do so.

6 (7) A tariff methodology made pursuant to subsection (6) of this
7 section shall be valid for 6 months with effect from its commencement date,
8 except it is confirmed following a stakeholders' consultation conducted in
9 accordance with subsections (4) and (5) of this section.

10 (8) The Authority shall fix a date for which the determined tariff
11 methodology shall come into effect and shall cause the notice of the
12 commencement date to be published in at least two national newspapers with
13 wide coverage and its website.

14 (9) Where the Authority considers it necessary that an existing tariff
15 methodology or tariff should be amended, the Authority shall conduct a
16 stakeholders' consultation on the proposed amendment in accordance with the
17 provisions of subsections (4) and (5) of this section.

18 (10) A person under obligation to set tariffs shall be bound by
19 operative tariff methodology adopted through the method prescribed in this
20 section.

21 (11) A holder of a licence engaged in the sale of petroleum products to
22 retail customers or who is subject to third party access or open access
23 obligations under this Act, shall display at its office a current copy of the tariffs
24 applicable to the services provided by the holder.

Approval and
publication of
charging structures

25 (12) A holder of a licence shall not pass the costs of any fine or penalty
26 incurred under this Act or any other law to a consumer.

27 **124.-(1)** A licensee subject to tariff Regulation by the authority shall-

28 (a) propose tariffs and tariff methodologies for the approval of the
29 Authority prior to the application of the charges;

30 (b) impose tariffs in accordance with the approval referred to under

1 paragraph (a) of this subsection; and

2 (c) publish the tariffs as required by the Authority in a manner that
3 ensures that the customers of the licensees are able to identify and calculate
4 the charges for which they will become liable.

5 (2) The Authority shall, within one year after the effective date,
6 review, confirm or modify all applicable tariffs.

7 PART IV

8 ADMINISTRATION OF MIDSTREAM AND DOWNSTREAM GAS OPERATIONS

Activities requiring
a licence for
midstream and
downstream gas
operations

9 **125.-(1)** Except in accordance with an appropriate Licence issued
10 by the Authority, a person shall not undertake the following activities with
11 respect to midstream gas operations-

12 (a) establish, construct or operate a facility for the processing of
13 natural gas;

14 (b) establish, construct or operate a facility for the storage of
15 natural gas;

16 (c) establish, construct or operate a gas transportation pipeline;

17 (d) engage in bulk transportation of natural gas by rail, barge or
18 other means of transportation;

19 (e) operate a gas transportation network;

20 (f) establish, construct or operate a terminal, jetty, or other facility
21 for the export or importation of natural gas;

22 (g) engage in wholesale gas supply; or

23 (h) engage in the construction or operation of petrochemical or
24 fertilizer plants.

25 (2) Except in accordance with an appropriate licence issued by the
26 Authority, a person shall not undertake the following activities with respect
27 to downstream gas operations-

28 (a) retail trading of natural gas;

29 (b) establishment, construction or operation of a gas distribution
30 network; or

1 (d) establishment, construction or operation of a facility for the
2 supply or trading of natural gas.

3 (3) The Authority may, by regulation, prescribe additional activities
4 to be undertaken only on the basis of a licence or permit and shall have power to
5 issue licences or permits for the activities in accordance with this Act.

6 (4) Where a person engages in any of the activities set out in
7 subsection (1), (2) or (3) of this section without a licence or permit, the
8 Authority shall-

9 (a) seal the premises where the activity is undertaken;

10 (b) seize the facilities by which the activities were undertaken;

11 (c) confiscate and dispose of equipment or materials employed by the
12 person in the activity in a manner prescribed by regulations under this Act;

13 (d) impose penalties as prescribed by regulations under this Act; or

14 (e) impose any combination of the penalties prescribed under
15 paragraphs (a), (b), (c) and (d) of this subsection.

16 (5) Notwithstanding any provision of this Act, a person who engages
17 in any of the activities set out in subsection (1), (2) or (3) of this section without
18 a licence or permit, commits an offence and is liable to imprisonment for a term
19 of-

20 (a) 1 year or to a fine prescribed by regulation, in the case of an
21 activity requiring a licence; or

22 (b) 6 months or to a fine prescribed by regulation, in the case of an
23 activity requiring a permit.

24 (6) A holder of a subsisting lease, licence or permit who is engaged in
25 activities in midstream or downstream gas operations prior to the effective date
26 shall, within 24 months from the effective date, apply to the Authority and the
27 Authority may issue the appropriate licence or permit, where applicable.

28 (7) The provisions of subsection (4) of this section shall not apply to
29 any person who has made an application contemplated under subsection (6) of
30 this section until the Authority has considered the application given a decision.

1 (8) Where any person, in applying for a Licence or Permit,
2 knowingly makes a false or misleading statement, the Authority may-

3 (a) suspend or revoke the licence or permit; or

4 (b) impose a fine on the licensee or permit holder on the basis of the
5 false or misleading information.

Special regulations
for midstream and
downstream gas
operations

6 **126.** In addition to any matter provided under section 113 of this
7 Act, the Authority may issue regulations with respect to midstream and
8 downstream gas operations, which shall include-

9 (a) the operation of gas processing plants, gas transportation
10 pipelines and gas transportation networks, gas distribution pipelines, natural
11 gas storage plants, liquefied petroleum gas depots and liquefied natural gas;

12 (b) the establishment and operation of a wholesale natural gas
13 market scheme to ensure continuity of supply of natural gas to customers,
14 which will apply to the owners and operators of gas transportation pipelines,
15 shippers of natural gas, holders of natural gas storage and distribution
16 licences and retailers; and

17 (c) matters ancillary to or consequential on the activities set out in
18 paragraphs (a) and (b) of this section.

Rights of way
relating to midstream
and downstream
gas operations

19 **127.** Subject to applicable law and the terms and conditions
20 prescribed by the Authority, a licensee or permit holder is entitled to a right
21 of way for the laying, operation and maintenance of pipelines,
22 communication lines and other similar lines through or across the areas the
23 licensee or permit holder may require for carrying on midstream or
24 downstream gas operations under the Licence or permit.

Surface rights
reserved for the
Authority relating
to midstream and
downstream
operations

25 **128.** The Authority may for the purpose of efficiency, grant rights
26 of way, easements or other rights over any surface or seabed areas subject to
27 an existing licence or permit, which may be necessary for the laying,
28 operation and maintenance of transportation pipelines, communication
29 lines, power lines and other similar lines and any right of way or other rights

Grant of a gas
processing licence

1 reserved shall continue for the benefit of any entity to whom the authority may
2 subsequently grant the same licence or permit.

3 **129.**-(1) Subject to sections 111 and 125 of this Act, the Authority
4 may upon approval of an application and payment of prescribed fees, grant and
5 issue a qualified person a gas processing licence, which shall permit the person
6 to install and operate the following facilities, on its own account or on the basis
7 of open access for customers as stipulated in the Licence-

8 (a) gas conditioning plants, to condition natural gas removing CO₂,
9 H₂S or other impurities;

10 (b) gas processing plants, to produce ethane, propane, butane, other
11 natural gas liquids and marketable natural gas;

12 (c) gas to liquids plants;

13 (d) liquefied natural gas plants;

14 (e) ethane extraction plants; and

15 (f) other plants, which in the opinion of the Authority, require a gas
16 processing licence.

17 (2) The Authority shall, in considering an application for a gas
18 processing licence, take into account the economic case for the specific facility
19 as provided under subsection (1) of this section, including the potential
20 demand for its use.

General duties
of the holder of
a gas processing
licence

21 **130.** The holder of a gas processing licence shall undertake the
22 activities contemplated by the licence in a manner that complies with the
23 following general obligations-

24 (a) to construct, operate and maintain its gas processing equipment
25 and facilities in an economical, safe, reliable and environmentally sustainable
26 manner;

27 (b) shut down its facilities in emergencies and in order to carry out
28 maintenance or in accordance with curtailment directives issued by the
29 Authority;

30 (c) manage its facilities as a responsible and prudent operator;

1 (d) avoid any act or omission that may affect the compatibility of
2 the processing facility with any natural gas facility or network that is likely
3 to prejudice the public interest or the integrity of network operations;

4 (e) operate the facilities in a manner that results in output of
5 products with specifications as determined by the Authority;

6 (f) to operate its facilities subject to open access commitments as
7 stipulated in the licence or where the licence is issued for operations on its
8 own account, provide third party access in an equitable manner;

9 (g) treat all customers in a non-discriminatory manner pursuant to
10 section 116 of this Act, where the licence is issued on an open access basis;
11 and

12 (h) abstain from activities, which in the opinion of the Authority
13 may prevent, restrict or distort competition.

Conditions
applicable to a
gas processing
licence

14 **131.** A gas processing licence shall, in addition to the conditions
15 that may be imposed by the Authority pursuant to section 114 of this Act, be
16 deemed to be granted subject to the condition that-

17 (a) the holder shall not process natural gas on its own account,
18 where the licence is issued on an open access basis;

19 (b) a lessee, operating on its own account, may own the natural gas
20 in a gas conditioning plant or gas processing plant for the purpose of
21 conditioning or processing natural gas from its fields in order to deliver
22 marketable natural gas for domestic or export purposes, subject to such third
23 party access provisions as may be included in the licence;

24 (c) a wholesale customer, operating on its own account, may own
25 the natural gas in a gas processing plant, ethane extraction plant or other
26 plant requiring a gas processing licence, where the principal user of the
27 natural gas is the wholesale customer, subject to any third party access
28 provisions as may be included in the licence;

29 (d) the holder shall conduct its licenced activities safely and
30 reliably in compliance with any law in force and any prescribed health and

1 safety regulations, standards and operating procedures made pursuant to this or
2 any other Act;

3 (e) the holder shall have due regard to the effect of its licenced
4 activities on the environment and comply with the requirements for
5 environmental protection, management and restoration under this Act and any
6 law in force; and

Grant of a bulk
gas storage licence

7 (f) the holder shall mark, maintain and secure the boundaries of its
8 facilities and associated infrastructure constructed under the terms of its
9 licence and any law in force.

10 **132.**-(1) Subject to sections 111 and 125 of this Act, the Authority
11 may upon approval of an application and payment of prescribed fees, grant and
12 issue a qualified person a bulk gas storage licence authorising the holder to
13 undertake the bulk storage of natural gas either for its own account or on behalf
14 of customers as stipulated in the licence.

General duties
of a bulk gas
storage licensee

15 (2) The Authority shall, in considering an application for a bulk gas
16 storage licence, take into account the economic case for a bulk gas storage
17 facility, including the potential demand for its use.

18 **133.** The holder of a bulk gas storage licence shall undertake the
19 activities contemplated by the Licence in a manner that complies with the
20 following general obligations-

21 (a) establish and make available to the public at its offices, the-

22 (i) procedure and terms for obtaining third party access or throughput
23 services, and

24 (ii) method of response to the request for its services;

25 (b) construct, operate and maintain its facilities in a safe, economical,
26 reliable, and environmentally sustainable manner taking into account any
27 strategic plans formulated by the Authority;

28 (c) shut down its facilities in emergencies and in order to carry out
29 maintenance or in response to curtailment directives issued by the Authority;

30 (d) grant to third parties the right to use or have access to capacity

1 within its facilities for the purpose of ensuring competitive gas supply;

2 (e) consult with and obtain from the Authority written permission
3 prior to any modification of technical and operational rule of practice
4 concerning the operation of its facilities;

5 (f) conduct its licenced activities in a non-discriminatory manner
6 pursuant to section 116 of this Act, where the Licence is issued on an open
7 access basis;

8 (g) manage its facilities as a reasonable and prudent operator; and

9 (h) abstain from activities, which in the opinion of the Authority
10 may prevent, restrict or distort competition.

Conditions
applicable to a
bulk gas storage
licence

11 **134.** In addition to conditions the Authority may impose pursuant
12 to section 114 of this Act, a bulk gas storage licence shall be deemed to be
13 granted subject to the conditions that the holder shall-

14 (a) conduct its licenced activities safely and reliably in compliance
15 with any law in force and prescribed health and safety regulations issued
16 pursuant to this or any other Act;

17 (b) have regard to the effect of its licenced activities on the
18 environment and comply with the requirements for environmental
19 protection, management, and restoration under this Act and any law in force;
20 and

21 (c) mark, maintain and secure the boundaries of its facilities and
22 associated infrastructure constructed under the terms of its licence and any
23 law in force.

Grant of gas
transportation
pipeline licence

24 **135.-(1)** Subject to sections 111 and 125 of this Act, the Authority
25 may upon approval of an application and payment of prescribed fees, grant
26 and issue a qualified person a gas transportation pipeline licence with the
27 exclusive right to own, construct, operate and maintain a gas transportation
28 pipeline within a route as defined in the Licence for its own account with
29 third party access provisions or as common carrier as stipulated in the
30 licence.

General duties
of a transportation
pipeline owner

1 (2) The Authority shall, in considering an application for a gas
2 transportation pipeline licence, take into account the economic case for a gas
3 transportation pipeline, including the potential demand for its use.

4 **136. General duties of a transportation pipeline owner**

5 The holder of a transportation pipeline licence shall undertake the activities
6 contemplated by the licence in a manner that complies with the following
7 general obligations-

8 (a) establish and make available to the public at its offices, the-

9 (i) procedure for obtaining and terminating transmission and
10 interconnection services for natural gas for the tariffs established by the
11 Authority, and

12 (ii) method of response to the request for its service;

13 (b) construct, operate and maintain its gas transportation pipeline in a
14 safe, economical, and reliable manner taking into account any strategic plans
15 formulated by the Authority;

16 (c) manage supplies and demand and meet on a reasonable
17 endeavours basis requests for transportation above contractual volumes;

18 (d) shut down its gas transportation pipeline in emergencies and in
19 order to carry out maintenance or in response to curtailment directives issued
20 by the Authority;

21 (e) provide access on a non-discriminatory basis pursuant to section
22 116 of this Act, where the Licence is granted on a common carrier basis;

23 (f) consult with and obtain from the Authority written permission
24 prior to any modification of technical and operational rule of practice
25 concerning the operation of its pipeline;

26 (g) manage its gas transportation pipeline as a reasonable and prudent
27 operator;

28 (h) where the pipeline is operated on a common carrier basis, ensure
29 development and operation of terms for access to the gas transportation
30 pipeline in conjunction with the natural gas shipping community and where

1 applicable comply with the relevant network code;

2 (i) where the pipeline is operated for its own account, operate its
3 facilities subject to third party access obligations under this Act and
4 regulations prescribed by the Authority; and

5 (j) abstain from activities, which in the opinion of the Authority
6 may prevent, restrict or distort competition.

Conditions
applicable to a
gas transportation
pipeline licence

7 **137.** A gas transportation pipeline licence shall, in addition to the
8 conditions that may be imposed by the Authority pursuant to section 114 of
9 this Act, be deemed to be granted subject to the condition that-

10 (a) the holder shall not supply natural gas to customers on its own
11 account where the licence is granted on a common carrier basis;

12 (b) a lessee, operating on its own account, may own the Natural
13 Gas in a gas transportation pipeline, for the purpose of-

14 (i) connecting marketable natural gas produced in a field to another
15 gas transportation pipeline or gas transportation network, and

16 (ii) transporting natural gas to a plant for conditioning or
17 processing natural gas from its fields in order to deliver marketable natural
18 gas for domestic or export purposes,

19 (c) subject to third party access provisions as may be included in
20 the licence;

21 (d) a wholesale customer, operating on its own account, may own
22 the natural gas in a gas transportation pipeline, where it is the principal user
23 of the natural gas, subject to any third party access provisions as may be
24 included in the licence;

25 (e) a wholesale gas supplier operating on its own account, may own
26 the natural gas in a gas transportation pipeline, for the purpose of connecting
27 a lessee or wholesale customer to or from a gas transportation network or gas
28 transportation pipeline, subject to such third party access provisions as may
29 be included in the licence;

30 (f) the holder shall conduct its licenced activities safely and

1 reliably in compliance with any law in force and prescribed health and safety
2 Regulations issued pursuant to this or any other Act;

3 (g) the holder shall have regard to the effect of its licenced activities
4 on the environment and comply with the requirements of environmental
5 protection, management and restoration under this Act and any law in force;

6 (h) the holder shall mark, maintain and secure the boundaries of the
7 pipelines and associated infrastructure constructed under the terms of its
8 licence and any law in force; and

9 (i) a pipeline transporting un-processed gas to a gas processing plant
10 or gas conditioning plant shall require a gas transportation pipeline licence and
11 the Commission shall-

12 (i) determine and advise the Authority on the characteristics of the gas
13 to be transported,

14 (ii) cooperate with the Authority in determining possible third party
15 access to the pipeline; and

16 (j) the gas transportation pipeline may, with the approval of the
17 Authority, be in whole or in part, a low-pressure pipeline at the request of the
18 licensee.

Grant of gas
transportation
network operator
licence

19 **138.**-(1) Subject to sections 111 and 125 of this Act, the Authority
20 may upon approval of an application and payment of prescribed fees, grant and
21 issue a qualified person a gas transportation network operator licence
22 authorising the conduct of activities specified in the licence, which shall
23 include-

24 (a) conveyance of natural gas through the gas transportation network;

25 (b) balancing the inputs and off takes from the gas transportation
26 network;

27 (c) providing access to shippers based on the gas network code
28 pursuant to section 160 of this Act to the gas transportation network; and

29 (d) charging for the use of the gas transportation network based on
30 tariffs established by the Authority.

1 (2) The Authority shall grant only one gas transportation network
2 operator licence within a geographically defined area to a single network
3 operator, provided that the Authority may at its discretion, issue licences to
4 other parties for the operation of isolated or dedicated gas transportation
5 pipelines and for connecting to the gas transportation network.

General duties
of a gas
transportation
network operator

6 **139.** The gas transportation network operator shall exercise the
7 rights and obligations imposed on it in a manner that complies with the
8 following general obligations-

9 (a) establish and make available to the public at its offices, the-

10 (i) procedure, terms and conditions for obtaining and terminating
11 access and interconnection services to the transportation network, and

12 (ii) method of response to the request for its service;

13 (b) operate an efficient and economical gas transportation network
14 for the safe and reliable conveyance of natural gas in such a manner that is
15 designed to meet all reasonable demands for natural gas;

16 (c) operate a nomination and balancing mechanism and an
17 equitable curtailment of natural gas transportation whenever technical or
18 operational expediencies requires;

19 (d) consult with and obtain from the Authority written permission
20 prior to any modification of technical and operational rule of practice
21 concerning the operation of its gas transportation network;

22 (e) ensure the development and operation of the network code and
23 terms for access into the gas transportation network in collaboration with the
24 Authority, natural gas shippers, all licensees and permit holders operating
25 essential infrastructure;

26 (f) ensure equitable and transparent access to the transportation
27 network;

28 (g) manage the gas transportation network as a reasonable and
29 prudent operator;

30 (h) abstain from activities, which in the opinion of the Authority

1 may prevent, restrict or distort competition; and
2 (i) enter into agreements with gas transportation pipeline owners, gas
3 distributors and wholesale customers for connection to and operation of the gas
4 transportation network.

powers of a
transportation
network operator

5 **140.** Subject to the provisions of this Act, the Authority may grant the
6 following special powers or authority to a gas transportation network operator
7 to facilitate the conduct of its licenced activities-

8 (a) the power to request for and obtain from the relevant licensees,
9 information required to operate the nominations and balancing mechanism, to
10 operate the network or to facilitate competition;

11 (b) the right to recover on the basis of an invoice, expenses reasonably
12 incurred in undertaking its licenced activities, subject to any restrictions or
13 conditions imposed by the Authority with respect to both the level and structure
14 of its charges; and

Conditions
applicable to a
gas transportation
network operator
licence

15 (c) to purchase natural gas for its own operations for purposes such as
16 testing and commissioning of facilities, compression and line fill, but shall not
17 supply natural gas to customers on its own account.

18 **141.**-(1) In addition to the conditions as may be imposed by the
19 Authority pursuant to section 114 of this Act, a transportation network operator
20 licence may include an obligation to develop market rules in accordance with
21 the provisions of this Act.

22 (2) A gas transportation network operator may be an owner of any or
23 all of a gas transportation pipelines in a gas transportation network.

24 (3) Where a third party is the owner of a gas transportation pipelines in
25 a gas transportation network, the owner shall be paid the tariffs determined by
26 the Authority for non-operating owners of the pipelines by the gas
27 transportation network operator.

28 (4) A gas transportation network operator shall not misuse its
29 monopoly position in the geographical area to charge franchise of other access
30 charges for providing access to the gas transport network, other than the

1 charges specifically permitted under this Act and regulations made under
2 this Act.

Grant of a
wholesale gas
supply licence

3 **142-(1)** Subject to sections 111 and 125 of this Act, the Authority
4 may upon approval of an application and payment of prescribed fees, grant
5 and issue a wholesale gas supply licence to a qualified person.

6 (2) A lessee producing natural gas is a qualified person for the
7 purpose of subsection (1) of this section and shall be entitled to apply for and
8 be issued with a wholesale gas supply licence by the Authority.

9 (3) A wholesale gas supply licence authorises the supplier to-

10 (a) purchase natural gas directly from any lessee or third party; and

11 (b) sell and deliver wholesale gas to wholesale customers and gas
12 distributors at any location in Nigeria.

General duties of
a wholesale gas
supplier

13 **143.** A wholesale gas supplier shall undertake the activities
14 contemplated by the wholesale gas supply licence in a manner that complies
15 with the following general obligations, to-

16 (a) provide a reliable supply of wholesale gas to wholesale
17 customers who have entered into a gas purchase and sale agreement with the
18 supplier; and

19 (b) abstain from activities, which in the opinion of the Authority
20 may prevent, restrict or distort competition.

Rights of a
wholesale gas
supplier

21 **144.** Subject to the provisions of this Act, the Authority may grant
22 the following specific powers or authority to a wholesale gas supplier to
23 facilitate the conduct of its licenced activities the right to-

24 (a) terminate wholesale gas supply to a wholesale customer in the
25 event of non-payment, following a notice period;

26 (b) recover from a customer, on the basis of an invoice and subject
27 to any conditions imposed by the Authority on the level and structure of a
28 licensee's charges and costs reasonably incurred in the supply of wholesale
29 gas, including the cost of natural gas incurred by the supplier, the cost of
30 transportation of natural gas; and

	1	(c) enter a premises, in accordance with a metering code issued by the
Conditions applicable to a wholesale gas supply licence	2	Authority, to remove its meters for the purpose of reading the meters, testing
	3	and maintaining metering equipment and disconnecting customers.
	4	145.-(1) In addition to conditions the Authority may impose pursuant
	5	to section 114 of this Act, a wholesale gas supply licence shall be deemed to be
	6	granted subject to the supplier-
	7	(a) requesting security or applying a credit scoring methodology
	8	approved by the Authority in deciding whether supply is economical;
	9	(b) supplying marketable natural gas to a wholesale customer with
	10	whom the supplier has entered into a gas purchase and sale agreement and who
	11	in order to connect to a gas transportation network or gas transportation
	12	pipeline is willing and able to-
	13	(i) pay for the connection,
	14	(ii) construct its own gas transportation pipeline pursuant to section
	15	137(c) of this Act, or
	16	(iii) pay the respective Tariff to the Supplier for the gas transportation
	17	pipeline owned by the supplier,
	18	subject to safety and network capacity constraints;
	19	(c) conducting its licenced activities safely and reliably in compliance
	20	with any law in force and prescribed health and safety regulations issued
	21	pursuant to this or any other Act; and
	22	(d) complying with customer protection measures in accordance
	23	with sections 164, 165 and 166 of this Act.
Grant of retail gas supply licence	24	(2) A wholesale gas supplier shall undertake its licenced activities in a
	25	manner that complies with the conditions of the licence.
	26	146.-(1) Subject to sections 111 and 125 of this Act, the Authority
	27	may upon approval of an application and payment of prescribed fees, grant and
	28	issue a qualified person a retail gas supply licence authorising the holder to-
	29	(a) sell or retail marketable natural gas to customers based on being a
	30	wholesale customer or third party access to gas distribution systems of gas

1 distributors; and

2 (b) establish, construct and operate facilities to deliver compressed
3 natural gas and small scale facilities for liquefied natural gas, not requiring a
4 gas processing licence, for transportation by truck, railcar or marine vessel
5 to customers in compressed or liquified form, including customers using
6 LNG as marine bunker fuel.

7 (2) A lessee producing natural gas is a qualified person for the
8 purpose of subsection (1) of this section and shall be entitled to apply for and
9 be issued with a retail gas supply licence by the Authority.

10 (3) A retail gas supply licence authorises the gas retailer, to-

11 (a) purchase marketable natural gas directly from a lessee,
12 wholesale gas supplier or third party on a free market basis; and

13 (b) sell and deliver natural gas to customers at any location in
14 Nigeria.

General duties
of gas retailer

15 **147.** In addition to conditions the Authority may impose pursuant
16 to section 114 of this Act or that may be prescribed by regulation, a retail gas
17 supply licence shall be deemed to be granted subject to the duty of the holder
18 to-

19 (a) develop and maintain a safe, efficient, reliable and economical
20 service for the retailing of marketable natural gas;

21 (b) carry on its business in a manner that shall promote
22 competition and avoid monopoly in the natural gas market in Nigeria;

23 (c) construct, operate and maintain its gas compression and
24 liquefaction facilities in a safe, economical, and reliable manner taking into
25 account any strategic plans formulated by the Authority;

26 (d) shut down its gas compression and liquefaction facilities in
27 emergencies in order to carry out maintenance or respond to curtailment
28 directives issued by the Authority;

29 (e) conduct its activities in a safe and reliable standard in
30 compliance with prescribed environmental, health and safety-related

1 regulations issued pursuant to this or any other Act;

2 (f) publish the prices to be charged and to be paid by a person to whom
3 the gas retailer sells natural gas in a manner to ensure adequate publicity unless
4 the Authority direct otherwise; and

Grant of gas
distribution licence

5 (g) comply with customer protection measures set out in sections
6 164, 165 and 166 of this Act.

7 **148.**-(1) Subject to sections 111 and 125 of this Act or regulations
8 made under this Act, the Authority may upon approval of an application and
9 payment of prescribed fees, grant and issue a qualified person gas distribution
10 licence with rights to establish, construct, and operate a gas distribution system
11 and to distribute and sell its natural gas without discrimination to consumers in
12 a local distribution zone.

13 (2) Notwithstanding the rights of a gas retailer under this Act, the
14 holder of a gas distribution licence shall be entitled to sell natural gas to
15 customers that are not wholesale customers.

16 (3) The Authority shall, in considering an application for a gas
17 distribution licence, take into account the economic case for the licence,
18 including the potential demand for its use.

19 (4) The geographical limit of a local distribution zone shall be defined
20 in the relevant gas distribution licence.

21 (5) The rights and duties under a gas distribution licence shall be
22 exclusive to the gas distributor for the validity period of the distribution
23 Licence.

24 (6) A gas distribution licence may include provisions for providing
25 Third Party access to the gas distribution network to a gas retailer or gas
26 distributor on its own initiative, may permit access to a gas retailer to the gas
27 distribution network under terms and conditions agreed to by the parties.

General duties
of a gas distributor

28 (7) Subject to the provisions of subsection (6) of this section, the gas
29 distributor shall own the marketable natural gas in the gas distribution network.

30 **149.** A gas distributor shall undertake the activities contemplated by

1 the gas distribution licence in a manner that complies with the following
2 general obligations, to-

3 (a) develop, operate and maintain an economical gas distribution
4 network for the safe and reliable conveyance of natural gas;

5 (b) ensure a reliable and efficient distribution of natural gas to
6 customers on request, provided that it is economical to do so;

7 (c) distribute and sell natural gas on request to a customer who is
8 willing and able to pay for connection to the gas distribution network,
9 subject to safety and network capacity constraints;

10 (d) conduct licenced activities safely and reliably in compliance
11 with any law in force and any health and safety-related regulations issued by
12 the Authority pursuant to this or any other Act;

13 (e) connect all customers within its local distribution zone in
14 accordance with regulations if economically practicable to do so;

15 (f) offer and publish terms and conditions of access to its gas
16 distribution network as required and publish gas prices applicable to
17 different classes of customers, which have been approved by the Authority;

18 (g) comply with customer protection measures set out in sections
19 164, 165 and 166 of this Act;

20 (h) prepare a development plan for connecting customers within its
21 local distribution zone for the consideration of the Authority; and

22 (i) abstain from activities, which in the opinion of the Authority
23 may prevent, restrict or distort competition.

Rights of the
gas distributor

24 **150.** Subject to the provisions of this Act, the Authority may, in
25 order to facilitate the conduct of its licenced activities, grant the gas
26 distributor the right to-

27 (a) enter a premises to remove its meters for the purpose of reading
28 the meters, testing and maintaining metering equipment and disconnecting
29 customers; and

30 (b) recover, on the basis of an invoice, costs reasonably incurred in

Conditions
applicable to a
gas distribution
licence

1 the provision of appropriate infrastructure, subject to any conditions imposed
2 by the Authority to both the level and structure of a distributor's charge,
3 provided that reasonably incurred costs shall include any amount paid to the
4 Authority as a licence fee.

5 **151.** In addition to conditions the Authority may impose pursuant to
6 section 114 of this Act or that may be prescribed by regulation, a distribution
7 Licence shall be deemed to be granted subject to the distributor-

8 (a) conducting its licenced activities in a safe and reliable standard in
9 compliance with prescribed management and health and safety related
10 regulations issued pursuant to this or any other Act;

11 (b) having regard to the effect of its licenced activities on the
12 environment and complying with the requirements for environmental
13 protection, management, and restoration under this Act and any law in force;
14 and

Arrangement
for gas distribution

15 (c) marking, maintaining and securing the boundaries of the
16 distribution pipelines constructed or other distribution infrastructure as
17 prescribed.

Domestic gas
aggregation
licence

18 **152.** A gas distributor shall consult stakeholders on proposed
19 development projects within its local distribution zone and consider all
20 representations received.

21 **153.-(1)** Subject to sections 111 and 125 of this Act, the Authority
22 may upon approval of an application and payment of prescribed fees, grant and
23 issue a qualified person a domestic gas aggregation licence.

24 (2) The duration of the domestic gas aggregation licence shall be for a
25 period of 2 years effective from the date of the grant of the Licence.

26 (3) The domestic gas aggregation licence may be renewed by the
27 authority for further period of 2 years in each instance until the attainment of
28 liquidity in the domestic gas market, whereupon gas aggregation shall cease
29 and the domestic gas aggregation licence shall be terminated by the Authority.

30 (4) The board of domestic gas aggregator shall determine the fees for

1 the services of the domestic gas aggregator and the fees shall be paid by the
2 producer clients and customer clients in order to ensure self-financing of the
3 domestic gas aggregator.

Functions of the
domestic gas
aggregator

4 **154.** The domestic gas aggregator shall-

5 (a) support the implementation of the domestic gas delivery
6 obligation;

7 (b) implement a natural gas management model, through which the
8 demand and supply of natural gas for use in the strategic sectors shall be
9 monitored;

10 (c) operate a nomination and balancing mechanism for equitable
11 curtailment of natural gas deliveries in cooperation with the Authority,
12 whenever demand and supply expediencies requires;

13 (d) ensure transparency of dealing between natural gas suppliers
14 and wholesale customers of the strategic sectors;

15 (e) conduct its operations in a business-like and transparent
16 manner and shall not engage in any anti-competitive behaviour and
17 practices;

18 (f) abstain from activities, which in the opinion of the Authority
19 may prevent, restrict or distort competition;

20 (g) establish an escrow account into which customer clients shall
21 contribute their payments for the marketable natural gas received and from
22 which the domestic gas aggregator shall pay the producer clients for their
23 supplies of natural gas pursuant to the provisions of this Act; and

24 (h) do other things as are necessary or incidental to the carrying out
25 of its functions and duties under this Act.

Establishment
of the aggregator

26 **155.-(1)** The domestic gas aggregator shall be a not for profit
27 limited by guarantee company established under the Companies and Allied
28 Matters Act.

29 (2) For the purposes of section 153 of this Act, a qualified person
30 shall not be a person who is controlled by licensees or lessees of upstream

	1	petroleum operations or by wholesale customers or is an affiliate of such
	2	entities, provided that ownership of the aggregator may be by a combination of
Gas purchase orders	3	licensees or lessees, wholesale customers and other interested parties, such as
	4	licensees of gas transportation pipelines and gas transportation networks.
	5	156. The domestic gas aggregator shall issue a gas purchase order to
	6	a producer client where a customer client requires a specific volume of
Price conditions of gas purchase orders	7	marketable natural gas, which is included in the domestic gas demand
	8	requirement pursuant to section 173 of this Act.
	9	157. The gas purchase order pursuant to section 156 of this Act shall
Wholesale customers	10	be based on the prices for marketable natural gas established by the Authority
	11	pursuant to section 167 of this Act.
	12	158. -(1) The Authority shall, following consultations with interested
	13	stakeholders, issue regulations-
	14	(a) defining the class or classes of customers that shall constitute
	15	eligible wholesale customers under this Act; and
	16	(b) specifying the qualifying criteria for the classification;
	17	provided that the regulations may be amended from time to time to facilitate
	18	the introduction of competition in supply and any amendment of the
	19	regulations resulting in a change of the class of customers shall not affect the
	20	rights and obligations of parties under natural gas supply contracts entered into
	21	prior to such amendment.
	22	(2) wholesale customers shall be entitled to secure marketable natural
Trading and settlement of wholesale gas	23	gas from any wholesale gas supplier or lessee, subject to section 173 (3) of this
	24	Act.
	25	159. -(1) The Authority shall develop arrangements for the safe and
	26	efficient trading of wholesale gas, where it determines that there is need for
	27	formal arrangements for the trading of wholesale gas.
	28	(2) The Authority shall, where required, make regulations pursuant
Gas network code	29	to subsection (1) of this section for the trading and settlement of wholesale gas
	30	in consultation with industry participants and interested stakeholders.

1 **160.**-(1) The operation of a gas transportation network shall be in
2 accordance with the existing network code issued by the Government.

3 (2) The Authority may in consultation with stakeholders in
4 midstream gas operations modify the network code or create other network
5 codes for common carrier operations.

6 (3) The Authority shall make copies of the gas network code
7 available to interested parties upon payment of prescribed fees.

Third party access
relating to
midstream and
downstream gas
operations

8 **161.**-(1) A person shall be permitted access to an open access gas
9 transportation pipeline or a gas transportation network for the purpose of
10 having marketable natural gas transported to points of consumption subject
11 to compliance with the prescribed terms and conditions for access stated in
12 the gas network code.

13 (2) The gas network code shall set out standard terms and
14 conditions for connection to, interconnection with access and use of the gas
15 transportation network.

16 (3) Where a gas transportation pipeline is isolated from the main
17 gas transportation network, the Authority shall develop separate terms of
18 access for the isolated gas transportation pipeline.

19 (4) The Authority may develop special terms for third party access
20 to a gas distribution network.

Conditions for
the provision of
open access in
relation to gas
operations

21 **162.**-(1) Where open access applies, open access to the gas
22 transportation pipeline or gas transportation network shall be-

23 (a) provided on a non-discriminatory basis between system users
24 with similar characteristics pursuant to section 116 of this Act;

25 (b) provided in respect of any available capacity, where the
26 capacity is not subject to a previous contractual commitment;

27 (c) provided in accordance with and governed by the terms and
28 conditions of the network code approved by the Authority, where
29 applicable;

30 (d) provided on the condition that the applicant for access is or

	1	becomes a party to and undertakes to comply with the applicable network code;
	2	and
	3	(e) subject to the pricing principles set out in section 170 of this Act.
	4	(2) connection agreements may be entered into between-
	5	(a) gas transportation pipeline owners and gas transportation network
	6	operator;
	7	(b) a gas distributor and the gas transportation network operator,
	8	where a gas distribution network connects to the main transportation network;
Disputes in respect of third party access	9	(c) a supplier and a transportation pipeline owner or transportation
	10	network operator.
Customer protection	11	163. The Authority may mediate in disputes in respect of third party
	12	access.
	13	164. -(1) The Authority may, to protect the interests of customers,
	14	issue regulations requiring suppliers, gas distributors and petroleum product
	15	distributors to-
	16	(a) publish their terms of supply or distribution including tariffs, other
	17	than for negotiated tariffs pursuant to section 122(4) of this Act;
	18	(b) establish or to facilitate the establishment of a forum at which
	19	customers are able to express their views and raise concerns;
	20	(c) formulate and adhere to standards of performance as are, in its
	21	opinion, necessary to ensure the safety, reliability and quality of supply and
	22	distribution services to customers and set penalties for failure to comply;
	23	(d) prepare and submit reports to the Authority, at least on an annual
	24	basis, indicating their performance levels and status of their operations in
	25	respect of licenced activities at such times as the Authority may by regulation
	26	or in their respective licences prescribe; and
	27	(e) develop and adhere to customer service codes, setting out the
	28	practices and procedures to be followed in the conduct of specified licenced
	29	activities, which may include-
	30	(i) the installation, testing, maintenance and reading of meters,

- 1 (ii) fault repairs and response to customer emergencies,
2 (iii) the connection and disconnection of customers,
3 (iv) responding to customer complaints and complaint resolution,
4 (v) billing and invoicing,
5 (vi) the extension of payment and credit facilities,
6 (vii) the provision of information to customers and the use and
7 protection of customer information, and
8 (viii) the establishment of special services for economically or
9 socially disadvantaged customers.

10 (2) The customer service codes shall be approved by the Authority
11 prior to publication and may be reviewed at intervals as may be considered
12 necessary by the Authority.

13 (3) The customer service codes shall be made available to all
14 customers upon request and published on the website of the Authority.

15 (4) The Authority shall notify or by regulation require licensees to
16 notify customers of the customer service codes that shall be adhered to by
17 licensees.

18 (5) The Authority shall, in developing customer protection
19 regulations-

20 (a) consult with suppliers gas distributors, petroleum distributors
21 and interested stakeholders; and

22 (b) take into account existing procedures, practices and standards
23 issued by the Federal Competition and Consumer Protection Commission.

Provision of
service to customers

24 **165.** The Authority shall, at its discretion and at such time or times
25 as it deems appropriate, designate distributors of last resort and suppliers of
26 last resort to provide services to customers-

27 (a) where an existing gas distributor for a local distribution zone, a
28 petroleum product distributor or a supplier becomes insolvent, is unable to
29 provide licenced services or has had its licence suspended or revoked;

30 (b) where the gas distributor for a local distribution zone or

1 supplier refuses or fails to fulfil the terms of its licence to distribute or supply
2 natural gas or petroleum product to customers; and

3 (c) in such other circumstances as the Authority may deem
4 appropriate;

Transfer of
customers

5 provided that, in each case, any reasonable additional costs associated with the
6 obligation to act as distributor or supplier of last resort shall be recoverable
7 through appropriate charging arrangements agreed with the Authority.

8 **166.** Where the designation of a supplier or distributor of last resort
9 requires the transfer of customers from one licensee to another, the Authority
10 shall prepare, or require the applicable supplier or distributor of last resort to
11 prepare-

12 (a) procedures to secure the effective transfer of customers; and

Natural gas prices
for the strategic
sector, gas
distributors and
retailers

13 (b) a statement of any costs reasonably incurred in undertaking the
14 transfer, which if approved by the Authority, shall be recoverable through
15 regulated charges.

16 **167.**-(1) The Authority shall, in accordance with this section and for
17 each year, determine the domestic base price pursuant to the Third Schedule to
18 this Act, including the prices for the power sector, commercial sector and gas
19 based industries.

20 (2) The Authority shall continue to determine the prices referred to
21 under subsection (1) of this section, if in its opinion, the control of prices for
22 natural gas for the strategic sector is required.

23 (3) The price control and the corresponding role of the domestic gas
24 aggregator shall not be required, where the domestic market for natural gas is
25 largely characterized by free market based contracting for natural gas between
26 willing buyers and willing sellers and the transactions of the producer clients
27 and consumer clients represent less than 20% of the total transactions.

28 (4) The aggregate gas price for a month shall be the price calculated
29 based on the procedures established by the domestic gas aggregator on the
30 basis of the prices determined by the Authority pursuant to subsection (1) of

1 this section.

2 (5) The price of marketable natural gas applicable to the power
3 sector shall be the domestic base price at the marketable natural gas delivery
4 point.

5 (6) The price of marketable natural gas applicable to the
6 commercial sector shall be the domestic base price at the marketable natural
7 gas delivery point plus \$ 0.50 per MMBtu.

8 (7) Gas distributors and gas retailers shall not be part of the
9 strategic sectors and shall negotiate the supply and pricing of their natural
10 gas directly, provided that the applicable price for gas distributors for the
11 marketable natural gas at the marketable gas delivery point shall not exceed
12 that of the commercial sector pursuant to subsection (6) of this section.

13 (8) The wholesale customers of the strategic sectors, gas
14 distributors and gas retailers shall pay for the transportation cost of the
15 marketable natural gas from the marketable natural gas delivery point to
16 their facilities.

17 (9) The wholesale customers of the strategic sectors shall, for the
18 purpose of transportation, have the option to-

19 (a) use the gas transportation network applicable to their
20 geographical areas; or

21 (b) obtain a gas transportation licence in order to transport their
22 natural gas connecting to the gas transportation network, another existing
23 gas transportation pipeline or directly to a marketable natural gas delivery
24 point.

25 (10) Each producer client shall, for any month, receive from the
26 escrow account of the domestic gas aggregator an amount that is equal to the
27 aggregate gas price multiplied by the customer client volume that was paid
28 for such producer client in such month by the customer client.

29 **168.-(1)** The gas price for the gas based industries shall be
30 determined by the pricing formula specified in the Fourth Schedule to this

Gas based
industries gas price

- 1 Act.
- 2 (2) The floor price for the gas based industries shall be \$ 0.90 per
3 MMBtu.
- 4 (3) The ceiling price shall be the domestic base price applicable for
5 any particular year.
- Power to regulate
and review prices
- 6 (4) The Authority may by regulation adjust or modify the provisions
7 of this section and add other gas based industries.
- 8 **169.**-(1) Where the Authority determines that-
- 9 (a) a particular licenced activity is a monopoly service;
- 10 (b) competition has not yet developed in the market to such an extent
11 as to protect the interests of customers; or
- 12 (c) a particular licensee is a dominant provider,
13 the Authority shall regulate the prices charged by licensees in respect of the
14 activities, in a manner consistent with its functions under this Act and with the
15 pricing principles set out in section 170 of this Act.
- 16 (2) The Authority shall undertake periodic pricing methodology
17 reviews, provided that the pricing methodology review shall not affect
18 arrangements entered into or approvals given for the development of a gas
19 infrastructure or utilisation project prior to the effective date.
- 20 (3) The Authority shall consult with licensees, industry participants
21 and stakeholders before undertaking a pricing review or establishing a
22 methodology for regulating prices and revenues earned by licensees providing
23 monopoly or dominant services.
- 24 **170.** Subject to the provisions of this Chapter, the Authority shall, in
25 the exercise of its powers to regulate prices charged by Licensees, be guided by
26 the following principles-
- 27 (a) marketable natural gas prices shall be disaggregated into the
28 component elements of the supply chain including the costs of wholesale gas,
29 tariffs for gas processing, tariffs for transportation pipelines for natural gas,
30 distribution and supply;
- Pricing principles
in relation to gas

1 (b) the prices charged for each licenced activity shall reflect the
2 costs incurred in the efficient provision of that activity;

3 (c) prices charged shall permit a reasonable return for licensees on
4 their investments; and

5 (d) prices shall not discriminate between customers with similar
6 characteristics, such as similar size or a similar consumption profile.

Public service
obligations related
to policy issues

7 **171.** The Authority may issue regulations imposing public service
8 obligations on licensees in relation to matters including-

9 (a) security of supply;

10 (b) economic development and the achievement of wider
11 economic policy objectives;

12 (c) environmental protection; and

13 (d) health and safety.

Public service
levy

14 **172.-(1)** The Authority shall, by regulation, provide for the
15 recovery of any additional costs incurred in complying with the public
16 service obligations through a public service levy, which may be imposed on
17 customers, provided that it would, in the opinion of the authority, be in the
18 wider public interest.

19 (2) The amount of, and mechanism for the collection and
20 remittance of, the public service levy imposed on each customer shall be set
21 out in the regulations contemplated by subsection (1) of this section.

Domestic Gas
demand
Requirement

22 **173.-(1)** The Authority shall, prior to the 1st day of March of each
23 calendar year, determine the domestic gas demand requirement and inform
24 the Commission of this requirement.

25 (2) Subject to subsection (3) of this section, the domestic gas
26 demand requirement shall be the total amount of marketable natural gas
27 required for all wholesale customers of the strategic sectors.

28 (3) Each wholesale customer of the strategic sectors shall have the
29 right to negotiate its own supply contracts directly with lessees or suppliers
30 and where the wholesale customer is of the view that the contracts are

1 satisfactory for its requirements, it shall inform the-

2 (a) Authority that there is no need to be a customer client of the
3 domestic gas aggregator; and

4 (b) Commission of the lessees from which the required marketable
5 natural gas has been obtained.

Activities
requiring a licence
for midstream
and downstream
petroleum liquids
operations

6 PART V

7 ADMINISTRATION OF MIDSTREAM AND DOWNSTREAM PETROLEUM

8 LIQUIDS OPERATIONS

9 **174.-(1)** Except in accordance with an appropriate licence issued by
10 the Authority, a person shall not undertake the following activities with respect
11 to midstream petroleum liquids operations-

12 (a) establish, construct or operate a terminal or other facility for the
13 export or importation of crude oil or petroleum products;

14 (b) establish, construct or operate a crude oil refinery;

15 (c) establish, construct or operate a pipeline for the bulk
16 transportation of petroleum liquids;

17 (d) engage in bulk transportation of petroleum liquids by rail, barge
18 or other means within Nigeria;

19 (e) establish, construct or operate a facility for the bulk storage of
20 petroleum liquids;

21 (f) establish, construct or operate a petroleum liquids transportation
22 network;

23 (g) engage in the bulk sale of petroleum liquids, or

24 (h) undertake construction or operation of any facility for the
25 production of lubricants or petrochemicals based on petroleum products.

26 (2) Except in accordance with an appropriate licence or permit issued
27 by the Authority, a person shall not undertake the following activities with
28 respect to downstream petroleum products operations-

29 (a) construct or operate any facility for the distribution or sale of

1 petroleum products to retail customers;

2 (b) establish, construct or operate a depot for the storage of
3 petroleum products; or

4 (c) undertake distribution, marketing or retail trading of petroleum
5 products;

6 (3) The Authority may, by regulation, prescribe additional
7 activities to be undertaken only on the basis of a Licence or Permit and shall
8 have power to issue licences or permits for the activities in accordance with
9 this Act.

10 (4) Where a person engages in any of the activities set out in
11 subsection (1), (2) or (3) of this section without a licence or permit, the
12 Authority shall-

13 (a) seal the premises where the activity is undertaken;

14 (b) dismantle and seize the facilities by which the activities were
15 undertaken;

16 (c) confiscate equipment or materials employed by the person in
17 such activity; or

18 (d) impose penalties as prescribed by regulations under this Act.

19 (5) Notwithstanding any provision of this Act, a person who
20 engages in any of the activities set out in subsection (1), (2) or (3) of this
21 section without a Licence or Permit, commits an offence and is liable to
22 imprisonment for a term of-

23 (a) 1 year or to a fine prescribed by regulation, in the case of an
24 activity requiring a licence; or

25 (b) 6 months or to a fine prescribed by regulation, in the case of an
26 activity requiring a permit.

27 (6) A holder of a subsisting lease, licence or permit who is engaged
28 in activities in midstream or downstream petroleum liquids operations prior
29 to the effective date shall, within 24 months from the effective date, apply to
30 the Authority and the Authority may issue the appropriate licence or permit,

1 where applicable.

2 (7) The provisions of subsection (4) of this section shall not apply to
3 any person who has made an application contemplated under subsection
4 (6) of this section until the Authority has considered the application
5 given a decision.

6 (8) Where any person, in applying for a licence or permit, knowingly
7 makes a false or misleading statement, the Authority may-

Special regulations
for midstream and
downstream
petroleum liquids
operations

8 (a) suspend or revoke the licence or permit; or;

9 (b) impose a fine on the licensee or permit holder on the basis of the
10 false or misleading information.

11 **175.** In addition to any matter provided under section 113 of this Act,
12 the Authority may issue regulations with respect to midstream and downstream
13 petroleum liquids operations, which shall include-

14 (a) the operation of crude oil refineries, lube plants, petroleum liquids
15 transportation pipelines, bulk storage facilities for petroleum liquids and
16 terminals and outlets for retail trading of petroleum products;

17 (b) the establishment and operation of a wholesale market, to ensure
18 the continuity of supply of petroleum products to customers, that will apply to
19 the owners and operators of crude oil refineries, transportation pipelines and
20 other facilities or vessels for the bulk transportation of petroleum liquids, bulk
21 storage facilities for petroleum liquids and terminals and outlets for retail
22 trading of petroleum products; and

Rights of way
relating to
midstream and
downstream
petroleum liquids
operations

23 (c) matters ancillary to or consequential on the activities set out in
24 paragraphs (a) and (b) of this section.

25 **176.** Subject to applicable law and the terms and conditions
26 prescribed by the authority, a licensee or permit holder is entitled to a right of
27 way for the laying, operation and maintenance of petroleum liquids
28 transportation pipelines, communication lines, power lines and other similar
29 lines through or across the areas the licensee or permit holder may require for
30 carrying on midstream or downstream petroleum liquids operations under the

Surface rights
reserved for the
authority for
midstream and
downstream
petroleum liquids
operations

1 licence or permit.

2 **177.** The Authority may for the purpose of efficiency, grant rights
3 of way, easements or other rights over any surface or seabed areas subject to
4 an existing licence or permit, which may be necessary for the laying,
5 operation and maintenance of petroleum liquids transportation pipelines,
6 communication lines, power lines and other similar lines and any right of
7 way or other rights reserved shall continue for the benefit of any entity to
8 whom the authority may subsequently grant the same licence or permit.

Petroleum liquids
midstream network
code

9 **178.-(1)** The Authority may in consultation with licensees and
10 other stakeholders with respect to midstream petroleum liquids operations,
11 develop a network code governing the terms of access into facilities and
12 infrastructure used in midstream petroleum liquids operations.

13 (2) The network code may include the following matters-

14 (a) a connection and interconnection policy, standard terms for
15 connection to a open access petroleum liquids transportation pipeline or
16 petroleum liquids transportation network and a statement of the connection
17 charging methodology;

18 (b) a mechanism by which users reserve capacity in facilities and
19 infrastructure and at any time there is a greater demand for access than
20 available capacity, a mechanism for allocating capacity between users;

21 (c) the nomination;

22 (d) requirements for the provision of information to the petroleum
23 liquids transportation network operator about the volume, timing and flow-
24 rate of injections into and withdrawals from the petroleum liquids
25 transportation network;

26 (e) the structure of charges and the applicable tariffs charged for
27 using the petroleum liquids transportation network;

28 (f) the balancing of crude oil, condensates or petroleum products
29 being conveyed;

30 (g) registration arrangements;

	1	(h) metering, allocation and settlement arrangements;
	2	(i) governance arrangements; and
	3	(j) the maintenance of a register of customers and Suppliers.
Third party access relating to midstream and downstream petroleum liquids operations	4	(3) The petroleum liquids midstream network code shall be published
	5	on the website of the authority and physical copies shall be made available to
	6	interested persons on payment of a prescribed fee.
	7	179. Subject to section 162 of this Act, any person licenced under the
	8	provisions of this Act to supply petroleum liquids shall be permitted third party
	9	access to facilities and infrastructure used for midstream petroleum operation
	10	by owners, operating on their own account, of such facilities and
	11	infrastructure-
	12	(a) in the manner prescribed by this act, the regulations, codes and
Conditions for the provision of open access in relation to petroleum liquids operations	13	other guidelines issued by the authority under this act; and
	14	(b) on commercially viable terms based on a cost reflective pricing
	15	methodology.
	16	180. -(1) Where open access applies, open access to the facilities and
	17	infrastructure used with respect to midstream petroleum liquids operations
	18	shall be-
	19	(a) undertaken on a non-discriminatory basis between system users
	20	with similar characteristics pursuant to section 116 of this Act;
	21	(b) provided in respect of any available capacity, where the capacity is
	22	not subject to a previous contractual commitment;
	23	(c) provided in accordance with and governed by the terms and
	24	conditions of the network code approved by the Authority, where applicable;
	25	(d) provided on the condition that the applicant for access is or
	26	becomes a party to and undertakes to comply with the applicable network code;
	27	and
	28	(e) subject to the pricing principles set out in section 207 of this Act,
	29	provided that facilities and infrastructure which are specifically defined by the

- 1 Authority for the storage of national strategic stocks shall be exempt from
2 the provisions of this Act relating to open access. National strategic
stocks
- 3 (2) The Authority may mediate in disputes in respect of open
4 access.
- 5 **181.** The Authority shall-
- 6 (a) establish, administer and ensure the storage and distribution of
7 the national strategic stocks of petroleum products in accordance with
8 regulations issued by the Authority;
- 9 (b) determine and publish the amount to be charged as a levy for the
10 financing of the national strategic stock, which shall form part of the retail
11 price of each petroleum product, such levy to be determined as a percentage
12 of the retail price and be deducted on wholesale basis; and Operating stock
- 13 (c) designate, in consultation with the appropriate authorities and
14 national security agencies, the strategic locations across the country where
15 the national strategic stocks shall be distributed and maintained.
- 16 **182.** The Authority shall ensure that all companies with a Licence
17 for the bulk storage of petroleum products granted pursuant to section 174 of
18 this Act maintain operating stocks in accordance with guidelines published
19 by the Authority. Grant of a crude
oil refining licence
- 20 **183.**-(1) Subject to sections 111 and 174 of this Act and upon the
21 approval of the Authority of an application and payment of a prescribed fee
22 by a qualified person, the Minister may, on the recommendation of the
23 Authority, grant and issue to that person a crude oil refining licence which
24 shall permit the licensee to-
- 25 (a) procure, construct, install and operate facilities to process crude
26 oil on its own account into derivative chemicals and petroleum products;
27 and
- 28 (b) sell such chemicals and petroleum products at the exit of the
29 refinery. General duties
of a crude oil
refiner
- 30 (2) In considering an application for a crude oil refining licence,

1 the Authority shall take into account the economic case for a refinery, including
2 the potential demand for its use.

3 **184.** The crude oil refiner shall undertake the activities contemplated
4 by the Licence in a manner that best complies with the following general
5 obligations, to-

6 (a) procure, construct, install, operate and maintain its refinery and
7 associated facilities in an economical, safe, reliable and environmentally
8 friendly manner;

9 (b) shut down its facilities in emergencies and in order to carry out
10 maintenance or in accordance with curtailment directives issued by the
11 Authority;

12 (c) manage its facilities as a reasonable and prudent operator;

13 (d) avoid any act or omission that may affect the compatibility of the
14 refinery with any facility or network that is likely to prejudice the public
15 interest or the integrity of network operations;

16 (e) produce petroleum products to a quality suitable for the
17 transportation system as specified in the Licence;

18 (f) produce petroleum products to a quality suitable for use in
19 accordance to the specifications approved by the Authority;

Access rights

20 (g) to treat all customers in a non-discriminatory manner pursuant to
21 section 116 of this Act; and

22 (h) abstain from activities, which in the opinion of the Authority may
23 prevent, restrict or distort competition.

Conditions
applicable to a
crude oil refining
licence

24 **185.** A crude oil refiner shall have the right of access to facilities,
25 including harbours, jetties, petroleum bulk storage, transportation facilities
26 and pumping installations in accordance with the open access or third party
27 access requirements and the tariff methodology approved by the Authority.

28 **186.** In addition to conditions as may be imposed by the Authority
29 pursuant to section 114 of this Act, a crude oil refining licence shall be deemed
30 to be granted subject to the conditions that the holder shall-

1 (a) conduct its licenced activities safely and reliably in compliance
2 with any law in force and prescribed health and safety related regulations,
3 standards and operating procedures issued pursuant to this Act;

4 (b) have regard to the effect of its licenced activities on the
5 environment and complying with the requirements for environmental
6 protection, management and restoration under this Act;

7 (c) mark, maintain and secure the boundaries of its facilities and
8 associated infrastructure constructed under the terms of its licence and any
9 law in force; and

Grant of a bulk
petroleum liquids
storage licence

10 (d) comply with any conditions precedent or other conditions as
11 the Authority may prescribe by regulation.

12 **187.**-(1) Subject to sections 111 and 174 of this Act, the Authority
13 may upon approval of an application and payment of prescribed fees, grant
14 and issue a qualified person bulk petroleum liquids storage licence
15 authorising the holder to undertake the bulk storage of petroleum liquids
16 whether for its own account or on behalf of customers as provided for in the
17 licence.

General duties
of a bulk storage
licensee

18 (2) In considering an application for a bulk petroleum liquids
19 storage licence, the Authority shall take into account the economic case for
20 bulk storage facility, including the potential demand for its use.

21 **188.** The holder of a bulk petroleum liquids storage licence shall
22 undertake the activities contemplated by the licence in a manner that best
23 complies with the following general obligations, to-

24 (a) establish and make available to the public at its offices, the-

25 (i) procedure for obtaining third party access and throughput and
26 terminating its services, and

27 (ii) method of response to the request for its service;

28 (b) procure, construct, install, operate and maintain its facilities in
29 a safe, economical, reliable and environmentally friendly manner taking
30 into account any strategic plans formulated by the Authority;

1 (c) shut down its facilities in emergencies and in order to carry out
2 maintenance or in response to curtailment directives issued by the Authority;

3 (d) grant third party access to use or have access to spare capacity
4 within its facilities for the purpose of ensuring competitive supply of crude oil
5 and petroleum products, where the licensee operates on its own account;

6 (e) consult with the Authority and obtain written permission prior to
7 any modification of technical and operational rules of practice concerning the
8 operation of its facilities;

9 (f) conduct its licenced activities in a non-discriminatory manner
10 between all classes of customers pursuant to section 116 of this Act, where the
11 licence is for bulk storage for customers;

12 (g) manage its facilities as a reasonable and prudent operator; and

13 (h) abstain from activities, which in the opinion of the Authority may
14 prevent, restrict or distort competition.

Conditions
applicable to a
bulk petroleum
liquids storage
licence

15 **189.** In addition to conditions as may be imposed by the Authority
16 pursuant to section 114 of this Act, a bulk petroleum liquids storage licence
17 shall be deemed to be granted subject to the conditions that the holder shall-

18 (a) conduct its licenced activities safely and reliably in compliance
19 with any law in force and prescribed health and safety related regulations
20 issued pursuant to this Act;

21 (b) have regard to the effect of its licenced activities on the
22 environment and complying with the requirements for environmental
23 protection, management and restoration under this Act; and

24 (c) mark, maintain and secure the boundaries of its facilities and
25 associated infrastructure constructed under the terms of its licence and any law
26 in force.

Grant of
petroleum liquids
transportation
pipeline licence

27 **190.-(1)** Subject to sections 111 and 174 of this Act, the Authority
28 may upon approval of an application and payment of prescribed fees, grant and
29 issue a qualified person a petroleum liquids transportation pipeline licence
30 with the exclusive right to own, construct, operate and maintain a

1 transportation pipeline for the bulk transportation of petroleum liquids
2 within a route as defined in the licence for its own account with third party
3 access provisions or as common carrier as stipulated in the licence.

4 (2) In considering an application for a petroleum liquids
5 transportation pipeline licence, the Authority shall take into account the
6 economic case for a petroleum liquids transportation pipeline including the
7 potential demand for its use.

General duties
of a petroleum
liquids
transportation
pipeline owner

8 **191.** The holder of a petroleum liquids transportation pipeline
9 licence shall undertake the activities contemplated by the licence in a
10 manner that best complies with the following general obligations-

11 (a) establish and make available to the public at its offices, the-

12 (i) procedure for obtaining and terminating transmission and
13 interconnection services, and

14 (ii) method of response to the request for its service;

15 (b) construct, operate and maintain its petroleum liquids
16 transportation pipeline in a safe, economical, and reliable manner taking
17 into account any strategic plans formulated by the Authority;

18 (c) manage supply shortfalls and meet on a reasonable endeavours
19 basis requests for transportation above contractual volumes;

20 (d) shut down its petroleum liquids transportation pipeline in
21 emergencies and in order to carry out maintenance or in response to
22 curtailment directives issued by the Authority;

23 (e) provide access on a non-discriminatory basis pursuant to
24 section 116 of this Act, where the licence is granted on a common carrier
25 basis;

26 (f) consult with the Authority and obtain written permission prior
27 to any modification of technical and operational rules of practice concerning
28 the operation of its pipeline;

29 (g) manage its transportation pipeline as a reasonable and prudent

Conditions
applicable to a
petroleum liquids
transportation
pipeline licence

- 1 operator; and
- 2 (h) abstain from activities, which in the opinion of the Authority may
- 3 prevent, restrict or distort competition.
- 4 **192.** In addition to conditions as may be imposed by the Authority
- 5 pursuant to section 114 of this Act, a transportation pipeline licence shall be
- 6 deemed to be granted subject to the conditions that the holder shall-
- 7 (a) not own petroleum liquids in the pipeline on its own account,
- 8 where the licence is issued on a common carrier basis;
- 9 (b) a lessee, operating on its own account, may own the petroleum
- 10 liquids in a petroleum liquids transportation pipeline, for the purpose of
- 11 connecting petroleum liquids produced in a field to another petroleum liquids
- 12 transportation pipeline or petroleum liquids transportation network, subject to
- 13 third party access provisions as may be included in the licence;
- 14 (c) a crude oil refiner, operating on its own account, may own the
- 15 petroleum liquids in a petroleum liquids transportation pipeline for the purpose
- 16 of transporting petroleum liquids to its refinery or from its refinery to
- 17 petroleum product distributors and other wholesale customers, subject to third
- 18 party access provisions as may be included in the licence;
- 19 (d) a petroleum product distributor, operating on its own account,
- 20 may own the petroleum liquids in a petroleum liquids transportation pipeline,
- 21 where the principal user of the transportation pipeline is the petroleum product
- 22 distributor, subject to third party access provisions as may be included in the
- 23 licence;
- 24 (e) a wholesale petroleum liquids supplier, operating on its own
- 25 account, may own the petroleum liquids in a petroleum liquids transportation
- 26 pipeline, for the purpose of connecting to a lessee or wholesale customer to or
- 27 from a petroleum liquids transportation network or petroleum liquids
- 28 transportation pipeline, subject to third party access provisions as may be
- 29 included in the licence;
- 30 (f) conduct its licenced activities safely and reliably in compliance

1 with any law in force and prescribed health and safety related regulations
2 issued pursuant to this Act;

3 (g) have regard to the effect of its licenced activities on the
4 environment and comply with the requirements for environmental
5 protection, management, and restoration under this Act; and

6 (h) mark, maintain and secure the boundaries of the pipelines and
7 associated infrastructure constructed under the terms of its licence.

Grant of
transportation
operator licence

8 **193.**-(1) Subject to sections 111 and 174 of this Act, the Authority
9 may upon approval of an application and payment of prescribed fees, grant
10 and issue a qualified person a petroleum liquids transportation network
11 operator licence authorising the conduct of activities specified in the
12 Licence, which shall include -

13 (a) conveyance of petroleum liquids through the transportation
14 network;

15 (b) balancing the inputs and off takes from the transportation
16 network;

17 (c) providing open access to the transportation network; and

18 (d) charging for the use of the transportation network.

19 (2) The Authority shall grant only one petroleum liquids
20 transportation network operator licence for specified petroleum liquids
21 within a geographically defined area to a single network operator, provided
22 that the authority may, at its discretion, issue licences to other parties for the
23 operation of isolated or dedicated pipelines.

General duties
of a petroleum
liquids transportation
network operator

24 **194.** The petroleum liquids transportation network operator shall
25 exercise the rights and obligations imposed on it in a manner that best
26 complies with the following general obligations-

27 (a) establish and make available to the public at its offices, the-

28 (i) procedure, terms and conditions for obtaining and terminating
29 access and interconnection services to the transportation network, and

- 1 (ii) method of response to the request for its service;
- 2 (b) operate an efficient and economical transportation network for the
3 safe and reliable conveyance of specified petroleum liquids in a manner that is
4 designed to meet all reasonable demands for the specified petroleum liquids;
- 5 (c) operate a nomination and balancing mechanism and an equitable
6 curtailment of transportation whenever technical or operational expediencies
7 requires;
- 8 (d) consult with the Authority and obtain written permission prior to
9 any modification of technical and operational rules of practice concerning the
10 operation of its transportation network;
- 11 (e) ensure the development and operation of a network code and terms
12 for access into the transportation network in collaboration with the Authority
13 and shippers and licensees and permit holders operating essential
14 infrastructure;
- 15 (f) ensure equitable and transparent access by third parties to the
16 transportation network in accordance with the network code;
- 17 (g) manage the transportation network as a reasonable and prudent
18 operator;
- 19 (h) abstain from activities, which in the opinion of the Authority may
20 prevent, restrict or distort competition; and
- 21 (i) enter into agreements with transportation pipeline owners,
22 distributors, and, wholesale customers for connection to, and operation of, the
23 transportation network.

Powers of a
petroleum liquids
transportation
network operator

24 **195.** Subject to the provisions of this Act, the Authority may grant the
25 following special powers or authority to a petroleum liquids transportation
26 network operator to facilitate the conduct of its licenced activities-

27 (a) the power to request and obtain from Licensees information
28 required to operate the nominations and balancing mechanism to operate the
29 network or to facilitate competition;

30 (b) the right to recover, on the basis of an invoice, expenses

1 reasonably incurred in undertaking its Licenced activities, subject to any
2 conditions imposed by the Authority with respect to the level and structure
3 of its charges; and

4 (c) to purchase petroleum liquids for its own operations for
5 purposes such as testing and commissioning of facilities, compression
6 purposes and line fill.

Conditions
applicable to a
petroleum liquids
transportation
network operator
licence

7 **196.-(1)** In addition to such conditions as may be imposed by the
8 Authority pursuant to section 114 of this Act, a petroleum liquids
9 transportation network operator licence may include an obligation to
10 develop market rules in accordance with the provisions of this Act.

11 (2) A petroleum liquids transportation network operator may be
12 owner of any or all of the petroleum liquids transportation pipelines in the
13 petroleum liquids transportation network.

14 (3) Where third parties are owners of certain petroleum liquids
15 transportation pipelines in the petroleum liquids transportation network, the
16 owners shall be paid by petroleum liquids transportation network operator
17 the tariffs determined for non-operating owners of the pipelines.

18 (4) A petroleum liquids transportation network operator shall not
19 misuse its monopoly position in the geographical area to charge franchise of
20 other access charges for providing access to the petroleum liquids transport
21 network other than the charges specifically permitted under this act and its
22 regulations.

Grant of a wholesale
petroleum liquids
supply licence

23 **197.-(1)** Subject to sections 111 and 174 of this Act, the Authority
24 may upon approval of an application and payment of prescribed fees, grant
25 and issue a qualified person a wholesale petroleum liquids supply licence.

26 (2) A lessee producing crude oil or condensates and a crude oil
27 refiner is a qualified person for the purpose of subsection (1) of this section
28 and shall be entitled to apply for and be issued with a wholesale petroleum
29 liquids supply licence by the Authority.

30 (3) A wholesale petroleum liquids supply licence authorises the

General duties of a wholesale petroleum liquids supplier	1 2 3	supplier to sell and deliver petroleum liquids to bulk customers in Nigeria or for export.	
	4 5	198. A wholesale petroleum liquids supplier shall undertake the activities contemplated by the licence in a manner that best complies with the following general obligations, to-	
	6 7	(a) provide a reliable supply of petroleum liquids to purchasers on request, provided that it is economically feasible; and	
Rights of a wholesale petroleum liquids supplier	8 9	(b) abstain from activities, which in the opinion of the Authority may prevent, restrict or distort competition.	Commencement
	10 11 12 13	199. Subject to the provisions of this Act, the Authority may grant the following specific powers or authority to the holder of a wholesale petroleum liquids supply licence to facilitate the conduct of its licenced activities, the right to-	
	14 15	(a) terminate wholesale supply to a customer in the event of non-payment, following a notice period as prescribed by regulation;	
	16 17 18 19 20 21	(b) recover from a customer, on the basis of an invoice and subject to any conditions imposed by the Authority on the level and structure of a licensee's charges and costs reasonably incurred in the supply of petroleum liquids, provided that the sale of petroleum liquids to customers by the wholesale petroleum liquids supplier shall be subject to the provisions of this Chapter; and	
	22 23 24	(c) enter a premises, in accordance with a metering code issued by the Authority, to remove its meters for the purpose of reading the meters, testing and maintaining metering equipment and disconnecting customers.	
Conditions applicable to a wholesale petroleum liquids supply licence	25 26 27	200.-(1) In addition to conditions as may be imposed by the Authority pursuant to section 114 of this Act, a wholesale petroleum liquids supply licence shall be deemed to be granted subject to the supplier-	
	28 29	(a) ensuring a reliable and efficient supply of petroleum liquids to customers on request, provided that it is economically feasible;	
	30	(b) supplying petroleum liquids on request to a customer who is	

1 willing and able to pay for connection to the transportation network or
2 transportation pipeline, subject to safety and network capacity constraints;
3 and

4 (c) conducting licenced activities safely, reliably and in an
5 environmentally friendly manner in compliance with any law in force and
6 any health and safety related regulations issued by the authority pursuant to
7 this act or any other Act.

8 (2) A wholesale petroleum liquids supplier shall undertake its
9 licenced activities in a manner that best complies with the covenants and
10 conditions of the licence and comply with customer protection measures
11 approved by the Authority.

Grant of licence
for distribution
of petroleum
products

12 **201.** Subject to sections 111 and 174 of this Act, the Authority may
13 upon approval of an application and payment of prescribed fees, grant and
14 issue a qualified person a petroleum product distribution licence.

General duties
of petroleum
product distributors

15 **202.** In addition to conditions the Authority may imposed pursuant
16 to section 114 of this Act or that may be prescribed by regulation, a
17 petroleum product distribution licence shall be deemed to be granted subject
18 to the duty of the holder to-

19 (a) develop and maintain a safe, efficient, reliable and economical
20 service for the distribution of petroleum products to individual customers
21 and petroleum product retailers;

22 (b) carry on its business in a manner that will promote competition
23 and avoid monopoly in the retail supply of petroleum products in Nigeria;

24 (c) conduct its licenced activities safely and reliably in compliance
25 with any law in force and prescribed environmental, health and safety
26 regulations issued pursuant to this or any other Act;

27 (d) publish the prices to be charged and to be paid by a person to
28 whom the distributor sells petroleum products in a manner to ensure
29 adequate publicity unless the Authority otherwise;

	1	(e) avoid undue preference as between persons or any class of persons
	2	or discriminate as between persons or any class of persons in establishing
Grant of a licence to construct and operate a facility for retail supply and distribution of petroleum products	3	prices; and
	4	(f) comply with customer protection measures approved by the
	5	Authority.
	6	203. -(1) Subject to sections 111 and 174 of this Act, the Authority
	7	may upon approval of an application and payment of prescribed fees, grant and
	8	issue a qualified person a petroleum product retail licence authorising the
	9	holder to establish, construct and operate a facility to be employed for retail
	10	sale of petroleum products.
Grant of a permit to construct and operate a facility for the production of petrochemicals	11	(2) The Authority shall issue guidelines in respect of the process for
	12	the establishment, construction and operation of facilities to be employed by
	13	petroleum product retailers for retail sale of petroleum products.
	14	204. -(1) Subject to sections 111 and 174 of this Act, the Authority
	15	may upon approval of an application and payment of prescribed fees, grant and
	16	issue a qualified person a petrochemicals production licence authorising the
	17	holder to establish, construct and operate a facility for the production of
Pricing regime and power to regulate tariffs	18	petrochemicals and sell the petrochemicals produced.
	19	(2) The Authority shall issue guidelines in respect of petrochemicals
	20	production licences.
	21	205. -(1) Subject to the provisions of this Section, wholesale and retail
	22	prices of petroleum products shall be based on unrestricted free market pricing
	23	conditions.
	24	(2) Where the Authority determines that-
	25	(a) a particular licenced activity is a monopoly service;
	26	(b) competition has not yet developed in the market for any petroleum
	27	product to an extent as to protect the interests of customers; or
	28	(c) a particular licensee is a dominant provider of services,
	29	the Authority shall have the power to regulate the tariffs and prices charged by

1 licensees in respect of the activities in a manner consistent with the
2 Authority's duties under the this Act and with the pricing principles set out in
3 section 207 of this Act.

4 (3) The Authority shall undertake periodic pricing methodology
5 reviews.

6 (4) The Authority shall consult with licensees, industry
7 participants and stakeholders before undertaking a pricing review or
8 establishing a methodology for regulating prices and tariffs by licensees
9 providing monopoly or dominant services.

Wholesale prices
for petroleum
products

10 **206.**-(1) The holder of a wholesale petroleum liquids supply
11 licence and a wholesale customer shall, subject to the provisions of this
12 Chapter, negotiate the wholesale prices directly between the parties on an
13 arm's length basis, provided that the transfer price shall be transparent and
14 reflect the transfer price between the parties.

15 (2) The Authority shall have a power to monitor bulk sale of
16 petroleum products and may publish market-based prices in order to ensure
17 that the transactions are undertaken in a manner that transfer pricing
18 between the supplier and the wholesale customer are undertaken at a
19 transparent arm's length basis.

20 (3) The supplier shall, within 14 days of the consummation of a
21 transaction relating to the bulk sale of petroleum products, provide the
22 authority with information relating to the transaction including, where
23 applicable, the cost incurred by the supplier in the production or supply of
24 the product and other information relevant to the price at which the product
25 is sold.

26 (4) A supplier who knowingly provides information, which is false
27 or misleading with respect to the information required in subsection (3) of
28 this section is liable to a fine stipulated by the Authority in regulations.

Pricing principles
in relation to
petroleum products

29 **207.** Subject to the provisions of this part, the Authority shall, in the
30 exercise of its powers to regulate prices charged by Licensees, be guided by

1 the following principles-

2 (a) prices of petroleum products shall be disaggregated into the
3 component elements of the supply chain, including the costs of wholesale
4 supply, transportation distribution and retail sales;

5 (b) the prices charged for each licenced activity shall reflect the costs
6 incurred for the efficient provision of that activity and the licensee shall
7 disclose all relevant commercial information related to its pricing to the
8 Authority and the Authority shall treat the information with utmost
9 confidentiality;

10 (c) there shall not be discrimination in prices charged between
11 customers with similar characteristics, such as similar size or a similar
12 consumption profile;

13 (d) ensure efficient charges relating to petroleum products supply
14 covering billing, metering and other services;

15 (e) ensure the avoidance of economic distortions and a competitive
16 market for the sale, distribution and marketing of petroleum products in
17 Nigeria; and

Publication of
prices

18 (f) allow the seller to recover reasonably and prudently incurred costs,
19 including a reasonable return on the capital invested in the business.

20 **208.** Licensees shall publish prices as required by the Authority in a
21 manner that ensures that the customers are able to identify and calculate the full
22 extent of charges for which they will become liable.

Public service
obligations

23 PART VI

24 OTHER MATTERS RELATED TO MIDSTREAM AND

25 DOWNSTREAM OPERATIONS

26 **209.** The Authority may issue regulations imposing public service
27 obligations on licensees or a class of licensees in relation to the maintenance of
28 strategic stock for which the Authority shall approve a tariff to be paid by the
29 consumers;

Competition and
Market Regulation

30 **210.** The Authority shall, subject to the provisions of the Federal

- 1 Competition and Consumer Protection Act, have the responsibility to-
- 2 (a) monitor the state of the markets regulated by the Authority;
- 3 (b) administer, monitor and ensure compliance with the provisions
- 4 of this Act and any law or regulation issued in respect of competition and
- 5 market regulation;
- 6 (c) monitor market behaviour including the development and
- 7 maintenance of competitive markets;
- 8 (d) arrest situations of abuse of dominant power and restrictive
- 9 business practices;
- 10 (e) assess whether the petroleum industry is operating efficiently
- 11 or the existing market arrangements may constitute barriers to entry into the
- 12 market for new market participants;
- 13 (f) determine whether there is any anti-competitive activity being
- 14 carried on and exercise its powers under this section to prevent the
- 15 continuance of the activity; and
- 16 (g) determine any pre-conditions and any transitional
- 17 arrangements required for any services to be offered competitively.

Power to prevent
anti-competitive
behaviour

18 **211.-(1)** Subject to the provisions of the Federal Competition and

19 Consumer Protection Act, the Authority shall have the responsibility to

20 prevent anti-competitive behaviour with respect to midstream and

21 downstream petroleum operations and may take any or a combination of the

22 following actions-

- 23 (a) monitor and determine whether any conduct by a licensee or
- 24 any other person operating or intending to operate in midstream and
- 25 downstream petroleum operations-
- 26 (i) has the purpose or effect of substantially lessening competition
- 27 in any segment of the midstream and downstream petroleum operations,
- 28 (ii) may likely result in anti-competitive or discriminatory
- 29 conduct, including an unlawful exercise of market power that may prevent
- 30 customers from obtaining the benefits of a properly functioning and

1 competitive market,

2 (iii) may amount to practices which reflect an apparent or probable
3 effect of crippling, excluding or deterring the entry of another person into
4 midstream and downstream petroleum operations, or

5 (iv) may likely be indicative of an abuse of dominant position in
6 respect of the provision of any service;

7 (b) consider how best to prevent or mitigate abuse of market power in
8 its decisions and determinations regarding matters including licence
9 applications, grant of licence, licence terms and conditions and the regulation
10 of prices for services in competitive markets; and

11 (c) where, in the opinion of the Authority there is or may be, anti-
12 competitive behaviour and in particular an abuse of market power, the
13 Authority shall-

14 (i) issue "cease and desist" orders as may be required,
15 (ii) require and compel the disclosure of information from licensees,
16 (iii) undertake inquiries and investigations, and
17 (iv) levy fines prescribed by regulations issued by the Authority,
18 which shall not exceed 5% of the annual turnover of the company for the
19 preceding year.

20 (2) Notwithstanding the provisions of this section, where the
21 Authority deems it to be in national interest or necessary to preserve or promote
22 the benefits of a functional and effective competitive market, the Authority
23 may, on the application by a licensee or other person with the ability to
24 influence the price of petroleum products-

25 (a) give written approval to the application upon such terms and
26 conditions and impose other requirements as it may deem appropriate; and
27 (b) issue directions to prevent or mitigate any conduct that shall or is
28 likely to lead to the unlawful exercise of market power that will prevent
29 customers from obtaining the benefits of a properly functioning and
30 competitive market.

1 (3) The Authority may at any time withdraw an approval granted
2 under subsection (2) of this section upon such terms and conditions as it may
3 deem appropriate.

Separation of
certain licenced
activities

4 **212.**-(1) The Authority may require the holder of a Licence to
5 maintain separation in management, accounting or legal entities of its
6 licenced or permitted activities, which may prohibit the holder of the
7 Licence from directly holding licences of another type.

8 (2) Licenced activities between a holder of a Licence and an
9 affiliate shall be undertaken in a manner that the transfer pricing between
10 both entities is undertaken on a transparent arm's length basis and in a
11 manner that reflects the pricing principles contained in sections 107 and 207
12 of this Act.

13 (3) A holder of a Licence shall not, without the prior written
14 consent of the Authority, directly or indirectly acquire an interest in,
15 purchase or merge with another holder of a licence or an affiliate of a holder
16 of a Licence.

Non-discrimination
among customers

17 **213.** A holder of a licence or permit shall not discriminate between
18 customers or classes of customers or their related undertakings or network
19 users in respect of access, tariffs, prices, conditions or standards of service
20 pursuant to the provisions of section 116 of this Act.

Considerations
for exercise of
the Authority's
powers

21 **214.** In the exercise of its powers under this Chapter, the Authority
22 may consider-

- 23 (a) the relevant economic market;
- 24 (b) global trends in the relevant economic market;
- 25 (c) the effect on the number of competitors in the market and their
26 respective market shares;
- 27 (d) the effect on barriers to entry into the market;
- 28 (e) the effect of any activity on the range of services in the market;
- 29 (f) the effect of the conduct on the cost and profit structures in the
30 market;

Power to serve
notice, issue
"cease and desist"
order, etc.

1 (g) the ability of any independent licensee or operator to make price or
2 Tariff regulating decisions; and
3 (h) any other matter which the Authority may deem relevant.
4 **215.** -(1) Where, in the opinion of the Authority, any act or activity
5 prohibited under this Chapter has been or is likely to be undertaken by any
6 Person, the Authority may-
7 (a) serve a notice on the person, specifying the act or activity and its
8 intention to issue a "cease and desist" order;
9 (b) direct the person to whom the notice is issued to do or not to do, the
10 specified act or activity; and
11 (c) specify the time frame for compliance with the notice.
12 (2) Where the person to whom the notice or directive issued pursuant
13 to subsection (1) of this section fails to comply, the Authority may issue a
14 "cease and desist" order.
15 (3) The Authority may levy a fine not exceeding 5% of the annual
16 turnover of the company for the preceding year or revoke the licence of any
17 person who fails to comply with a "cease and desist" order or a directive issued
18 under subsection (1) of this section.

Consultation
for regulations

19 PART VII
20 COMMON PROVISIONS FOR UPSTREAM, MIDSTREAM AND DOWNSTREAM
21 PETROLEUM OPERATIONS
22 **216.**-(1) The Commission and Authority shall consult with
23 stakeholders prior to finalizing any regulations or amendments to regulations.
24 (2) The stakeholders to be consulted for any particular regulation
25 shall be lessees, licensees and permit holders that may be impacted by the
26 regulations and such other persons that may be interested in the subject matter
27 of the proposed regulation.
28 (3) The Authority or Commission, as the case may be, may, in
29 finalizing any regulation under this section, take into consideration any
30 submission made during the stakeholders' consultation pursuant to subsection

1 (1) of this section.

2 (4) Prior to holding the stakeholders' consultation pursuant to
3 subsection (1) of this section, the Commission or Authority, as the case may
4 be, shall publish in at least two national newspapers with wide coverage and
5 on its website, notice of-

6 (a) the stakeholders' consultation;

7 (b) its invitation to lessees, licensees, permit holders and other
8 stakeholders to participate in the stakeholders' consultation;

9 (c) the venue and period during which the stakeholders'
10 consultation is to be held;

11 (d) the nature of the matter to which the stakeholders' consultation
12 relates;

13 (e) the matters upon which the Commission or Authority, as the
14 case may be, would require submissions;

15 (f) the form in which stakeholders are to make submissions on the
16 subject matter of the stakeholders' consultation;

17 (g) the period of notice for the commencement of the stakeholders'
18 consultation, which shall not be less than 21 days; and

19 (h) the address or addresses to which the submissions may be sent.

20 (5) Notwithstanding the provisions of subsection (1) of this
21 section, the Commission or Authority may, in national interest and exigency
22 of the situation, issue a regulation without conducting a stakeholders'
23 consultation.

24 (6) A regulation made pursuant to subsection (5) of this section
25 shall be valid for not more than 1 year with effect from its commencement
26 date, except it is confirmed following a stakeholders' consultation
27 conducted in accordance with subsections (3) of this section.

28 (7) The Commission or Authority, as the case may be, shall fix a
29 date upon which the confirmed regulation under subsection (6) of this

Contravention
and enforcement
of conditions of
leases, licences
or permits

1 section shall come into effect and cause the notice of that commencement date
2 to be published in at least two national newspapers with wide coverage and on
3 its website.

4 **217.**-(1) Where it appears to the Commission or Authority that the
5 holder of a lease, licence or permit is contravening, has contravened or is likely
6 to contravene any of the conditions of the lease, licence or permit, the
7 Commission or Authority, as the case may be, may publish a notice in a
8 manner as it considers appropriate to draw the attention of other persons
9 affected or likely to be affected by the contravention or threatened
10 contravention of the lease, licence or permit-

11 (a) specifying the actual or potential contravention;

12 (b) directing the holder to do or not to do, the things specified;

13 (c) specifying the remedy and the timeframe for compliance; and

14 (d) notifying the holder of the Lease, Licence or Permit of its intention
15 to issue an Enforcement Order.

16 (2) The holder of the lease, licence or permit and any other interested
17 party shall be entitled to make representations against or in support of a notice
18 published pursuant to subsection (1) of this section on a date specified in the
19 notice.

20 (3) Where a holder of the lease, licence or permit fails to comply with
21 a notice published pursuant to subsection (1) of this section, the Commission or
22 Authority, as the case may be, may issue an enforcement order.

23 (4) The Commission or Authority may not issue an enforcement order
24 if the holder of the lease, licence or permit-

25 (a) is able to demonstrate to its satisfaction that it is not contravening
26 or about to contravene a condition of a lease, licence or permit; or

27 (b) has ceased to contravene a condition of the lease, licence or
28 permit,

29 provided that where the earlier contravention was deliberate, the Commission
30 or Authority, as the case may be, may, at its discretion, impose a penalty as

1 prescribed by Regulation.

2 (5) A holder of a lease, licence or permit who fails to comply with
3 the enforcement order under this section, commits an offence and the
4 Commission or Authority may suspend or revoke the lease, licence or permit
5 of the liable offender or impose any other penalty prescribed by regulations.

6 (6) The penalty issued pursuant to subsection (1) (b) of this section
7 may be reviewed in regulation, in order to reflect the effect of inflation.

8 (7) The Commission or Authority, as the case may be, may order
9 the sealing up of any premises whatsoever, including any facility or plant
10 engaged in petroleum operations, where there has been a contravention of
11 this Act or any regulation.

Mandatory
registration

12 **218.** A person engaged in petroleum operations, which require a
13 lease, licence or permit by the Commission or Authority under this Act, shall
14 register its undertaking with the Commission or Authority, as the case may
15 be and provide information concerning the activities of the undertakings as
16 may be prescribed in regulations.

Register of
licences,
permits and
authorisation

17 **219.**-(1) The Commission and Authority shall establish, maintain
18 and make publicly available, a register of leases, licences, permits and
19 authorisations, issued, revoked, suspended, surrendered or withdrawn and
20 any modification or exemption granted in respect of any lease, licence,
21 permit or authorisation pursuant to this Act.

22 (2) The officer registering the issuance of any instrument as
23 provided under subsection (1) of this section shall require an
24 acknowledgement of the receipt of a copy of such instrument from the
25 person receiving it in such form as may be prescribed by regulation.

Preparation of
licences, permits
and authorisations

26 **220.**-(1) A lease, licence, permit or authorisation and any
27 exemption granted under this Act shall be prepared in duplicate, one copy
28 shall be delivered to the holder of the lease, licence, permit or authorisation
29 and the other copy to be retained by the Commission or Authority which
30 shall be bound up in a book of the appropriate series within its register and

1 serially numbered.

2 (2) The register referred to in section 219 of this Act shall also be kept
3 in an electronic format and soft copies of individual leases, licences, permits,
4 authorisations or exemptions shall be forwarded to the holder of a lease,
5 licence, permit or authorisation.

6 (3) The Commission or Authority, as the case may be, shall cause a
7 licence, permit or authorisation to be prepared upon payment of the requisite
8 fees.

9 (4) The officer registering a lease, licence, permit or authorisation or
10 exemption under subsection (1) shall require an acknowledgement of the
11 receipt of the copy of the lease, licence, permit or authorisation or exemption
12 from the person accepting such lease, licence, permit or authorisation or
13 exemption in such form as may be prescribed by regulations.

Effective date
and authentication
of licences, permits
and authorisations

14 **221.**-(1) The lease, licence, permit or authorisation or any exemption
15 shall be authenticated under the seal of the Commission or Authority, as the
16 case may be and the validity of the lease, licence, permit or authorisation or any
17 exemption shall commence from the date of its issuance.

Register of
memorials

18 (2) The date of issuance of any lease, licence, permit or authorisation
19 or any exemption shall be inscribed on the lease, licence, permit or
20 authorisation or any exemption.

21 **222.** The Commission or Authority, as the case may be, shall enter in
22 the appropriate register a memorial of any extension, transfer, surrender,
23 revocation, exemption, relinquishment, change of address, change of name or
24 any other matter affecting the status of or any interest in any Lease, Licence,
25 Permit or Authorisation registered under this Chapter together with the date of
26 such entry.

Register of
interests

27 **223.** The Commission or Authority, as the case may be, shall
28 establish and maintain a register in which particulars of any interest or shares
29 transferred or assigned are recorded by the Commission or Authority and the
30 register shall be updated in relation to any change in the status of such interest

Effect of
registration

1 or shares transferred or assigned.

2 **224.** A lease, licence, permit or authorisation registered under this
3 Chapter shall, subject to the provisions of this Act, be conclusive evidence-

4 (a) that the rights described in the lease, licence, permit or
5 authorisation are vested in the person named as the holder of the lease,
6 licence, permit or authorisation; and

7 (b) of the conditions and other provisions to which the holder of the
8 lease, licence, permit or authorisation is subject under this Act.

9 **225.-(1)** The registry and the registers required pursuant to sections
10 219, 222 and 223 of this Act shall be readily accessible to the public during
11 the hours and upon the days designated by the Commission or Authority, as
12 the case may be.

13 (2) The Commission and Authority shall maintain an up-to-date
14 electronic form of the registers required under sections 219, 222 and 223 of
15 this Act on its website, which may be accessed for free by any member of the
16 public.

17 (3) A member of the public shall, upon the payment of prescribed
18 fees, be entitled to obtain a certified true copy of any document or record
19 contained in the registers referred to in sections 219, 222 and 223 of this Act.

20 **226.-(1)** Any matter which requires the Commission's or
21 Authority's approval under this Act or under any regulation, shall be
22 approved or rejected within the time limit specified in this Act or in any
23 Regulation issued by the Commission or the Authority.

24 (2) Where no time limit has been specified under this Act or in any
25 applicable Regulation, the time limit referred to in subsection (1) of this
26 section shall be 60 days.

27 (3) The Commission or Authority shall reject an application within
28 the stipulated time limit with reasons and any rejected application shall be
29 tracked and accurate record of it kept.

30 (4) Default approvals shall be recorded in the appropriate register

Public access to
the registry

Default approvals

Disclosure of
confidential or
other information

1 by the Commission or Authority.

2 **227.**-(1) Where a director or employee of the Commission or
3 Authority, in the course of his duties, acquires information relating to the
4 financial affairs of any person or to any commercial secret or where any other
5 person indirectly acquires such or other information required to be kept
6 confidential under the provisions of this Act from any director or employee of
7 the Commission or Authority, he shall not make use of such information for any
8 unauthorised or unofficial purpose nor disclose it to any other person except-

9 (a) for the purpose of legal proceedings under this Act or any other
10 law; and

11 (b) to the extent that it may be necessary to do so for the purpose of
12 this Act or any other law;

13 (2) A director or employee of the Commission or Authority shall not,
14 for personal gain, make use of any information acquired by him in the course of
15 his duties within a period of 5 years after the date on which he ceased to be a
16 director or employee.

Offences

17 (3) Any person who contravenes subsection (1) of this
18 section commits an offence and is liable on conviction to the forfeiture of any
19 proceeds accruing to him on account of the contravention and to a fine or other
20 sanctions prescribed in regulation.

21 **228.**-(1) A person shall not-

22 (a) obstruct or assault any officer of the Commission or Authority or
23 any person authorised by the Commission or Authority in the exercise of the
24 powers conferred on the Commission or Authority under this Act;

25 (b) refuse any officer of the Commission or Authority or any person
26 authorised by the Commission or Authority, as the case may be, access to any
27 premises, facilities or retail outlets or refuse to submit to a search of any
28 premises, facilities or retail outlets by any authorised officer or agent of the
29 Commission or Authority; or

30 (c) fail to comply with any lawful demand, notice or order of an

1 officer or authorised person of the Commission or Authority in the execution
2 of the officer's duties under this Act.

3 (2) A person shall not-

4 (a) engage in any petroleum operations without a valid lease,
5 licence or permit where such lease, licence or permit is required under this
6 act;

7 (b) unlawfully remove, destroy or damage any facility used for
8 petroleum operations;

9 (c) furnish a statement or incomplete information calculated to
10 mislead or wilfully delay or obstruct the Commission or Authority and its
11 officers in the exercise of their duties;

12 (d) obstruct or fail to cooperate with the Commission or Authority
13 in its investigation of any suspected crime or corrupt practice;

14 (e) act in breach of any relevant network code, where applicable to
15 such person or in violation of the provisions of this Act in relation to the
16 allocation of available capacity, access and payment of tariffs in respect of
17 the use of any facility or infrastructure; or

Penalties

18 (f) use or permit its facility, infrastructure or equipment to be used
19 for or in relation to the Commission or Authority of any offence.

20 **229.-(1)** A person who violates the provisions of section 228 of this
21 Act commits an offence and is liable on conviction to a fine prescribed in
22 regulations.

23 (2) Where an offence has been committed under the provisions of
24 section 228 (2) (b) of this Act, the person who committed the offence shall
25 discontinue the operations of the affected infrastructure, facility or
26 equipment until any damage, alteration, malfunction or loss has been
27 rectified and all safety issues have been resolved.

28 (3) The Commission or Authority, as the case may be, may by
29 regulation, where necessary, review the amount of the penalty stipulated in
30 subsection (1) of this section to reflect the effect of inflation.

Refusal to furnish,
return or supply
information

- 1 **230.** A person who-
- 2 (a) fails or refuses to furnish, return or supply information to the
- 3 Commission or Authority or any other lawful authority at the time and in the
- 4 manner prescribed;
- 5 (b) furnishes a false or incomplete return;
- 6 (c) supplies false or incomplete information;
- 7 (d) wilfully delays or obstructs the Commission or Authority, its
- 8 officers and agents, police officers and other law enforcement officers in the
- 9 exercise of the powers or duties conferred or imposed on the Commission or
- 10 Authority under this Act; or
- 11 (e) conceals, fails or refuses, without reasonable cause, to supply
- 12 information required by the Commission or Authority or any duly empowered
- 13 lawful authority at the time and in the manner prescribed or when required to do
- 14 so,
- 15 commits an offence and is liable to a fine or a term of imprisonment as may be
- 16 prescribed in regulation.
- 17 **231.**-(1) The Commission or Authority, as the case may be, may
- 18 assess a penalty in the prescribed amount against any person for prescribed
- 19 contraventions of this Act, regulations or an order made pursuant to this Act.
- 20 (2) Prior to assessing a penalty, the Commission or Authority, as the
- 21 case may be, shall provide notice to the person -
- 22 (a) setting out the facts and circumstances that makes the person liable
- 23 to a penalty;
- 24 (b) specifying the amount of the penalty that is considered appropriate
- 25 in the circumstances; and
- 26 (c) informing the person of the person's right to make representations
- 27 to the Authority or Commission, as the case may be.
- 28 (3) A Person to whom notice is sent pursuant to subsection (2) of this
- 29 section may make representations to the Commission or Authority, as the case

1 may be, in respect of whether or not a penalty should be assessed and the
2 amount of the penalty.

3 (4) Representations subsection (3) of this section shall be made
4 within 30 days after the person received the notice under subsection (2) of
5 this section.

6 (5) After considering any representations made pursuant to
7 subsection (3) of this section, the Authority or Commission, as the case may
8 be, may:

9 (a) assess a penalty and set a date by which the penalty is to be paid
10 in full; or

11 (b) determine that no penalty should be assessed.

12 (6) The Authority or Commission, as the case may be, shall serve a
13 copy of its decision pursuant to subsection (5) of this section on the person
14 who made the representations.

Abandonment,
decommissioning
and disposal

15 **232.**-(1) The decommissioning and abandonment of onshore and
16 offshore petroleum wells, installations, structures, utilities, plants and
17 pipelines for petroleum operations shall be conducted in accordance with-

18 (a) good international petroleum industry practice; and

19 (b) guidelines issued by the Commission or Authority, as the case
20 may be, provided that the guidelines shall meet the standards prescribed by
21 the international maritime organisation on offshore petroleum installations
22 and structures.

23 (2) A decommissioning and abandonment shall not take place
24 without the written approval of the Commission or Authority, as the case
25 may be.

26 (3) The Commission or Authority, as the case may be, shall by
27 written notice, require a lessee, licensee or permit holder to commence the
28 decommissioning and abandonment of a well, installation, structure, utility
29 and pipeline, where such decommissioning and abandonment is required
30 under good international petroleum industry practices or the guidelines.

1 (4) In production sharing contracts or any other contractual
2 arrangement pursuant to section 84(2) of this Act responsibilities and liabilities
3 relating to decommissioning and abandonment as specified in this section and
4 section 233 of this Act shall apply to the licensee or lessee as contractor.

5 (5) A licensee or lessee may by written notice inform the Commission
6 or Authority, as the case may be, of its intention to decommission or abandon.

7 (6) Upon a notice in subsection (5) of this section, the lessee or
8 licensee, shall prior to any decommissioning and abandonment, submit to the
9 Commission or Authority, as the case may be, a programme setting out-

10 (a) estimate of the cost of the proposed measures;

11 (b) details of measures proposed to be taken in connection with the
12 shutdown of operations and decommissioning and abandonment of disused
13 installations, structures or other assets used in petroleum operations as the case
14 may be;

15 (c) clear descriptions of the methods to be employed to undertake the
16 work programme, which shall be in line with good international petroleum
17 industry practices and environmental development;

18 (d) steps to be taken to ensure maintenance and safeguard, where any
19 installation, structure or pipeline remained disused and in position or are to be
20 partly removed with respect to deep and ultra-deep water environment and
21 where the installation, structure or pipeline is partly removed, the licensee or
22 lessee shall remain liable for any residual liability arising from the installation,
23 structure or pipeline not removed; and

24 (e) assessment of the environmental and social impact of the
25 decommissioning and abandonment measures.

26 (7) Onshore installations and structures shall be completely removed
27 and the environment restored to its original condition, except for buried
28 transportation pipelines and gathering lines.

29 (8) Except for the abandonment of wells, upon the submission of a
30 decommissioning and abandonment programme by the licensee or lessee to the

1 Commission or Authority, as the case may be, consultations shall be made
2 with interested parties and other relevant public authorities and bodies.

3 (9) The programme referred to in subsection (6) of this section
4 shall not be approved unless relevant environmental, technical and
5 commercial regulations or standards are complied with.

6 (10) Prior to the approval of an application or programme for
7 decommissioning and abandonment, the Commission or Authority, as the
8 case may be, shall ensure that-

9 (a) considerations and recommendations are taken in the light of
10 individual circumstances;

11 (b) the potential for reuse of a transportation pipeline together with
12 other existing facility in connection with further hydrocarbon developments
13 is considered before decommissioning;

14 (c) all feasible decommissioning options have been considered and
15 a comparative assessment made;

16 (d) any removal or partial removal of an installation, structure or
17 transportation pipeline is to be performed in a manner that guarantees
18 sustainable environmental development; and

19 (e) any recommendation to leave an installation, structure or
20 gathering line in place is made with regard to its likely deterioration and to
21 the present, possible and future effects on the environment and in the case of
22 offshore installations and structures, consistent with the applicable good
23 international petroleum industry practices.

24 (11) The Commission or Authority, as the case may be, shall
25 enforce compliance by any holder of a current licence or lease or a holder of
26 an expired Licence or Lease and who was responsible for the applicable
27 decommissioning and abandonment plan with respect to a licence or lease
28 that has expired, to carry out its remaining or unfulfilled decommissioning
29 and abandonment obligations under this Act.

30 (12) In archiving and maintaining the database of installations,

1 structures and assets set out in subsection (14) of this section the Commission
2 or Authority, as the case may be, shall prescribe the manner and method in
3 which the data shall be submitted by operators.

4 (13) The Commission or Authority, as the case may be, may recall a
5 licensee or lessee responsible for a decommissioning and abandonment
6 programme with respect to a licence or lease that has expired or is surrendered
7 or a licensee or lessee that has transferred or divested its interest or equity, to
8 carry out an obligation under this Act.

9 (14) The Commission or Authority, as the case may be, shall ensure
10 that a list of the installations, structures and pipelines onshore and offshore
11 Nigeria used for petroleum operations and their current status is compiled and
12 made available or accessible to the public annually.

Decommissioning
and abandonment
fund

13 **233.**-(1) Each lessee and licensee shall set up and maintain a
14 decommissioning and abandonment fund, which shall be held by a financial
15 institution that is not an affiliate of the lessee or licensee.

16 (2) The decommissioning and abandonment fund shall only be used
17 to pay for decommissioning and abandonment costs.

18 (3) Where a lessee or a licensee fails to comply with the
19 decommissioning and abandonment plan, the decommissioning and
20 abandonment fund shall be accessed by the Commission or Authority, as the
21 case may be, to pay for the performance by a third party of such lessee's or
22 licensee's obligations pursuant to section 232 of this Act.

23 (4) The amounts to be contributed to the decommissioning and
24 abandonment fund shall be based on the following-

25 (a) with respect to upstream petroleum operations, on the
26 decommissioning and abandonment plan approved by the Commission in the
27 field development plan required by Section 79 (2) of this Act and where-

28 (i) no decommissioning and abandonment plan exists, and

29 (ii) a Field is in development or producing,

30 the lessee shall submit a decommissioning and abandonment plan based on the

1 criteria established in section 232 (6) of this Act within 1 year of the effective
2 date, which when approved by the Commission, shall form the basis of the
3 computation of the amount to be contributed by the lessee; and

4 (b) with respect to midstream petroleum operations, on the
5 decommissioning and abandonment plan submitted pursuant to section
6 111(3) of this Act and where no such plan exists, the licensee shall submit a
7 decommissioning and abandonment plan to the Authority based on the
8 criteria established in section 232 (6) of this Act within 1 year of the effective
9 date, which once approved by the Authority shall form the basis of the
10 computation of the amount to be contributed by the licensee.

11 (5) The decommissioning and abandonment plan shall establish
12 the yearly amount to be contributed to the respective decommissioning and
13 abandonment fund and the yearly amount shall be based on a reasonable
14 estimate by the licensee or lessee of the applicable decommissioning and
15 abandonment costs, projected forward on a nominal basis and divided by the
16 estimated life of the facilities and the reasonable cost estimate shall be
17 approved by the Commission or Authority, as the case may be.

18 (6) The estimated life of the facilities referred to in subsection (5)
19 of this section shall be based on the-

20 (a) estimated life of the Field, in case of facilities used for upstream
21 petroleum operations, and

22 (b) period of time for which the safe operations of the facilities
23 were designed, in case of facilities used for midstream petroleum
24 operations.

25 (7) The estimated yearly contribution pursuant to subsection (5) of
26 this section shall be reviewed every 10 years following the first submission.

27 (8) A decommissioning and abandonment fund shall be funded by
28 the applicable Licensee or lessee based on the yearly amount established in
29 subsection (5) of this section and as provided in regulation.

30 (9) A licensee or lessee shall-

1 (a) inform the Commission or Authority, as the case may be, of the
2 establishment of its decommissioning and abandonment fund not more than 3
3 months from the date of commencement of production for upstream petroleum
4 operations or the commissioning of the facilities for midstream petroleum
5 operations; and

6 (b) furnish the Commission or Authority, as the case may be, on an
7 annual basis with statements of accounts with respect to its decommissioning
8 and abandonment fund.

9 (10) The decommissioning and abandonment fund shall be used
10 exclusively for the purposes of decommissioning and abandonment of
11 structures and facilities as provided in this section.

12 (11) Where the licensee or lessee is party to a production sharing or
13 farm out agreement pursuant to section 84 (1) of this Act with one or more third
14 parties, a decommissioning and abandonment plan funded in whole or in part
15 by the applicable third parties shall be provided for in the applicable production
16 sharing or farm out agreement.

17 (12) From the effective date, contributions to the decommissioning
18 and abandonment Fund shall be eligible for cost recovery and shall be tax
19 deductible, provided that decommissioning and abandonment costs disbursed
20 from the decommissioning and abandonment fund shall not be eligible for cost
21 recovery or deductible for tax purposes.

22 (13) Where there is excess in the decommissioning and abandonment
23 fund after the decommissioning and abandonment has been carried out and
24 approved by the Commission or the Authority, as the case may be, the excess
25 shall be considered income for production sharing or tax purposes and the
26 amount after the withholding of profit oil and any tax shall be returned to the
27 licensee or lessee.

Objectives and
regulations

28

CHAPTER THREE

29

HOST COMMUNITIES DEVELOPMENT

30

234.-(1) The objectives of this Chapter are to-

- 1 (a) foster sustainable prosperity within host communities;
- 2 (b) provide direct social and economic benefits from petroleum
3 operations to host communities;
- 4 (c) enhance peaceful and harmonious co-existence between
5 licensees or lessees and host communities; and
- 6 (d) create a framework to support the development of host
7 communities.
- 8 (2) The Commission and Authority may make regulations with
9 respect to this Chapter on areas within their competence and jurisdiction as
10 specified in this Act.
- 11 **235.-**(1) Settlor shall incorporate a trust for the benefit of the host
12 communities for which the settlor is responsible ("host community
13 development trust").
- 14 (2) Where there is a collectivity of settlors operating under a joint
15 operating agreement with respect to upstream petroleum operations, the
16 operator appointed under the agreement shall be responsible for compliance
17 with this Chapter on behalf of the Settlers.
- 18 (3) For settlors operating in shallow water and deep offshore, the
19 littoral communities and any other community determined by the settlors
20 shall be host communities for the purposes of this Act.
- 21 (4) The settlor shall for the purposes of setting up the trust, appoint
22 and authorise a body trustees (the " Board of Trustees"), which shall apply to
23 be registered by the Corporate Affairs Commission as a corporate body
24 under the Companies and Allied Matters Act in the manner provided under
25 this Chapter.
- 26 (5) The name of the corporate body to be registered by the Board
27 of Trustees shall contain the phrase "host communities development trust".
- 28 (6) The Commission or the Authority, as the case may be, shall-
- 29 (a) make regulations on the administration, guide and safeguard
30 the utilisation of the trust fund; and

Incorporation of
host communities
development
trusts

Timeframe for
incorporation of
host communities
development trust

1 (b) have the oversight responsibility for ensuring that the projects
2 proposed by the board of trustees are implemented.

3 (7) The Settlor shall undertake needs assessment that the
4 metamorphose into the Community Development Plan for the purpose of
5 determining the projects to be undertaken by the Host Communities
6 Development Trust.

7 **236.** The host communities development trust shall be incorporated-

8 (a) within 12 months from the effective date for existing oil mining
9 leases;

10 (b) within 12 months from the effective date for existing designated
11 facilities;

12 (c) within 12 months from the effective date for existing for new
13 designated facilities under construction on the effective date;

14 (d) prior to the application for field development plan for existing oil
15 prospecting licences;

16 (e) prior to the application for field development plan for petroleum
17 prospecting licences and petroleum mining leases granted under this Act; and

Transfer of
settlor's interest
and obligations
subject to host
communities
development
trust obligation

18 (f) prior to commencement of commercial operations for licensees of
19 designated facilities granted under this Act.

20 **237.**-(1) Subject to the provisions of this Act, where the whole or part
21 of an interest in a licence or lease governed by this Act is assigned, novated or
22 otherwise transferred to another party, the legal and equitable interest, rights
23 and obligations of the transferor in relation to any associated host community
24 development plan and host community development trust, shall be deemed to
25 attach to the property to be transferred to the transferee, the legal and equitable
26 interests, rights and obligations of the transferor shall be deemed to become the
27 interests, rights and obligations of the transferee.

28 (2) Where part of a licence or lease governed by this Act is
29 surrendered pursuant to the provisions of this Act, the holder or holder nominee
30 will continue to discharge its surviving obligations, notwithstanding that the

1 area that is surrendered may be granted to a new lessee or licensee.

2 (3) Where any licence or lease governed by this Act is revoked,
3 terminated or expired, the holder will continue to discharge its surviving
4 obligations, notwithstanding that the area revoked, terminated or expired
5 may be granted to a new lessee or licensee.

Failure to
incorporate host
communities
development trust

6 **238.** Failure by any holder of a licence or lease governed by this Act
7 to comply with its obligations under this Chapter may be grounds for
8 revocation of the applicable licence or lease.

Objectives of host
communities
development trust

9 **239.**-(1) The Constitution of the host communities development
10 trust shall allow the host communities development trust to manage and
11 supervise the administration of the annual contribution of the Settlor
12 contemplated under this Chapter and any other sources of funding.

13 (2) The objectives of the host communities development trust shall
14 be specified in the constitution as set out in paragraphs (a) to (e) of
15 subsection (3) of this section.

16 (3) The objectives of the host community development trust shall
17 include, to-

18 (a) finance and execute projects for the benefit and sustainable
19 development of the host communities;

20 (b) undertake infrastructural development of the host communities
21 within the scope of funds available to the Board of Trustees for such
22 purposes;

23 (c) facilitate economic empowerment opportunities in the host
24 communities;

25 (d) advance and propagate educational development for the benefit
26 of members of the host communities;

27 (e) support healthcare development for the host communities;

28 (f) support local initiatives within the host communities, which
29 seek to enhance protection of the environment;

30 (g) support local initiatives within the host communities which

1 seek to enhance security;

2 (h) invest part of available fund for and on behalf of the host
3 communities; and

4 (i) assist in any other developmental purpose deemed beneficial to the
5 host communities as may be determined by the Board of Trustees.

6 (4) Notwithstanding the provisions of this Act relating to funding of
7 the trust fund, nothing shall preclude the host communities from their
8 entitlements under any other law.

Sources of funding
for petroleum host
communities
development
trust

9 **240.**-(1) The constitution of each host community development trust
10 shall establish a fund comprising of one or more accounts ("host community
11 development trust fund") to be funded pursuant to this section.

12 (2) Each settlor, where applicable through the operator, shall make an
13 annual contribution to the applicable host community development trust fund
14 of an amount equal to 2.5% of its actual operating expenditure in the
15 immediately preceding calendar year in respect of all petroleum operations
16 affecting the host communities for which the applicable host community
17 development trust was established.

18 (3) Each host community development trust may receive donations,
19 gifts, grants or honoraria that are provided to such host community
20 development trust for the attainment of its objectives.

21 (4) Profits and interest accruing to the reserve fund of a host
22 community development trust shall also be contributed to the applicable host
23 community development trust fund.

Matters on which
the funds may be
utilised

24 **241.** The constitution of each host community development trust shall
25 provide that the applicable host community development trust fund be used
26 exclusively for the implementation of the applicable host community
27 development plan.

The Board of
trustees,
composition,
management, etc.

28 **242.**-(1) The constitution of the host communities development trust
29 shall contain provisions requiring the Board of Trustees to be set up by the
30 settlor, who shall determine its membership and the criteria for their

1 appointment, provided that the membership of the Board of Trustees of the
2 host communities development trust shall be subject to the approval of the
3 Commission or the Authority, as the case may be.

4 (2) The settlor shall, in the determination of membership of the
5 Board of Trustees, include persons of high integrity and professional
6 standing, who may not necessarily come from any of the host communities.

7 (3) The settlor shall determine-

8 (a) the selection process, procedure for meeting, financial
9 regulations and administrative procedures of the Board of Trustees

10 (b) the remuneration, discipline, qualification, disqualification,
11 suspension and removal of members of the Board of Trustees; and

12 (c) other matters other than the above relating to the operation and
13 activities of the Board of Trustees.

14 (4) Each member of the Board of Trustees shall serve a term of 4
15 years in the first instance and may be reappointed for another term of 4 years
16 and no more.

17 (5) The Board of Trustees shall have a secretary, who shall be
18 appointed by the settlor to keep the books of the Board.

Duties and
functions of the
Board of Trustees

19 **243.** The Board of Trustees shall be responsible for the general
20 management of the host communities development trust and shall be
21 responsible for-

22 (a) determining the criteria, process and proportion of the host
23 communities development trust fund to be allotted to specific development
24 programs;

25 (b) approving the projects for which the host communities
26 development trust fund shall be utilised;

27 (c) providing general oversight of the projects for which the host
28 communities development trust fund shall be utilised;

29 (d) approving the appointment of fund managers for purposes of
30 managing the reserve fund;

	1	(e) set up the management committee of the host communities
	2	development trust and appoint its members; and
Allocation of funds	3	(f) determining the allocation of funds to host communities based on
	4	the matrix provided by the settlor.
	5	244. The Board of Trustees shall in each year and pursuant to section
	6	240 of this Act allocate from the host communities development trust fund, a
	7	sum equivalent-
	8	(a) 75% to the capital fund out of which the Board of Trustees shall
	9	make disbursements for projects in each of the host community as may be
	10	determined by the management committee in furtherance of the objectives set
	11	out in section 234 of this Act, provided that any sums not utilised in a given
	12	financial year shall be rolled over and utilized in subsequent year;
	13	(b) 20% to the reserve fund, which sums shall be invested for the
	14	utilisation of the host community development trust whenever there is a
	15	cessation in the contribution payable by the settlor; and
	16	(c) to an amount not exceeding 5% to be utilised solely for
	17	administrative cost of running the trust and special projects, which shall be
	18	entrusted by the Board of Trustee to the settlor, provided that at the end of each
	19	financial year, the settlor shall render a full account of the utilisation of the fund
Matrix for distribution of trust fund	20	to the Board of Trustees and where any portion of the Fund is not utilised in a
	21	given year, it shall be returned to the capital fund.
	22	245.-(1) The settlor shall provide to the Board of Trustees a matrix for
	23	distribution of the trust fund to the host communities.
	24	(2) The Board of Trustees shall utilize the matrix provided under
Engagement of fund managers	25	subsection (1) of this section for distribution of the funds in the host
	26	communities development trust fund to each of its host communities.
	27	246.-(1) The Board of Trustees shall engage a Fund Manager to
	28	invest the reserve fund as the fund accrues.
	29	(2) The Board of Trustees shall manage the interest and profits

1 accruable from the investment of the reserve fund and allocate the gain in
2 accordance with section 244 of this Act. Management
committee,
composition,
powers, etc.

3 **247.**-(1) The constitution of the host communities development
4 trust shall contain provisions requiring the Board of Trustees to set up a
5 management committee for the host communities development trust.

6 (2) The membership of the management committee shall
7 comprise-

8 (a) one representative of each host community, who shall be
9 nominated by the host community as a non-executive member; and

10 (b) executive members, selected by the board of trustees, who shall
11 be Nigerians of high integrity and professional standing, who may not
12 necessarily be from any of the host communities and the number of
13 executive members shall be determined by the settlor.

14 (3) A person appointed under paragraphs (a) and (b) of subsection
15 (2) of this section, shall serve a term of 4 years in the first instance and may
16 be reappointed for another term of 4 years and no more.

17 (4) The Board of Trustees shall in accordance with the host
18 communities development trust determine-

19 (a) the selection process, procedure for meetings, financial
20 regulations and administrative procedures of the management committee;

21 (b) the remuneration, discipline, qualification, disqualification,
22 suspension and removal of members of the management committee; and

23 (c) any other matter relating to the operations and activities of the
24 management committee.

25 (5) The management committee shall have a secretary, who shall
26 be appointed by the settlor to keep the books of the committee. Duties and
functions of the
management
committee

27 **248.** The management committee shall be responsible for the
28 general administration of the host communities development trust on an ad
29 hoc basis and be responsible for the-

30 (a) preparation of the budget of the host communities development

- 1 trust and submit it to the Board of Trustees for approval;
- 2 (b) development and management of the contracting process for
3 project award on behalf of the host communities development trust subject to
4 approval of the Board;
- 5 (c) determination of project award winners and contractors to execute
6 projects on behalf of the host communities development trust through a
7 transparent process subject to approval of the Board;
- 8 (d) supervision of projects execution;
- 9 (e) nomination of fund managers for appointment by the Board of
10 Trustees for approval, to manage the reserve fund;
- 11 (f) reporting on the activities of the management committee,
12 contractors and other service providers to the Board of Trustees; and
- 13 (g) undertaking of any other function and duty that may be assigned to
14 it by the Board of Trustees to enhance the performance of the host communities
15 development trust.

Host community
advisory committee,
composition, etc.

- 16 **249.**-(1) The constitution of the host communities development trust
17 shall contain provisions mandating the management committee to require each
18 host community to set up an advisory committee ("Host Community Advisory
19 Committee").
- 20 (2) The management committee shall in accordance with the
21 constitution of the host community development trust, determine-
- 22 (a) the selection process, procedure for meetings, financial
23 regulations and administrative procedures of the host community advisory
24 committee;
- 25 (b) the remuneration, discipline, qualification, disqualification,
26 suspension and removal of members of the host community advisory
27 committee; and
- 28 (c) any other matter relating to the operations and activities of host
29 community advisory committee.

- 1 (3) Decisions of the management committee with respect to
2 subsection (2) of this section shall be subject to the approval of the Board. Duties and
functions of the
host community
advisory committee
- 3 **250.** The host community advisory committee shall perform the
4 following functions-
- 5 (a) nominate member to represent the host communities on the
6 management committee;
- 7 (b) articulate community development projects to be transmitted to
8 the management committee;
- 9 (c) monitor and report progress of projects being executed in the
10 community to the management committee;
- 11 (d) advise the management committee on activities that may lead
12 to improvement of security of infrastructure and enhancement of peace-
13 building within the community and the entire area of operation; and
- 14 (e) take responsibility for first line protection of facilities and
15 ensure that petroleum operations are uninterrupted by members of their
16 community failing which, benefits from the trust to the host community Host community
needs assessment
17 shall be disallowed.
- 18 **251.-(1)** The settlor shall after the grant of any licence or lease
19 issued pursuant to this Act, conduct a needs assessment ("Host Community
20 Needs Assessment") in accordance with this Act and regulations made
21 pursuant to this Act.
- 22 (2) Each host community needs assessment shall, from a social,
23 environmental, and economic perspective-
- 24 (a) determine the specific needs of each affected host community;
- 25 (b) ascertain the effect that the proposed petroleum operations
26 might have on the host community; and
- 27 (c) provide a strategy for addressing the needs and effects
28 identified.
- 29 (3) Each host community needs assessment shall show that the
30 settlor has-

	1	(a) engaged with each affected host community to understand the
	2	issues and needs of such host community;
	3	(b) consulted with and considered the reasonable concerns of women,
	4	youth and community leaders; and
	5	(c) engaged with each affected host community in developing a
	6	strategy to address the needs and effects identified in the applicable Host
	7	community needs assessment.
	8	(4) The settlor shall develop a host community development plan and
	9	shall submit to the Commission or Authority, as the case may be, based on the
Contents of host	10	findings of the host community needs assessment, in order to undertake its
community	11	oversight function preparatory to the establishment of the trust.
development	12	252. The host community development plan shall-
plans	13	(a) specify the community development initiatives required to
	14	respond to the findings and strategy identified in the host community needs
	15	assessment;
	16	(b) determine and specify the projects to implement the specified
	17	initiatives;
	18	(c) provide a detailed timeline for projects;
	19	(d) determine and prepare the budget of the host community
	20	development plan;
	21	(e) set out the reasons and objectives of each project as supported by
	22	the host community needs assessment;
	23	(f) conform with the Nigerian content requirements provided in the
Financial year	24	Nigerian Oil and Gas Industry Content Development Act; and
of the host	25	(g) provide for ongoing review and reporting to the Commission.
communities	26	253. The financial year of the host communities development trust
development	27	shall commence on the 1st day of January and end on the 31st December of
trust	28	each year or any other date set for this purpose by the Board of Trustees.
Accounts and	29	254. The constitution of the host communities development trust shall
audit	30	contain provisions requiring the Board of Trustees to-

1 (a) keep account of the financial activities of the host communities
2 development trust; and

3 (b) appoint auditors to audit the accounts of the host communities Mid-year and
4 development trust annually. annual reports

5 **255.** The constitution of the host communities development trust
6 shall contain provisions requiring the-

7 (a) management committee to submit a mid-year report of its
8 activities to the Board of Trustees not later than 31st of August of the
9 particular year;

10 (b) management committee to submit an annual report
11 accompanied by its audited account to the Board of Trustees not later than
12 28th of February of the succeeding year;

13 (c) Board of Trustees to submit an annual report of the activities of
14 the host communities development trust accompanied by its audited account
15 to the settlor not later than 31st of March of the particular year; and

16 (d) settlor to submit an annual report of the activities of the host
17 community development trust accompanied by its audited account to the
18 Commission or Authority, as the case may be, not later than 31st of May of Exemption from
19 the particular year. income tax

20 **256.** The funds of the host communities development trust created
21 pursuant to this Act shall be exempted from taxation. Deduction of
22 payment for
23 petroleum host
24 community
25 development

26 **257.-(1)** Any payment made by the settlor pursuant to section
27 240(2) of this Act, shall be deductible for the purposes of hydrocarbon tax
28 and companies income tax as applicable.

29 (2) Where in any year, an act of vandalism, sabotage or other civil
30 unrest occurs that causes damage to petroleum and designated facilities or
disrupts production activities within the host community, the community
shall forfeit its entitlement to the extent of the cost of repairs of the damage
that resulted from the activity with respect to the provisions of this Act
within that financial year.

1 (3) The basis for computation of the trust fund in any year shall always
2 exclude the cost of repairs of damaged facilities attributable to any act of
3 vandalism, sabotage or other civil unrest.

4 CHAPTER FOUR

5 PETROLEUM INDUSTRY FISCAL FRAMEWORK

Objectives

6 PART I

7 OBJECTIVES AND ADMINISTRATION

8 **258.** The objectives of this Chapter are to-

9 (a) establish a progressive fiscal framework that encourages
10 investment in the Nigerian petroleum industry, balancing rewards with risk and
11 enhancing revenues to the Federal Government of Nigeria;

12 (b) provide a forward-looking fiscal framework that is based on core
13 principles of clarity, dynamism and fiscal rules of general application;

14 (c) establish a fiscal framework that expands the revenue base of the
15 Federal Government, while ensuring a fair return for investors;

16 (d) simplify the administration of petroleum tax; and

Administration

17 (e) promote equity and transparency in the petroleum industry fiscal
18 regime.

19 **259.** From the commencement of this Act, the administration and
20 collection of Government revenue in the petroleum industry shall be the
21 function of the Federal Inland Revenue Service (the Service) and the
22 Commission as follows-

23 (a) the Service shall be responsible for the assessment and collection
24 of-

25 (i) hydrocarbon tax and enforcement of the provisions of this Act as it
26 relates to hydrocarbon tax assessment and revenue collection, and

27 (ii) companies income tax and tertiary education tax in accordance
28 with this Act as it relates to taxable petroleum operations;

29 (b) The Commission shall be responsible for the determination and
30 collection of-

- 1 (i) rents and royalties and its enforcement under this act; and
2 (ii) related payments or production shares, where the model
3 contract includes provisions related to production sharing, profit sharing or
4 risk service provisions.

PART II

Application of
this Part

HYDROCARBON TAX

7 **260.**-(1) This part applies to companies engaged in upstream
8 petroleum operations in the onshore, shallow water and deep offshore;
9 provided that the hydrocarbon tax under this part shall not apply to-

- 10 (a) associated and non-associated natural gas; and
11 (b) condensates and natural gas liquids produced from non-
12 associated gas in fields or gas processing plants, provided the related
13 volumes are determined at the measurement points or at the exit of the gas
14 processing plant, regardless of whether the condensates or natural gas
15 liquids are subsequently comingled with crude oil.

16 (2) Hydrocarbon tax shall apply to crude oil, condensates and
17 natural gas liquids produced from associated gas.

18 (3) The costs of production of associated gas, upstream of the
19 measurement point shall be allocated to crude oil for the purposes of
20 calculating hydrocarbon tax, provided that costs solely attributable to
21 production of associated gas shall not be allocated to crude oil, but may be
22 claimed under the Companies Income Tax Act (CITA).

23 (4) This Part shall not apply to a frontier acreage until it is
24 reclassified pursuant to the provisions of subsection (3) of section 68 of this
25 Act.

26 (5) For the purpose of determining royalties, condensates shall be
27 treated as crude oil and natural gas liquids as natural gas.

Charge of
hydrocarbon tax

28 (6) Upstream petroleum operations shall be subject to CITA.

29 **261.** There shall be levied upon the profits of any company
30 engaged in upstream petroleum operations in relation to crude oil a tax to be

1 known as hydrocarbon tax, which shall be charged and assessed upon its profits
2 related to such operations and payable during each accounting period in
3 accordance with the provisions of this Act, provided that for production
4 sharing contract executed prior to the commencement of this Act and converted
5 pursuant to section 92 of this Act, hydrocarbon tax shall be charged and
6 assessed separately on the profits from each and every petroleum mining lease
7 and payable during each accounting period in accordance with the provisions
8 of this Act.

Ascertainment
of crude oil
revenue, adjusted
profit, assessable
profits and
chargeable profits

9 **262.**-(1) Subject to the provisions of this Act, in relation to any
10 accounting period, the crude oil revenue of a company for that period shall be
11 the value of any chargeable oil adjusted to the measurement points, based on
12 the-

13 (a) proceeds of all chargeable oil sold; and

14 (b) value of all chargeable oil disposed.

15 (2) For the purpose of subsection (1) of this section, the value of any
16 chargeable oil disposed of, shall be regarded as the aggregate of the value of
17 that crude oil determined for royalties for all fields in accordance with the
18 provisions of this Act or any applicable law.

19 (3) The adjusted profits of an accounting period shall be the profits of
20 that period after the deductions allowed by section 263 (1) of this Act.

21 (4) The assessable profit of an accounting period shall be the adjusted
22 profit of that period after any deduction allowed by section 265 of this Act.

23 (5) The chargeable profits of an accounting period shall be the
24 assessable profits of that period after the deduction allowed by section 266 of
25 this Act.

Allowable
deductions

26 **263.**-(1) In computing the adjusted profit of a company in upstream
27 petroleum operations related to crude oil for any accounting period, there shall
28 be deducted expenses wholly, reasonably, exclusively and necessarily incurred
29 during that period for the following, including but without otherwise
30 expanding or limiting the generality of the foregoing -

1 (a) rents incurred by the company for the period pursuant to a
2 petroleum mining lease or petroleum prospecting licence;

3 (b) all Royalties the liability for which was incurred and were paid
4 by the company during that period in respect of crude oil and associated gas
5 and where a petroleum mining lease includes payments to the Federation
6 Account related to production sharing, profit sharing, risk service contracts
7 or other contractual features under a Model Contract and the company has
8 incurred liability for such payments in kind or in cash;

9 (c) operating expenses for upstream petroleum operations
10 including expenses directly incurred for repair of premises, plant,
11 machinery or fixtures employed for the purpose of carrying on production
12 activities or for the renewal, repair or alteration of production implement,
13 utensils or articles so employed;

14 (d) an expenditure, tangible or intangible directly incurred in
15 connection with the drilling of the first exploration well and the first two
16 appraisal wells in the same field, whether the wells are productive or not,
17 provided that subsequent exploration wells, appraisal wells and other wells
18 shall be treated as qualifying drilling expenditure under the Fifth Schedule
19 to this Act and where a deduction may be given under this section in respect
20 of any such expenditure, that expenditure shall not be treated as qualifying
21 drilling expenditure for the purpose of the Fifth Schedule to this Act;

22 (e) any contribution to a pension, provident or other society,
23 scheme or fund for production staff which may be approved, with or without
24 retrospective effect, by the National Pension Commission subject to such
25 general conditions or particular conditions in the case of the society, scheme
26 or fund as the Service may prescribe, provided that any sum received by or
27 the value of any benefit obtained by the company, from any approved
28 pension, provident or other society, scheme or fund, in the accounting period
29 of that company shall, for the purpose of section 262(1) of this Act, be
30 treated as income of the company for that accounting period;

1 (f) any amount contributed to a fund, scheme or arrangement
2 approved by the Commission for the purpose of decommissioning and
3 abandonment, provided that the surplus or residue of the fund shall be subject
4 to tax under this Act at the end of life of the field, where such surplus is returned
5 to the lessee;

6 (g) sums incurred by way of interest on any money borrowed by the
7 company, where the Commission is satisfied that the interest was payable on
8 capital employed for upstream petroleum operations and that the respective
9 interest rates reflect market conditions;

10 (h) all sums the liability of which was incurred by the company to the
11 Federal Government or any State or Local Government Council by way of
12 duty, customs duty, excise duty, stamp duties, taxes, fees or like charges; and

13 (i) any amount contributed to any fund, scheme or arrangement
14 approved by the Commission pursuant to the establishment of Host
15 Community Development Trusts under Chapter Three of this Act,
16 Environmental Remediation Fund and Niger Delta Development Commission
17 and other similar contributions.

18 (2) Where a deduction has been allowed to a company under this
19 section in respect of a liability of the company and the liability or part of the
20 liability is waived, released or recovered, the amount of the deduction or the
21 part of the liability corresponding to the part of the liability shall, for the
22 purpose of section 262(1) of this Act, be treated as income of the company of its
23 accounting period, in which such waiver or release was made or given.

Deductions not
allowed

24 **264.** Subject to the express provisions of this Act, for the purpose of
25 ascertaining the adjusted profit of a company in the accounting period from its
26 upstream petroleum operations applicable to crude oil, no deduction shall be
27 allowed in respect of-

28 (a) disbursements or expenses not being money wholly, reasonably,
29 exclusively and necessarily incurred for the purpose of those operations;

30 (b) expenditure for the purchase of information relating to the

1 existence and extent of petroleum deposits;

2 (c) expenditure incurred as a penalty, natural gas flare fees or
3 imposition relating to natural gas flare;

4 (d) financial or bank charges, arbitration and litigation costs, bad
5 debts and interest on borrowing other than pursuant to section 263(1)(g) of
6 this Act;

7 (e) head office, costs incurred outside Nigeria or affiliate cost;

8 (f) production bonuses, signature bonuses paid for the acquisition
9 of, or of rights in or over, petroleum deposits, bonuses or fees paid for
10 renewing petroleum mining lease or petroleum prospecting licence or
11 marginal field or fees paid for assigning rights to another party;

12 (g) tax inputted into a contract or an agreement on a net tax basis
13 and paid by a company on behalf of the vendor or contractor;

14 (h) capital withdrawn or sum employed or intended to be employed
15 as capital;

16 (i) capital employed in improvements as distinct from repairs;

17 (j) sum recoverable under an insurance or contract of indemnity,
18 except an amount that is not recovered under the scheme;

19 (k) rent of or cost of repairs to any premises or part of premises not
20 incurred for the purpose of those operations;

21 (l) amounts incurred in respect of tertiary education tax, companies
22 income tax, any income tax, profits tax or other similar taxes, whether
23 charged within Nigeria or elsewhere;

24 (m) the depreciation of any premises, buildings, structures, works
25 of a permanent nature, plant, machinery or fixtures;

26 (n) payment to provident, savings widows' and orphans' or other
27 society, scheme or fund, except such payments as are allowed under section
28 263(1)(e) of this Act; and

29 (o) costs pursuant to paragraph 2(2)(c) of the Sixth Schedule to this
30 Act.

1 **265.**-(1) The assessable profits for each company or petroleum
2 mining lease for any accounting period shall be the amount of the adjusted
3 profit of that period after the deduction of the amount of any loss incurred by
4 that company during any previous accounting period.

5 (2) A deduction under subsection (1) of this section shall be made so
6 far as possible from the amount, if any, of the adjusted profit of the first
7 accounting period after that in which the loss was incurred, and, so far as it
8 cannot be so made, then from the amount of the adjusted profit of the next
9 succeeding accounting period and so on until such loss is fully deducted.

Chargeable
profits and
allowances t

10 **266.**-(1) The chargeable profits of any company for any accounting
11 period shall be the amount of the assessable profits of that period after the
12 deduction of any amount to be allowed in accordance with the provisions of
13 this section, namely-

14 (a) the aggregate amount of capital allowances due to the company
15 under the provisions of the Fifth Schedule to this Act for the accounting period;

16 (b) the aggregate amount of all production allowances due to the
17 company under the provisions of the Sixth Schedule to this Act for the
18 accounting period; and

19 (c) in the case of acquisition costs of petroleum rights, the value of the
20 rights and the value of the assets acquired shall be reported separately to the
21 Service, provided that the value of the rights shall be eligible for annual
22 allowance of 10% per annum and the value of the assets shall be depreciated
23 based on the applicable depreciation rates for the respective assets, and there
24 shall be a retention of 1% in the last year until the asset is disposed of.

25 (2) In determining the chargeable profit, the total cost shall not exceed
26 the cost-price ratio as determined in the Sixth Schedule.

Chargeable Tax

PART III

ASCERTAINMENT OF CHARGEABLE TAX

27
28
29 **267.** The chargeable tax for any accounting period of a company shall
30 be a percentage of the chargeable profit for that period aggregated and it shall

1 be-

2 (a) 42.5% of the profit from crude oil for onshore areas for
3 petroleum mining Leases selected pursuant to sections 93(6)(b) and
4 93(7)(b) of this Act;

5 (b) 37.5% of the profit from crude oil for shallow water areas for
6 petroleum mining leases selected pursuant to sections 93(6)(b) and 93(7)(b)
7 of this Act;

8 (c) 22.5% of profit from crude oil for onshore areas for new
9 licences and leases granted after the commencement of this Act and for
10 marginal fields in onshore areas;

11 (d) 20.0% of profit from crude oil for shallow water areas for new
12 licences and leases granted after the commencement of this Act and for
13 marginal fields in shallow water areas;

14 (e) 5% of the profit from crude oil from deep offshore areas for
15 petroleum mining leases selected pursuant to sections 93(6)(b) and 93(7)(b)
16 of this Act; and

17 (f) 10% of profit from crude oil for deep offshore areas for new
18 licences and leases granted after the commencement of this Act.

Additional
Chargeable Tax
payable in certain
circumstances

19 **268.-(1)** Where, for any accounting period of a company, the
20 amount of the chargeable tax for that period, calculated in accordance with
21 the provisions of this Act other than this Section, is less than the amount
22 mentioned in subsection (2) of this Section, the company shall be liable to
23 pay an additional amount of chargeable tax for that period equal to the
24 difference between those two amounts.

25 (2) The amount referred to in subsection (1) of this section is, for
26 any accounting period of a company, the amount which the chargeable tax
27 for crude oil for that period, calculated in accordance with the provisions of
28 this Act, would come to, in the case of crude oil exported from Nigeria by the
29 company, the reference in section 262(1)(a) of this Act to the proceeds of
30 sale were a reference to the amount obtained by multiplying the number of

1 barrels of that crude oil determined at the measurement point by the fiscal oil
2 price per barrel.

3 (3) For the purpose of subsection (2) of this section the relevant sum
4 per barrel of crude oil or condensate by a company is the fiscal oil price
5 applicable to that crude oil as may be advised by the Commission.

6 (4) The whole of any additional chargeable tax for crude oil and
7 associated gas payable by a company by virtue of this section for any
8 accounting period shall be payable concurrently with the final instalment of the
9 chargeable tax payable for that period.

10 (5) Every fiscal oil price per barrel established shall bear a fair and
11 reasonable relationship-

12 (a) to the established fiscal oil price of Nigerian crude oil streams of
13 comparable quality and specific gravity; or

14 (b) where there are no such established official selling prices for such
15 Nigerian crude oil streams to the official selling prices at main international
16 trading centers for crude oil of comparable quality and gravity, due regard
17 being had in either case to freight differentials and other relevant factors.

18 (6) Where any crude oil, which in relation to a particular company is
19 its chargeable oil, is exported from Nigeria by another company, that crude oil
20 shall for the purpose of this section be deemed to be exported from Nigeria by
21 that particular company.

22 PART IV

23 ASCERTAINMENT OF TOTAL PROFITS AND CONSOLIDATION FOR

24 TAX PURPOSES

Artificial
transactions, etc.

25 **269.**-(1) Where the Service is of the opinion that any disposition is not
26 given effect to or that any transaction which reduces or would reduce the
27 amount of any tax payable is artificial or fictitious, the Service may disregard
28 any such disposition or direct that such adjustments shall be made with respect
29 to the Companies' liability to tax as the Service considers appropriate to
30 counteract the reduction of liability to tax effected or reduction which would

1 otherwise be effected, by the transaction and the companies concerned shall
2 be assessed accordingly.

3 (2) In subsection (1) of this section, the expression "disposition"
4 includes any trust, grant, covenant, agreement or arrangement.

5 (3) For the purpose of this section, the following transactions shall
6 be deemed to be artificial or fictitious, namely, transactions between persons
7 one of whom has control over the other or between persons both of whom
8 are controlled by some other person which, in the opinion of the Service,
9 were not made on terms which might be expected to have been made by
10 independent Persons engaged in the same or similar activities dealing with
11 one another at arm's length.

12 (4) A company in respect of which any direction is made under this
13 section, shall have a right of appeal in like manner as though for the purpose
14 of Part III of this Chapter such direction was an assessment.

15 (5) Subject to the provisions of this Act, the provisions of the
16 Income Tax (Transfer Pricing) Regulations 2018 shall apply.

Assessable Profits
and adjusted Losses

17 **270.**-(1) Subject to the provisions of this section, the assessable
18 profits of any company for any accounting period shall be the amount of the
19 adjusted profit of that period after the deduction of the amount of any Loss
20 incurred by that company during any previous accounting period.

21 (2) A deduction under subsection (1) of this section shall be made
22 where possible from the amount, if any, of the adjusted profit of the first
23 accounting period after that in which the loss was incurred, and where it
24 cannot be so made, then from the amount of the adjusted profit of the next
25 succeeding accounting period and so on.

26 (3) Within 5 months after the end of any accounting period of a
27 company, or within such further time as the Service may permit in writing,
28 the company may elect in writing that a deduction or any part to be made
29 under this section shall be deferred to and be made in the succeeding
30 accounting period, and may so elect in any succeeding accounting period.

Trade or business
sold or transferred

1 **271.**-(1) Without prejudice to section 275 of this Act, where a trade or
2 business of upstream petroleum operations carried on in Nigeria by a company
3 is sold or transferred to another company for the purposes of better
4 organization of that trade or business or the transfer of its management and any
5 asset employed in that trade or business is sold or transferred, then, if the
6 Service is satisfied that one of those companies has control over the other or
7 that both companies are controlled by some other person or are members of a
8 recognized group of companies and have been so for a consecutive period of at
9 least 3 years prior to the date of reorganization, the provisions set out in
10 subsection (2) of this section shall have effect.

11 (2) Where subsection (1) of this section applies, the Service may in its
12 discretion if, on or before the date on which the trade or business is so sold or
13 transferred, the first sale of or bulk disposal of chargeable oil by or on behalf of
14 the company selling or transferring the trade or business has occurred, but the
15 first sale of or bulk disposal of chargeable oil by or behalf of the company
16 acquiring that trade or business has not occurred, direct that-

17 (a) the first accounting period of the company acquiring that trade or
18 business shall commence on the date on which the sale or transfer of the trade
19 or business takes place and end on 31st December of that same year, and the
20 definition of accounting period in section 318 of this Act shall be construed
21 accordingly

22 (b) for the purpose of the Fifth Schedule to this Act, the asset sold or
23 transferred to the company acquiring that trade or business by the company
24 selling or transferring the trade or business shall be deemed to have been sold
25 for an amount equal to the residue of the qualifying expenditure on the asset on
26 the day following the day on which the sale or transfer occurred; and

27 (c) the company acquiring the asset so sold or transferred shall be
28 deemed to have received all allowances given to the company selling or
29 transferring the trade or business in respect of the asset under the Fifth
30 Schedule to this Act and any allowances deemed to have been received by that

1 company under the provisions of this paragraph, provided that the Service in
2 its discretion may-

3 (i) require the company selling or transferring the trade or business
4 or the company acquiring that trade or business, to guarantee or give
5 security to the satisfaction of the Service for payment in full of tax due or to
6 become due from the company selling or transferring the trade or business;
7 and

8 (ii) impose such conditions as it deems fit on either of the
9 companies or on both of them.

10 (3) In the event of failure by the company or companies selling to
11 fulfil the guarantee or conditions, the Service may revoke the direction and
12 may make the additional assessments or repayment of tax as may be
13 necessary to give effect to the revocation.

14 (4) Where the acquiring company makes a subsequent disposal of
15 the assets thereby acquired within the succeeding 3 years after the date of
16 acquisition, any concession enjoyed under this subsection shall be rescinded
17 and the company shall be treated as if it did not qualify for the concession as
18 at the date of the initial reorganization.

19 (5) Where a trade or business of petroleum operations carried on in
20 Nigeria by a company incorporated under any law in force in Nigeria is sold
21 or transferred to another company and any asset employed in that trade or
22 business is so sold or transferred, and the Service is satisfied that the
23 companies are not connected and that none has control over the other or both
24 are not controlled by another company, the-

25 (a) acquisition cost of the rights and assets or the cost incurred by
26 the acquiring party shall not be eligible as qualifying capital expenditure
27 under the Fifth Schedule to this Act for the purpose of the Hydrocarbon Tax
28 but shall be eligible for qualifying capital expenditure under the companies
29 Income Tax at an annual allowance rate of 10% per annum; and

30 (b) accounting period of the new trade or business shall be as

1 provided in subsection (2) of this section.

2 (6) For the purpose of subsection (2) (a) of this section, the accounting
3 period of the company acquiring that trade or business shall commence on the
4 date on which the sale or transfer of the trade or business to the company takes
5 place or on such date within the calendar month in which the sale or transfer
6 takes place as may be elected by the company with the approval of the Service
7 and end on 31st December of that same year and the definition of "Accounting
8 Period" under this Act shall be construed accordingly.

9 (7) A merger, take-over, transfer or restructuring of the trade or
10 business carried on by a company shall not take place without the approval and
11 having obtained direction of the Service to any tax that may be due and payable
12 under the Capital Gains Tax Act.

Consolidation
of costs and taxes

13 (8) Reference to a 'trade or business' in this section shall include
14 references to any part of the trade or business.

15 **272.**-(1) A company engaged in upstream petroleum operations
16 across terrains shall be allowed to consolidate costs for the purpose of
17 companies income tax.

18 (2) A company engaged in upstream petroleum operations related to
19 crude oil across terrains shall be allowed to consolidate costs and taxes for the
20 purposes of hydrocarbon tax only across assets in which it holds Licences and
21 leases in accordance with the six categories of chargeable tax stipulated in
22 section 267 of this Act.

23 (3) In respect of a company in existence prior to the commencement
24 of this Act, the amount of any loss incurred during any accounting period by a
25 company selling or transferring its trade or business whether to a connected or
26 unrelated party, being a loss which has not been allowed against any assessable
27 profit of any accounting period of that company shall not be allowed against
28 any assessable profit of the company acquiring that trade or business.

29 (4) A company that is a contractor in a contract pursuant to section
30 84(2) of this Act shall be allowed to consolidate its Losses and revenues across

1 petroleum prospecting licences and petroleum mining leases granted after
2 the commencement of this Act, for the purposes of subsections (1) and (2) of
3 this section with respect to the various tax classes under section 267 of this
4 Act.

Partnerships, etc.

5 PART V

6 PERSONS CHARGEABLE

7 **273.**-(1) Any person, other than a company, who engages in
8 upstream petroleum operations either on his own account or jointly with any
9 other person or in partnership with any other person with a view to sharing
10 the profits arising from the operations, commits an offence.

11 (2) Where the person referred to in subsections (1) of this section
12 has benefitted from any profits on upstream petroleum operations, the
13 person shall be subject to hydrocarbon tax and companies income tax under
14 this Act on the profits and shall pay a penalty provided under section 297 of
15 this Act.

16 (3) Where two or more companies are engaged in upstream
17 petroleum operations either in partnership, in a joint venture or in concert
18 under any scheme or arrangement, tax shall be charged and assessed on them
19 in accordance with subsection (4) of this section.

20 (4) The apportionment of any profits, outgoings, expenses,
21 liabilities, deductions, qualifying expenditure and the tax chargeable upon
22 each company shall be in line with the equity interest of the parties under a
23 jointly executed agreement that will be made available to the Service and
24 where no jointly executed agreement is made available, the Commission
25 shall advise the Service the approved equity interest of the parties and it shall
26 be binding on the parties.

27 (5) Subject to the provisions of this Act, where two or more
28 companies are engaged in upstream petroleum operations either in
29 partnership, in a joint venture or in concert under any scheme or
30 arrangement, the Service may make regulation, in compliance with section

1 61 of the Federal Inland Revenue Service (Establishment) Act, for the
2 ascertainment of tax to be charged or assessed upon each company so engaged.

3 (6) Regulations made under subsection (5) of this section may make
4 provisions-

5 (a) with respect to apportionment of any Profits, outgoings, expenses,
6 liabilities, deductions, qualifying expenditure and tax chargeable upon each
7 company;

8 (b) for the computation of any tax as if the partnership, joint venture,
9 scheme or arrangement were carried on by one company and apportion that tax
10 between the companies concerned;

11 (c) to accept other basis of ascertaining the tax chargeable upon each
12 of the companies; and

13 (d) which have regard to any circumstances whereby the operations
14 are partly carried on for any company by an operating Company whose
15 expenses are reimbursed by those Companies.

16 (7) Regulations made under this section may be of general application
17 for the purpose of this Section and this Part or for a class of arrangement or for a
18 particular application to a specific partnership, joint venture, scheme or
19 arrangement.

20 (8) The effect of any regulation made under this section shall not
21 impose a greater burden of tax upon any company so engaged in any
22 partnership, joint venture, scheme or arrangement than would have been
23 imposed upon that company under this Part. if all things enjoyed, done or
24 suffered by such partnership, joint venture, scheme or arrangement had been
25 enjoyed, done or suffered by that company in the proportion in which it enjoys,
26 does or suffers those things under or by virtue of that partnership, joint venture,
27 scheme or arrangement.

Company wound
up, etc.

28 **274.-(1)** Where a company is being wound up or where in respect of a
29 company a receiver has been appointed by any Court, by the holders of any
30 debentures issued by the company or otherwise, the company may be assessed

1 and charged to tax in the name of the liquidator of the company, the receiver
2 or any agent in Nigeria of the liquidator or receiver and may be so assessed
3 and charged to tax for any accounting period whether before, during or after
4 the date of the appointment of the liquidator or receiver with respect to
5 companies income tax and hydrocarbon tax.

6 (2) Any liquidator, receiver or agent under subsection (1) of this
7 section shall be answerable for doing the acts required to be done by virtue
8 of this Act for the assessment and charge to tax of the company and for
9 payment of such tax.

10 (3) A liquidator or receiver under subsection (1) of this section shall
11 not distribute any asset of the Company to the shareholders or debenture
12 holders unless he has made provision for the payment in full of any tax
13 which may be found payable by the company or by the liquidator, receiver or
14 agent on behalf of the company.

Avoidance by
transfer

15 **275.** Where a company which is or was engaged in petroleum
16 operations transfers a substantial part of its assets to any person without
17 having paid any companies income tax or hydrocarbon tax, assessed or
18 chargeable upon the company, for any accounting period ending prior to
19 such transfer and in the opinion of the Service one reason for such transfer
20 by the company was to avoid payment of such tax then that tax as charged
21 upon the company may be sued for and recovered from that person in a
22 manner similar to a suit for any other tax under section 294 of this Act.

Indemnification
of representative

23 **276.** Every person answerable under this Act for the payment of
24 companies income tax or hydrocarbon tax on behalf of a company may
25 retain out of any money in or coming to his hands or within his control on
26 behalf of such company so much as shall be sufficient to pay the tax and shall
27 be indemnified against any person for payments made by him in accordance
28 with the provisions of this Act.

29 PART VI

30 APPLICABILITY, ACCOUNTS AND PARTICULARS

Preparation and
delivery of accounts
and particulars

1 277.-(1) Every company engaged in upstream petroleum operations
2 related to crude oil shall for each accounting period of the company make up
3 accounts of its profits or losses and prepare the following particulars for the
4 purpose of determining hydrocarbon Tax-

5 (a) a statement of accounts of its profits or losses;

6 (b) computations of its actual adjusted profit or loss and actual
7 assessable profits of that period;

8 (c) in connection with the Fifth Schedule to this Act, a schedule
9 showing-

10 (i) the residues at the end of that period in respect of its assets,

11 (ii) all qualifying petroleum expenditure incurred by it in that period,

12 (iii) the values of any of its assets disposed of in that period, and

13 (iv) the allowances due to it under that schedule for that period;

14 (d) in connection with the Sixth Schedule to this Act, a schedule
15 showing total production allowance from each and every field of its upstream
16 petroleum operations related to crude oil;

17 (e) a computation of its actual chargeable profits of that period;

18 (f) a statement of amounts repaid, refunded, waived or released to it,
19 referred to in section 263(2) of this Act, during that period;

20 (g) a computation of its chargeable tax for that period and where
21 associated gas is being sold or otherwise delivered through the measurement
22 point the methodology used to determine the chargeable tax;

23 (h) duly completed self-assessment form attested to by the principal
24 officer of the company; and

25 (i) evidence of payment of the final instalment.

26 (2) Every company engaged in upstream petroleum operations
27 related to crude oil shall, with respect to any accounting period of the company
28 and within 5 months after the expiration of that period or within 5 months after
29 the effective date of this Act, whichever is later, deliver to the Service a copy of
30 its accounts, bearing an auditor's certificate, of that period, in accordance with

1 the provisions of subsection (1) of this section and copies of the particulars
2 referred to in subsection (1) of this section relating to that period with the
3 copy of the delivered company accounts and each copy of those particulars,
4 shall, where the copies are -

5 (a) not estimates, contain a declaration signed by authorised officer
6 of the company or by its liquidator, receiver or the agent of the liquidator or
7 receiver, that the same is true and complete; and

8 (b) estimates, contain a declaration, similarly signed, that the
9 estimate was made to the best of the ability of the person signing same.

10 (3) Notwithstanding the provisions of this section, every company
11 which is yet to commence bulk sales or disposal of chargeable oil, shall file
12 with the Service its audited accounts and returns-

13 (a) within 18 months from the date of its incorporation, in the case
14 of a newly incorporated company; and

15 (b) within 5 months after any period ending on 31st December of
16 the following year, in the case of any other company, provided that where
17 there is an interval between 31st December of the preceding year and the
18 date on which the company commences the bulk sale or disposal of
19 chargeable oil, natural gas or condensate, the interval shall be deemed to
20 form part of the preceding period.

21 (4) A company which fails to comply with the provisions of
22 subsection (2) or (3) of this section is liable to pay as penalty for late filing-

23 (a) N10,000,000 on the first day the failure occurs;

24 (b) N2,000,000 for each and every subsequent day in which the
25 failure continues; or

26 (c) other sum as may be prescribed by the Minister of Finance by
27 Order published in the gazette.

28 **278.** The Service may give notice in writing to any company
29 engaged in upstream petroleum operations related to crude oil as the Service
30 may deem necessary requiring the company to furnish further information,

Power of the
Service to request
further information

Power to call
for returns, books,
etc.

1 within reasonable time as may be specified, in relation to any matter referred to
2 in section 277 of this Act or any other matter which the Service may consider
3 necessary for the purposes of this Act.

4 **279.**-(1) For the purpose of obtaining full information in respect of
5 any company's upstream petroleum operations related to crude oil, the Service
6 may give notice to a company requiring it within a period not less than 21 days
7 from the date of service of the notice, to complete and deliver to the Service any
8 information called for in such notice and in addition or alternatively requiring
9 an authorised representative of such company or its liquidator, receiver or the
10 agent of such liquidator or receiver, to attend before the Service or its
11 authorised representative on the date or dates as may be specified in the notice
12 and to produce for examination any books, documents, accounts and
13 particulars which the Service may deem necessary.

14 (2) Where a company assessable to hydrocarbon tax under the
15 provisions of this Act fails or refuses to keep books or accounts which, in the
16 opinion of the Service are adequate for the purpose of ascertaining the tax, the
17 Service may by notice in writing require it to keep such records, books and
18 accounts as the Service considers to be adequate in a form and in a language as
19 the Service may direct and the company shall the keep records, books and
20 accounts as directed.

Returns of
estimated tax

21 (3) An appeal shall lie from any direction of the Service made under
22 this section to the Tax Appeal Tribunal.

23 **280.**-(1) Not later than 2 months after the commencement of each
24 accounting period of any company engaged in upstream petroleum operations
25 related to crude oil, the company shall submit to the Service an estimated return
26 of its profits or losses for that accounting period for the purpose of hydrocarbon
27 tax, which shall include-

28 (a) computations of its estimated adjusted profit or loss and of its
29 estimated assessable profits of that period;

1 (b) in connection with the Fifth Schedule to this Act, a schedule
2 showing-

3 (i) the estimated residues at the end of that period in respect of its
4 assets,

5 (ii) all estimated qualifying petroleum expenditure incurred by it in
6 that period,

7 (iii) the values of any of its assets, estimated by references to the
8 provisions of that Schedule, to be disposed of in that period, and

9 (iv) the allowances due to it under that schedule for that period;

10 (c) in connection with the Sixth Schedule to this Act, a schedule
11 showing estimated total production allowance from all its upstream
12 petroleum operations related to crude oil on field by field basis;

13 (d) a computation of its estimated chargeable profits of that period;
14 and

15 (e) a computation of its estimated tax for that period.

16 (2) Where, at any time during the accounting period, there is a
17 change in price, cost and volume, the company shall submit further returns
18 containing its revised estimated tax for such period.

19 (3) Where the further returns provided for under subsection 2 of
20 this section is not made, the Service shall impose interest at the prevailing
21 LIBOR or any other successor rate plus 10% points for the differential of the
22 revised tax over the estimated tax paid by the company.

23 (4) Every return made by a company engaged in upstream
24 petroleum operations related to crude oil in fulfilment of the provisions of
25 this Section shall be subject to review and validation by the Service.

26 (5) Where a company does not provide the estimates pursuant to
27 subsection 1 and 2 of this section, the Service shall have the right to
28 determine such estimates on the best of judgment basis and impose same on
29 the company.

30 (6) A company which fails to comply with the provisions of

	1	subsection (1) of this section is liable to pay as penalty for late filing-
	2	(a) N10,000,000 on the first day the failure occurs;
	3	(b) N2,000,000 for each and every subsequent day in which the
	4	failure continues; or
Extension of periods for making returns	5	(c) other sum as may be prescribed by the Minister of Finance by
	6	Order published in the gazette.
	7	281. Where it is shown by any company to the satisfaction of the
	8	Service that for some good reason, the company is not able to comply with the
	9	provisions of section 277 of this Act within the time limited by that section or
	10	any notice given to it under sections 278 or 279 of this Act, within the time
Assessment of Tax Payable	11	limited by any such notice, the Service may grant in writing such extension of
	12	that time as the Service may consider necessary.
	13	282. -(1) The Service shall proceed to assess a company with the
	14	hydrocarbon tax for any accounting period of the company immediately after
	15	the expiration of the time allowed to such company for the delivery of self-
	16	assessment provided for in section 277 of this Act.
	17	(2) Where a company has delivered a self-assessment for any
	18	accounting period of the company, the Service may-
	19	(a) accept the self-assessment; or
	20	(b) refuse to accept the self-assessment and proceed as provided in
	21	subsection (3) of this Section upon any failure as mentioned and the like
	22	consequences shall ensue.
	23	(3) Where, for any accounting period, a company files a self-
	24	assessment which was rejected by the Service or has failed to file self-
	25	assessment as provided in section 277 of this Act within the time limited by that
	26	section or has failed to comply with any notice given to it under sections 278 or
	27	279 of this Act within the time specified in such notice or within any extended
	28	time provided in section 281 of this Act, and the Service is of the opinion that
	29	the company is liable to pay hydrocarbon tax, the Service may estimate the
	30	amount of the tax to be paid by the company for that accounting period and

1 make an assessment accordingly, provided that-

2 (a) the assessment shall not affect any liability otherwise incurred
3 by such company by reason of its failure or neglect to deliver the accounts
4 and particulars or to comply with the notices; and

5 (b) nothing in this subsection shall affect the right of the Service to
6 make any additional assessment under the provisions of section 283 of this
7 Act.

Additional
assessments

8 **283.**-(1) Where the Service discovers or is of the opinion at any
9 time that, with respect to any company liable to hydrocarbon tax, tax has not
10 been charged and assessed upon the company or has been charged and
11 assessed upon the company at an amount less than that which ought to have
12 been assessed and charged for any accounting period of the company, the
13 Service may within 6 years after the expiration of that accounting period-

14 (a) assess the company, as often as may be necessary, with tax for
15 that accounting period at such amount or additional amount as in the opinion
16 of the Service ought to have been charged and assessed; and

17 (b) may make any consequential revision of the tax charged or to be
18 charged for any subsequent accounting period of the company.

19 (2) Where a revision under subsection (1) of this section results in a
20 greater amount of tax to be charged than has been charged or would
21 otherwise be charged, an additional assessment or an assessment for any
22 such subsequent accounting period shall be made and the provisions of this
23 Act as to notice of assessment, objection, appeal and other proceedings
24 under this Act shall apply to any such assessment or additional assessment
25 and to the tax charged.

26 (3) For the purpose of computing under subsection (1) of this
27 section the amount or the additional amount of tax for any accounting period
28 of a company which ought to have been charged, all relevant facts consistent
29 with section 289(4) of this Act shall be taken into account even though it is
30 not known when any previous assessment or additional assessment on the

1 company for that accounting period was made or could have been made.

2 (4) Notwithstanding the provisions of this section, where any form of
3 fraud, willful default or neglect has been committed by or on behalf of any
4 company in connection with hydrocarbon tax imposed under this Act, the
5 Service may, at any time and as often as may be necessary, assess the company
6 on such amount as may be necessary for the purpose of recovering any loss of
7 tax attributable to fraud, willful default or neglect.

Making of
assessment, etc.

8 **284.**-(1) Assessments of hydrocarbon tax shall be made in such form
9 and in such manner as the Service shall authorize and shall contain the -

10 (a) names and addresses of the companies assessed to tax or of the
11 persons in whose names any companies have been assessed to tax, provided
12 that the names of the represented companies are indicated; and

13 (b) particular accounting period and the amount of the chargeable
14 profits and chargeable tax for that period, in the case of each company for each
15 of its accounting periods.

16 (2) When any assessment is to be amended or revised, a form of
17 amended or revised assessment shall be made in a manner similar to that in
18 which the original of that assessment was made under subsection (1) of this
19 section showing the amended or revised amount of the chargeable profits and
20 chargeable tax.

21 (3) A copy of each assessment and of each amended or revised
22 assessment shall be filed in a list which shall constitute the assessment list for
23 the purpose of this Act.

Notices of
assessment, etc.

24 **285.**-(1) The Service shall cause to be served personally on or sent by
25 courier to a company which is liable to hydrocarbon tax under this Act, by way
26 of an additional assessment or an assessment by the Service, a notice of
27 assessment stating the-

28 (a) accounting period and the amount of its chargeable profits and
29 chargeable tax assessed and charged upon the company;

30 (b) place at which payment of the tax should be made; and

1 (c) rights of the company under subsection (2) of this section.

2 (2) Where any person in whose name an assessment was made in
3 accordance with the provisions of this Act disputes the assessment, the
4 person may apply to the Service by notice of objection in writing, to review
5 and revise the assessment made on him and the application shall be made
6 within 30 days from the date of service of the notice of the assessment,
7 stating the amount of chargeable-

8 (a) profits of the company of the accounting period in respect of
9 which the assessment is made; and

10 (b) tax and the tax which such person claims should be stated on the
11 notice of assessment.

12 (3) The Service, upon being satisfied that due to absence from
13 Nigeria, sickness or other reasonable cause, the person in whose name the
14 assessment was made was prevented from making the application within
15 such period of 30 days, shall extend the period as may be reasonable in the
16 circumstances.

17 (4) After receipt of a notice of objection referred to in subsection
18 (2) of this section, the Service may within such time and place as it shall
19 specify, require-

20 (a) the person giving the notice of objection to furnish such
21 particulars as the Service may deem necessary; and

22 (b) any other person, by notice, to give evidence orally or in writing
23 in respect of any matter necessary for the ascertainment of the hydrocarbon
24 tax payable and the Service may further require that where such evidence is
25 given -

26 (i) orally, it shall be given on oath, and

27 (ii) in writing, it shall be given by affidavit.

28 (5) In the event of any person assessed who has objected to an
29 assessment made upon him agreeing with the Service as to the amount of tax
30 liable to be assessed, the assessment shall be amended accordingly and

1 notice of the tax payable shall be served upon the person.

2 (6) Where an applicant for revision under subsection (2) of this
3 section fails to agree with the Service on the amount of the hydrocarbon tax, the
4 Service shall give such applicant notice of refusal to amend the assessment as
5 desired by the applicant or may revise the assessment to such amount as the
6 Service may determine and give the applicant notice of the revised assessment
7 and tax payable, together with notice of refusal to any subsequent request to
8 amend the revision and, where necessary, any reference in this Act to an
9 assessment or additional assessment shall be treated as a reference to an
10 assessment or additional assessment as revised under the provisions of this
11 subsection.

Errors and defects
in assessment and
notice

12 **286.**-(1) An assessment, warrant or other proceeding purporting to be
13 made in accordance with the provisions of this Act shall not be quashed or
14 deemed to be void or voidable for want of form or be affected by reason of a
15 mistake, defect or omission, if the-

16 (a) substance and effect of the assessment is in conformity with the
17 provisions of this Act; and

18 (b) company assessed or intended to be assessed or affected is
19 designated according to common intent and understanding.

20 (2) An assessment shall not be invalidated or affected-

21 (a) by reason of a mistake as to-

22 (i) the name or a company liable or of a person in whose name a
23 company is assessed; or

24 (ii) the amount of the tax;

25 (b) by reason of any variance between the assessment and the notice
26 thereof, if in cases of assessment, the notice thereof be duly served on the
27 company intended to be assessed or on the person in whose name the
28 assessment was to be made on a company, and such notice contains, in
29 substance and effect, the particulars on which the assessment is made.

Tax computation

30 **287.** Notwithstanding anything to the contrary in any law-

1 (a) all hydrocarbon tax computation made under this Act shall be in
2 the currency in which the transaction was effected; and

3 (b) any assessment made under section 284 of this Act shall be in
4 the currency in which the computation giving rise to the assessment was
5 made.

6 PART VII

Appeals to Tax
Appeal Tribunal

7 APPEALS

8 **288.** Any Company or tax payer, who does not agree with an
9 assessment made pursuant to section 285(6) of this Act, may appeal against
10 the assessment to the Tax Appeal Tribunal established under the provisions
11 of section 59 of the Federal Inland Revenue Service (Establishment) Act.

Assessment to be
final and conclusive

12 **289.**-(1) Where-

13 (a) no valid objection or appeal has been lodged within the time
14 limited by section 285 of this Act or the rules of the relevant tribunal or court,
15 as the case may be, against an assessment as regards the amount of the
16 hydrocarbon tax assessed;

17 (b) the amount of the tax has been agreed to under section 285(5) of
18 this Act; or

19 (c) the amount of the tax has been determined on objection or
20 revision under section 285(6) of this Act or on appeal,
21 the assessment as made, agreed to, revised or determined on appeal, as the
22 case may be, shall be final and conclusive for all purposes of this Act as
23 regards the amount of such tax.

24 (2) Where the full amount of the tax in respect of the final and
25 conclusive assessment under subsection (1) of this section is not paid within
26 the appropriate period or periods prescribed in this Act, the provisions
27 relating to the recovery of tax and to any penalty under section 292 of this
28 Act, shall apply to the collection and recovery, subject only to the set-off of
29 the amount of any tax repayable under any claim, made under any provision
30 of this Act, which has been agreed to by the Service or determined on an

1 appeal against a refusal to admit any such claim.

2 (3) Where an assessment has become final and conclusive, any tax
3 overpaid shall be repaid or treated as credit in favour of the assessed party.

4 (4) Nothing in section 285 of this Act or in this Chapter shall prevent
5 the Service from making any assessment or additional assessment to
6 Hydrocarbon Tax for any accounting period which does not involve re-opening
7 any issue on the same facts which has been determined for that accounting
8 period, under section 285(5) and (6) of this Act by agreement or otherwise or on
9 appeal.

Procedure in cases
where objection
or appeal is
pending

10 PART VIII

11 COLLECTION, RECOVERY AND REPAYMENT OF TAX

12 **290.** Collection of hydrocarbon tax shall, in cases where notice of an
13 objection or an appeal has been given, remain in abeyance and any pending
14 proceedings for any payment in instalment shall be stayed until the objection or
15 appeal is determined but the Service may in any such case, enforce payment of
16 that portion of the tax which is not in dispute by an application to the Tribunal
17 or Court, as the case may be.

Time within
which payment
is to be made

18 **291.**-(1) Subject to the provisions of section 290 of this Act,
19 hydrocarbon tax for any accounting period shall be payable in equal monthly
20 instalments together with a final instalment as provided in subsection (4) of this
21 section.

22 (2) The first monthly payment shall be due and payable not later than
23 the third month of the accounting period and shall be in an amount equal to one-
24 twelfth or where the accounting period is less than a year, in an amount equal to
25 equal monthly proportion, of the amount of tax estimated to be chargeable for
26 such accounting period in accordance with section 280 (1) of this Act.

27 (3) Each of the remainder of monthly payments to be made
28 subsequent to the payment under subsection (2) of this section shall be due and
29 payable not later than the last day of the month in issue and shall be in an
30 amount equal to the amount of tax estimated to be chargeable for such period

1 by reference to the latest returns submitted by the company in accordance
2 with section 280 (2) of this Act less so much as has already been paid for
3 such accounting period divided by the number of such of the monthly
4 payments remaining to be made in respect of such accounting period.

5 (4) A final instalment of tax shall be due and payable on or before
6 the due date of filing of the self-assessment of tax for such accounting period
7 and shall be the amount of the tax assessed for that accounting period less so
8 much as has already been paid under subsections (2) and (3) of this section.

9 (5) Any instalments on account of tax estimated to be chargeable
10 shall be treated as hydrocarbon tax charged and assessed for the purposes of
11 sections 292 and 294 of this Act.

Penalty for
non-payment of
tax and
enforcement of
payment

12 **292.**-(1) Where any hydrocarbon tax or any instalment of tax due
13 and payable is not paid within the appropriate time limit prescribed in
14 section 291 of this Act-

15 (a) a sum equal to 10% of the amount of the tax payable shall be
16 added and the provisions of the Act relating to the collection and recovery of
17 tax shall apply to the collection and recovery of such sum;

18 (b) the tax due shall incur interest at the prevailing LIBOR or any
19 successor rate, plus 10% from the date when the tax becomes payable until it
20 is paid and the provisions of this Act relating to collection and recovery of
21 tax shall apply to the collection and recovery of the interest;

22 (c) the Service shall serve a demand notice upon the company or
23 person in whose name a tax is chargeable and if payment is not made within
24 1 month from the date of the service of the demand notice, the Service may
25 proceed to enforce payment under this Act; and

26 (d) an addition imposed under this subsection shall not be deemed
27 to be part of the tax paid for the purpose of claiming relief under any of the
28 provisions of this Act.

29 (2) Any person who without lawful justification or excuse fails to
30 pay Hydrocarbon Tax within the period of one month prescribed in

1 subsection (1) (c) of this section, commits an offence under this Act and the
2 provisions of subsections 1(a) to (c) of this section shall apply.

Collection of tax
after determination
of objection or
appeal

3 (3) The Service may, for any good cause shown, remit the whole or
4 any part of the additional 10% penalty and interest on the tax due under
5 subsection (1) of this section.

6 **293.**-(1) Where payment of hydrocarbon tax in whole or in part has
7 been held in abeyance pending the result of a notice of objection or of appeal,
8 the tax outstanding under the assessment as determined on such objection or
9 appeal, as the case may be, shall be payable within one month from the date of
10 service on the company assessed or on the person in whose name the company
11 is assessed, of the notification of the tax payable by the Service or the Tribunal.

Suit for tax by
the Service

12 (2) Where such balance is not paid within one month, the provisions
13 of section 292 of this Act shall apply.

14 **294.**-(1) hydrocarbon tax may be sued for and recovered in a court of
15 competent jurisdiction at the place at which payment shall be made by the
16 Service.

Relief in respect
of error or mistake

17 (2) In any suit under subsection (1) of this section the production of a
18 certificate signed by any person duly authorized by the Service giving the name
19 and address of the defendant and the amount of tax due by the defendant shall
20 be sufficient evidence of the amount due.

21 **295.**-(1) Where a person who has paid hydrocarbon tax for an
22 accounting period alleges that any assessment made upon him or in his name
23 for that period, was excessive by reason of some error or mistake in the
24 accounts, particulars or other written information supplied by him to the
25 Service for the purpose of the assessment, that person may, not later than 6
26 years after the end of the accounting period in respect of which the assessment
27 was made make an application in writing to the Service-

28 (a) for a relief; or

29 (b) to set-off the credit against the liability of a similar tax payable to
30 the Service.

1 (2) On receiving an application under subsection (1) of this section,
2 the Service shall inquire into it and subject to the provisions of this section
3 shall by way of repayment of tax give such relief or approve the set-off in
4 respect of the error or mistake as appears to the Service to be reasonable and
5 just.

6 (3) A relief shall not be given under this section in respect of an
7 error or mistake as to the basis on which the liability of the applicant ought to
8 have been computed where the accounts, particulars or information was in
9 fact made or given on the basis or in accordance with the practice of the
10 Service generally prevailing at the time when the accounts, particulars or
11 information was made or given.

12 (4) In determining any application under this section, the Service
13 shall have regard to all the relevant circumstances of the case and in
14 particular shall consider whether the granting of relief would result in the
15 exclusion from charge to tax of any part of the chargeable profits of the
16 applicant and for this purpose, the Service may take into consideration the
17 liability of the applicant and assessments made upon him in respect of other
18 years.

Repayment of
tax

19 **296.-(1)** Except as otherwise expressly provided in this Act, a
20 claim for the repayment of any hydrocarbon tax overpaid shall not be
21 allowed unless it is made in writing within 6 years next after the end of the
22 accounting period to which it relates.

23 (2) The Service shall cause to be refunded or set-off at the option of
24 the applicant upon presentation of relevant documents evidencing the tax to
25 be refunded.

26 (3) Any tax claimed based on this Section, which is proven not to be
27 due, shall attract a penalty at the prevailing LIBOR or any other successor
28 rate plus 10% from the date the payment or set-off was made up to the date
29 the refund is made by the applicant.

Penalty for
defaults

30

PART IX

1 OFFENCES AND PENALTIES

2 **297.**-(1) A person who fails to comply with the provisions of this
3 Chapter or any regulation made under this Act for which no other penalty is
4 specifically provided, shall be liable to an administrative penalty of
5 N10,000,000, and where the default continues beyond a period stipulated by
6 this Act or regulation, the person shall be liable to a further administrative
7 penalty of N2,000,000 or such other sum as may by order be prescribed by the
8 Minister of Finance, for each day the default continues.

9 (2) Notwithstanding the provisions of subsection (1) of this section, a
10 person who is found guilty of an offence under this Chapter or in a regulation
11 made under this Act for which no other penalty is specifically provided, shall,
12 upon conviction, be liable to a fine of N10,000,000 or other sum as may be
13 prescribed by the Minister of Finance by an order and where the offence
14 continues beyond a period stipulated by this Act or regulation, the person shall
15 be liable to an additional fine of N2,000,000 or such other sum as may by order
16 be prescribed by the Minister of Finance, for each day the default continues or
17 to imprisonment for 6 months.

18 (3) A person who-

19 (a) fails to comply with the requirements of a notice served on him
20 under this Chapter;

21 (b) fails to comply with the provisions of section 277 of this Act;

22 (c) without sufficient cause fails to attend in answer to a notice or
23 summons served on him under this Chapter or having attended fails to answer
24 any question lawfully put to him; or

25 (d) fails to submit any return required to be submitted under sections
26 277 or 281 of this Act,
27 commits an offence.

28 (4) Any violation in respect of which a penalty is provided for in
29 subsection (1) of this section shall be deemed to occur in Nigeria.

30 **298.**-(1) A person who without reasonable excuse-

Penalty for
making incorrect
accounts, etc.

1 (a) makes up or causes to be made up any incorrect accounts by
2 omitting or understating any profits or overstating any Losses of which he is
3 required under this Act to make up accounts;

4 (b) prepares or causes to be prepared any incorrect schedule or
5 statement required to be prepared under section 277 of this Act by
6 overstating any expenditure or overstating any royalties or other sums or by
7 omitting or understating any amounts repaid, refunded, waived or released;

8 (c) gives or causes to be given any false or misleading information
9 in relation to any matter or thing affecting his liability to hydrocarbon tax,
10 is liable to an administrative penalty of the sum of N15,000,000 or 1% of the
11 amount of tax which has been undercharged in consequence of such
12 incorrect account, schedule, statement or information or would have been so
13 undercharged if the account, schedule, statement or information had
14 been accepted as correct, and shall still be liable for the appropriate tax
15 which would have been charged.

16 (2) Notwithstanding the provisions of subsection (1) (c) of this
17 section, a person who gives or causes to be given any false or misleading
18 information in relation to any matter or thing affecting his liability to
19 hydrocarbon tax commits an offence and upon conviction is liable to a fine
20 of N15,000,000 or 1% of the amount of tax which has been undercharged in
21 consequence of such incorrect account, schedule, statement or information,
22 or would have been so undercharged if the account, schedule, statement or
23 information had been accepted as correct and shall still be liable for the
24 appropriate tax which would have been charged.

25 (3) The Service may compound any offence under this Act by
26 accepting a sum of money not exceeding the maximum fine specified for the
27 offence and shall issue an official receipt for any money so received.

False statements
and returns

28 **299.**-(1) A person who-

29 (a) for the purpose of obtaining any deduction, refund, rebate,
30 reduction or repayment in respect of hydrocarbon tax for himself or for any

1 other person or who in any return, account, particulars or statement made or
2 furnished with reference to tax, knowingly makes any false statement or false
3 representation or forges or fraudulently alters or uses or fraudulently lends or
4 allows to be used by any other person any receipt or token evidencing payment
5 of the tax under this Act; or

6 (b) aids, abets, assists, counsels, incites or induces any other person-

7 (i) to make or deliver any false return or statement under this Act,

8 (ii) to keep or prepare any false accounts or particulars affecting tax,

9 (iii) unlawfully refuses or neglects to pay tax;

10 commits an offence and is liable on conviction to a fine of N15,000,000 or 1%
11 of the amount of tax for which the person assessable is liable under this Act for
12 the accounting period in respect of or during which the offence was committed,
13 or to imprisonment for 6 months or to both the fine and imprisonment and shall
14 still be liable for the appropriate hydrocarbon tax which would have been
15 assessed and charged.

16 (2) Notwithstanding the provisions of subsection (1) of this section,
17 any person who does any of the acts or makes the omissions contained in
18 subsection (1) of this section, may be liable to an administrative penalty of
19 N15,000,000 or 1% of the amount of hydrocarbon tax for which the person
20 assessable is liable under this Act for the accounting period in respect of or
21 during which the act or omission occurred and shall still be liable for
22 appropriate tax which would have been assessed and charged.

Penalties for
offences by
authorised and
unauthorised
persons

23 **300.**-(1) A person who-

24 (a) being a member of the Service charged with the administration of
25 this Act or any assistant employed in connection with the assessment and
26 collection of the hydrocarbon tax who-

27 (i) demands from any person an amount in excess of the authorised
28 assessment of the tax payable,

29 (ii) withholds for his own use or otherwise any portion of the amount
30 of tax collected,

1 (iii) renders a false return, whether verbal or in writing of the
2 amounts of tax collected or received by him,

3 (iv) defrauds any person, embezzles any money or otherwise uses
4 his position to deal wrongfully with the Service or any other individual; or

5 (b) not being authorised under this Act, collects or attempts to
6 collect the tax under this Act, commits an offence and is liable on conviction
7 to a fine equivalent to 200% of the sum in question or to imprisonment for a
8 term not exceeding 3 years or to both such fine and imprisonment.

Tax to be payable
notwithstanding
any proceedings
for penalties

9 **301.** The institution of proceedings for or the imposition of a
10 penalty, fine or term of imprisonment under this Act shall not relieve any
11 person of liability to payment of any hydrocarbon tax for which he is or may
12 become liable.

13 PART X

14 APPLICATION OF COMPANIES INCOME TAX TO PETROLEUM OPERATIONS

General requirement
of companies
engaged in petroleum
operations to pay
companies income
tax

15 **302.**-(1) Without prejudice to Companies Income Tax Act and any
16 other applicable law, the provisions of this Act shall apply and any company,
17 concessionaire, licensee, lessee, contractor or subcontractor involved in the
18 upstream, midstream or downstream petroleum operations under this Act,
19 shall also be subject to income tax under this Act.

20 (2) Income Tax applicable to a Company engaged in upstream,
21 midstream and downstream petroleum operations shall be determined
22 separately for-

23 (a) upstream petroleum operations, provided that such operations
24 can be consolidated with wholesale gas and wholesale petroleum liquids
25 supply operations as defined under this Act;

26 (b) midstream petroleum operations; and

27 (c) downstream petroleum operations.

28 (3) Subject to subsection (2)(a) of this section, a person intending
29 to be involved in more than one stream shall register and use a separate
30 company for each stream of petroleum operations under this Act.

1 (4) In determining the Companies Income Tax, the hydrocarbon tax
2 under this Act shall not be deductible.

3 (5) All companies engaged in domestic midstream petroleum
4 operations, downstream gas operations and large-scale gas utilization
5 industries as defined in this Act, shall be entitled to benefit from the incentives
6 provided under section 39 of the Companies Income Tax Act.

7 (6) Natural gas transferred or disposed from the upstream to the
8 midstream or downstream shall be subject to tax under the Companies Income
9 Tax Act.

10 (7) Natural gas liquids and liquid petroleum gases derived from
11 natural gas shall be subject to income tax.

12 (8) Acquisition costs of petroleum rights shall be eligible for annual
13 allowance at the rate of 10% with a retention value of 1% in the last year until
14 the asset is disposed.

15 (9) Capital allowances for other assets shall be granted as follows-

16 (a) upstream petroleum operations assets shall be in accordance with
17 the Fifth Schedule of this Act; and

18 (b) midstream and downstream Operations shall be in accordance
19 with the Second Schedule to the Companies Income Tax Act.

20 (10) Section 24 of the Companies Income Tax Act shall be read in
21 conjunction with the following provisions of this Act-

22 (a) all rents and royalties the liability for which was incurred by the
23 company during that period in respect of crude oil sold, condensate sold and
24 natural gas sold or delivered or disposed of in any other commercial manner
25 and where a petroleum mining lease includes payments to the Federation
26 Account related to production sharing, profit sharing, risk service contracts or
27 other contractual features and the company has incurred liability for such
28 payments and such payments were made;

29 (b) any amount contributed to any fund, scheme or arrangement

- 1 approved by the Commission or Authority for the purpose of providing for-
- 2 (i) abandonment and decommissioning, or
- 3 (ii) petroleum host communities' development trust,
- 4 provided that the surplus or residue of such funds shall be subject to tax
- 5 under this Act; and
- 6 (c) other deductions as may be prescribed by the Minister of
- 7 Finance by Order published in the Gazette.
- 8 (11) Section 27 of the Companies Income Tax Act shall be read in
- 9 conjunction with the following provisions of this Act-
- 10 (a) any expenditure for the purchase of information relating to the
- 11 existence and extent of Petroleum deposits;
- 12 (b) any expenditure incurred as a penalty including natural gas
- 13 flare fees or any such imposition relating to natural gas flare;
- 14 (c) production bonuses, signature bonuses paid for the acquisition
- 15 of, or of rights in or over, petroleum deposits; signature bonuses or fees paid
- 16 for renewing petroleum mining lease or petroleum prospecting licence or
- 17 fees paid for assigning rights to another party including for marginal fields;
- 18 and
- 19 (d) any tax inputted into a contract or an agreement on a net tax
- 20 basis and paid by a company on behalf of the vendor or contractor.
- 21 (12) Any company involved in upstream petroleum operations
- 22 shall apply the accounting periods established for hydrocarbon tax on an
- 23 actual year basis for its company's income tax in accordance with the
- 24 provisions of sections 277, 280 and 291 of this Act.
- 25 (13) Any company involved in upstream petroleum operations that
- 26 is in default of subsection 12 of this section in relation to filing of companies
- 27 income tax returns, shall be liable to pay penalty for late filing as follows-
- 28 (a) N10,000,000 on the first day the failure occurs;
- 29 (b) N2,000,000 for each and every subsequent day in which the
- 30 failure continues; or

1 (c) other sum as may be prescribed by the Minister of Finance by
2 Order published in the Gazette

3 (14) Offences and penalties specified under Part IX of this Chapter
4 shall be applicable to companies income tax of upstream petroleum
5 companies.

6 (15) The tax due from a company involved in upstream petroleum
7 operations shall-

8 (a) in the case of Naira remittances, carry interest at the prevailing
9 NIBOR plus 10% from the date when the tax becomes payable until it is paid;
10 and

11 (b) in the case of foreign currency remittances, incur interest at the
12 prevailing LIBOR or any successor rate plus 10% from the date when the tax
13 becomes payable until it is paid,

14 the provisions of this Act relating to collection and recovery of tax shall apply
15 to the collection and recovery of the interest.

General
Application of
this Part and
other matters

16 PART XI

17 GENERAL PROVISIONS

18 **303.**-(1) The provisions of this Act shall not apply to holders of an oil
19 prospecting licence or oil mining lease who do not enter into a conversion
20 contract until the termination or expiration of the respective oil prospecting
21 licence or oil mining lease but any renewal of an oil mining lease shall be based
22 on this Act.

23 (2) The fiscal provisions of this Act are the base terms that are
24 applicable and the Commission may under section 74(2) of this Act conduct a
25 licensing round whereby the bid parameter is a higher royalty, profit oil share
26 or other fiscal feature in order to ensure that the Government receives the full
27 market value for each block.

Regulations,
rules and forms

28 **304.**-(1) Where matters relate to hydrocarbon tax and companies
29 income tax, the Minister of Finance may make regulations for the carrying out
30 of the provisions of this Act and the Service may make rules and specify the

1 form of returns, claims, statements and notices under this Act.

2 (2) Where matters relate to fees, rents, royalties and payments to
3 Government other than taxes and duties, the Commission may make
4 regulations and rules generally for the carrying out of the provisions of this
5 Act.

Fiscal
stabilization

6 **305.** Fiscal stabilization clauses contained in any Production
7 Sharing Contract or other contract entered into after the commencement of
8 this Act shall not be applicable to certain fiscal provisions, regardless of
9 whether these changes affect the contractor favorably or unfavorably, if
10 changes are being made in a manner that is not discriminatory to the
11 petroleum industry or the contractor, with respect to-

12 (a) generally applicable taxes, such as withholding taxes,
13 companies income tax, tertiary education tax and VAT;

14 (b) levies, taxes or payments to comply with modern principles in
15 respect of environment, labor laws, health and safety; and

16 (c) new taxes, levies or duties to implement Nigeria's
17 commitments with respect to climate change under the United Nations
18 Framework Convention on Climate Change and other related international
19 agreements.

Royalty

20 **306.** All production of petroleum, including production tests shall
21 be subject to Royalties as provided in the Seventh Schedule to this Act.

Legal proceedings,
etc.

22 CHAPTER FIVE

23 MISCELLANEOUS PROVISIONS

24 **307.-(1)** The provisions of the Public Officers Protection Act shall
25 apply in relation to any suit instituted against the Commission or the
26 Authority, the Commission Chief Executive or the Authority Chief
27 Executive, any commissioner or director, officer or employee of the
28 Commission or the Authority.

29 (2) No action, claim, proceeding or suit shall lie or be commenced
30 against the Commission or the Authority, the Commission Chief Executive

1 or Authority Chief Executive, any commissioner or director or any other
2 employee or officer of the Commission or the Authority, for any act done,
3 attempted to be done or omitted to be done pursuant to this Act or any other law
4 or enactment or of any public duty or authority in respect of any alleged neglect
5 or default in the execution of this Act or any other law or enactment, duty or
6 authority or be instituted in any court unless it is commenced within 3 months
7 after the accrual of any cause of action in respect of any such act, neglect or
8 default and provided such act or omission was not done in good faith.

Pre-Action
Notice

9 **308.**-(1) A suit shall not be commenced against the Commission or the
10 Authority or any officer of the Commission or the Authority, before the
11 expiration of a period of 1 month after a written notice of the intention to
12 commence the suit has been served on the Commission or the Authority.

13 (2) The notice referred to in subsection (1) of this section shall state
14 the cause of action, the particulars of claim, the name and address of the
15 claimant and the reliefs sought.

16 (3) A notice, summons or other document required or authorised to be
17 served on the Commission or the Authority pursuant to this Act or any other
18 law or enactment, may be served by delivering it to the office of the
19 Commission Chief Executive or the Authority Chief Executive.

20 (4) An order for execution or attachment of any property of the
21 Commission or the Authority shall not be issued unless a 3 months' notice of
22 the intention to commence execution process has been given to the
23 Commission or the Authority.

Consequential
Amendments

24 **309.** Subject to the provisions of the Constitution, upon the coming
25 into force of this Act, where the provisions of any other enactment or law are
26 inconsistent with the provisions of this Act, the provisions of this Act shall
27 prevail and the provisions of that other enactment or law shall, to the extent of
28 that inconsistency, be void in relation to matters provided for in this Act.

Repeals

29 Deemed modified

30 **310.**-(1) From the effective date of this Act the following enactments

1 and Regulations are repealed -

2 (a) Associated Gas Reinjection Act, 1979 CAP A25 Laws of the
3 Federation 2004, and its Amendments;

4 (b) Hydrocarbon Oil Refineries Act No. 17 of 1965, CAPH5 Laws
5 of the Federation of Nigeria 2004;

6 (c) Motor Spirits (Returns) Act, CAP M20 Laws of the Federation
7 of Nigeria 2004;

8 (d) Nigerian National Petroleum Corporation (Projects) Act No. 94
9 of 1993, CAPN124 Laws of the Federation of Nigeria 2004;

10 (e) Nigerian National Petroleum Corporation Act (NNPC) 1977
11 No, 33 CAP N123 Laws of the Federation of Nigeria as amended, when
12 NNPC ceases to exist pursuant to section 54(3) of this Act;

13 (f) Petroleum Products Pricing Regulatory Agency
14 (Establishment) Act 2003;

15 (g) Petroleum Equalisation Fund (Management Board etc.) Act
16 No. 9 of 1975, CAPP11 Laws of the Federation of Nigeria 2004;

17 (h) Petroleum Equalisation Fund (Management Board, etc.) Act,
18 1975;

19 (i) Petroleum Profit Tax Act Cap P13 LFN 2004, and

20 (j) Deep Offshore and Inland Basin Production Sharing Contract
21 Act 2019, as amended.

22 (2) The provisions of the Pre-Shipment Inspection of Oil Export
23 Act, 1996 shall be amended accordingly.

24 (3) With respect to the Petroleum Equalisation Fund, as of the
25 Effective Date-

26 (a) the collection of net surplus revenues from oil marketing
27 companies shall cease, except for the collection of unpaid net surplus
28 revenues earned prior to the effective date; and

29 (b) the payment for reimbursements to oil marketing companies
30 shall cease, except for possible remaining payment obligations incurred

1 prior to the effective date.

2 (4) An amount remaining in the Fund after the completion of the
3 transactions under paragraphs (a) and (b) of this subsection shall be transferred
4 to the Midstream Gas Infrastructure Fund; and

Saving provisions

5 (5) Where the Fund is insufficient to make the payments pursuant to
6 paragraph (b) of this subsection the Authority may prorate the amounts payable
7 based on the ratio between the Funds remaining and the outstanding payables,
8 provided that where the Fund is in a deficit, the proration shall be zero, and oil
9 marketing companies shall have no claim as to further outstanding amounts.

10 **311.-(1)** Any Act, subsidiary legislation or regulation, guideline,
11 directive and order made pursuant to any principal legislation repealed or
12 amended by this Act, shall, in so far as it is not inconsistent with this Act,
13 continue in force mutatis mutandis as if they had been issued by the
14 Commission or Authority under this Act until revoked or replaced by an
15 amendment to this Act or by subsidiary legislation made under this Act and
16 shall be deemed for all purposes to have been made under this Act.

17 (2) Any oil prospecting licence or oil mining lease granted under the
18 Petroleum Act, 1969 that is subsisting as at the effective date of this Act shall
19 continue to have effect, subject to the following terms and conditions-

20 (a) with respect to renegotiated production sharing contracts, the
21 following conditions shall apply-

22 (i) where negotiations of the contracts are continuing upon the
23 effective date of this Act, such contracts shall be signed within 1 year of the
24 effective date and in the event of failure to complete the negotiations within 1
25 year of the effective date, such contract shall be deemed to conform to the
26 provisions of this Act at the expiration of the lease,

27 (ii) where the contracts were or are signed by NNPC, the leases shall
28 be assigned to NNPC Limited without prior approval of the contractor and
29 NNPC Limited shall continue its role as concessionaire under such Leases,
30 NNPC shall by written notice notify the contractor of such assignment,

1 (iii) the renegotiated production sharing contracts, shall not feature
2 any investment tax credits and shall feature a cost oil limit of not more than
3 60% of the total oil production and for the purpose of determining the profit
4 oil share based on cumulative production, the production from the total
5 production of all production areas selected under section 93 of the Act shall
6 be used,

7 (iv) the contracts and leases shall continue to be subject to the
8 legislation pursuant to subsection (9) of this section, provided that such
9 Leases shall be subject to section 93 of this Act and in this respect the
10 conversion date for the purpose of the interpretation of section 93 of this Act
11 shall be the signing date of such renegotiated production sharing contracts,
12 and

13 (v) upon expiration or terminations, the Leases and renegotiated
14 production sharing contracts can only be renewed on the basis of the
15 provisions of this Act;

16 (b) with respect to other oil prospecting licences and oil mining
17 leases that do not wish to convert pursuant to section 92(6), the provisions of
18 section 303(2) of this Act and the provisions of subsection (9) of this section
19 shall apply and the domestic gas price shall be \$2.50 per MMBtu instead of
20 the prices established in Schedule Three of this Act.

21 (c) contractors of NNPC of oil prospecting licences and oil mining
22 leases shall be subject to the provisions of sections 232 and 233 of this Act.

23 (3) Any other licence, lease, certificate, authority or permit which
24 was issued by the Department of Petroleum Resources, Petroleum Products
25 Pricing and Regulatory Agency or Petroleum Equalisation Fund, as the case
26 may be and which had effect immediately before the effective date shall
27 continue to have effect, mutatis mutandis, for the remainder of its period of
28 validity as if it had been issued by the Commission or Authority.

29 (4) Any tariff, price, levy, or surcharge which was payable to the
30 Department of Petroleum Resources, Petroleum Products Pricing and

1 Regulatory Agency or Petroleum Equalisation Fund prior to the effective date
2 shall continue in force until the expiration of the term of the said tariff, price,
3 levy, or surcharge, or until alternative provisions are made pursuant to the
4 provisions of this Act or any regulations made under it, whichever is earlier.

5 (5) Any licence, permit or other right granted in respect of
6 commercial activities pertaining to midstream petroleum operations or
7 downstream petroleum operations, including refineries, pipelines, storage,
8 transportation, distribution and retail under any law in force at the time in
9 Nigeria, shall, in accordance with the provisions of this Act, apply to the
10 regulatory institutions for the issuance of the appropriate licence, and pending
11 the issuance of the said appropriate licence or permit within 24 months of the
12 effective date and the existing licence, permit or right shall continue in force as
13 if it had been issued under the provisions of this Act.

14 (6) Any other permit or other right in respect of any sector of the
15 Petroleum Industry to which subsections (2), (3) and (4) of this section does not
16 apply and that has been granted by the Department of Petroleum Resources,
17 Petroleum Pricing and Product Regulatory Agency or Petroleum Equalisation
18 Fund, as the case may be, and which is still in existence on the effective date,
19 shall continue in force for the remainder of its duration as if it had been issued
20 under the provisions of this Act.

21 (7) Any tariff, price, levy, or surcharge, which was payable to the
22 Department of Petroleum Resources, Petroleum Pricing and Product
23 Regulatory Agency or Petroleum Equalisation Fund prior to the effective date
24 shall continue in force until the expiration of the term of the said tariff, price,
25 levy or surcharge or until alternative provisions are made pursuant to the
26 provisions of this Act or any regulations, whichever is earlier, provided that any
27 payments under Chapter Two of this Act shall be applicable.

28 (8) Within 3 months from the effective date, the Minister of Petroleum
29 on the advice of the Commission or the Authority, may make any further
30 transitional and savings provisions that are necessary or desirable, provided

1 that such provisions are consistent with the transitional and savings
2 provisions in this Act.

3 (9) Notwithstanding the provisions of section 310 of this Act, the
4 following laws shall be saved until the termination or expiration of all oil
5 prospecting licences and oil mining leases pursuant to subsection (2)(b) of
6 this section:

7 (a) Petroleum Act, CAP P10, Laws of the Federation of Nigeria,
8 2004;

9 (b) Petroleum Profit Tax Act, 1958;

10 (c) Oil Pipelines Act, CAP 07 Laws of the Federation of Nigeria
11 2004 and any subsidiary legislation shall, in so far as it is not inconsistent
12 with this Act, remain in operation until it is repealed or revoked and shall be
13 deemed for all purposes to have been made under this Act;

14 (d) Deep Offshore and Inland Basin Production Sharing Contracts
15 Act (1999) and its Amendment; and

16 (e) any other law or Regulations that are consistent with the
17 principles of section 92(6) of this Act.

18 (10) Within 24 months from the effective date, existing Lessees
19 and Licence and Permit holders engaged in activities in midstream or
20 downstream petroleum operations prior to the effective date shall apply and
21 the Authority shall, where applicable, issue the appropriate licence or
22 permit.

Transfer of assets
and liabilities to
the Commission

23 **312.-**(1) The Commission shall be vested with all assets, funds,
24 resources and other movable and immovable properties which immediately
25 before the effective date were held by the Petroleum Inspectorate or the
26 Department of Petroleum Resources.

27 (2) The rights, interests, obligations and liabilities of the Petroleum
28 Inspectorate and Department of Petroleum Resources existing immediately
29 before the effective date under any contract or instrument or law or in equity
30 are hereby assigned to and vested in the Commission.

1 (3) Any contract or instrument covered by subsection (2) of this
2 section shall be of the same force and effect against or in favour of the
3 Commission and shall be enforceable as fully and effectively as if instead of the
4 Petroleum Inspectorate or Department of Petroleum Resources the
5 Commission had been named therein or had been a party thereto.

6 (4) The Commission shall be subject to all the obligations and
7 liabilities to which the Petroleum Inspectorate and Department of Petroleum
8 Resources were subject immediately before the effective date and all other
9 persons shall as from the effective date have the same rights, powers and
10 remedies against the Commission as they had against the Petroleum
11 Inspectorate or Department of Petroleum Resources immediately before the
12 effective date.

Transfer of assets
and liabilities to
the Authority

13 **313.**-(1) The Authority shall be vested with all assets, funds,
14 resources and other movable and immovable properties, which immediately
15 before the effective date were held by the Department of Petroleum Resources,
16 the Petroleum Pricing and Product Regulatory Agency, and the Petroleum
17 Equalisation Fund (Management Board).

18 (2) The rights, interests, obligations and liabilities of the Department
19 of Petroleum Resources, the Petroleum Pricing and Product Regulatory
20 Agency, and the Petroleum Equalisation Fund (Management Board) existing
21 immediately before the effective date under any contract or instrument or law
22 or in equity are hereby assigned to and vested in the Authority.

23 (3) Any contract or instrument covered by subsection (2) of this
24 section shall be of the same force and effect against or in favour of the
25 Authority and shall be enforceable as fully and effectively as if instead of the
26 Department of Petroleum Resources, the Petroleum Pricing and Product
27 Regulatory Agency, and the Petroleum Equalisation Fund (Management
28 Board) had been named therein or had been a party thereto.

29 (4) The Authority shall be subject to all the obligations and liabilities
30 to which the Department of Petroleum Resources, the Petroleum Pricing and

1 Product Regulatory Agency, and the Petroleum Equalisation Fund
2 (Management Board) were subject immediately before the Effective Date
3 and all other persons shall as from the Effective Date have the same rights,
4 powers and remedies against the Authority as they had against the
5 Department of Petroleum Resources, the Petroleum Pricing and Product
6 Regulatory Agency, and the Petroleum Equalisation Fund (Management
7 Board) immediately before the Effective Date.

Transfer of
employees and
conditions of
service

8 **314.**-(1) From the effective date, employees in the relevant
9 divisions in the Petroleum Inspectorate or the Department of Petroleum
10 Resources shall be employees of the Commission on terms no less
11 favourable to those in effect immediately prior to such transfer, and all years
12 of service with the Petroleum Inspectorate or the Department of Petroleum
13 Resources, as applicable, shall be deemed to be years of service qualifying
14 for employment-related entitlements under any applicable law.

15 (2) The Commission shall assume and continue to fulfil all
16 statutory obligations in respect of pension schemes to which the Petroleum
17 Inspectorate or the Department of Petroleum Resources, as applicable, was
18 obliged in respect of its employees, prior to the effective date.

19 (3) From the effective date, employees of each of the Department
20 of Petroleum Resources, the Petroleum Pricing and Product Regulatory
21 Agency, and the Petroleum Equalisation Fund (Management Board), shall
22 be employees of the Authority on terms no less favourable to those in effect
23 immediately prior to the Effective Date, and all years of service with the
24 Department of Petroleum Resources, the Petroleum Pricing and Product
25 Regulatory Agency or the Petroleum Equalisation Fund (Management
26 Board), as applicable, shall be deemed to be years of service qualifying for
27 employment-related entitlements under any applicable law.

28 (4) The Authority shall assume and continue to fulfil all statutory
29 obligations in respect of pension schemes to which the Department of
30 Petroleum Resources, the Petroleum Pricing and Product Regulatory

Movement of staff of the institutions

1 Agency and the Petroleum Equalisation Fund (Management Board), as
2 applicable, was obliged in respect of its employees, prior to the effective date.

3 **315.** As part of the implementation process of sections 313 and 57 of
4 this Act, the Minister may within 24 months of the effective date cause an inter-
5 agency transfer of any staff of the institutions listed below to the Commission,
6 the Authority or NNPC Limited based on skills and competence requirements
7 of the new institutions, if the skills and competence of the said staff are most
8 suitable in any of the successor institutions during the implementation process-

9 (a) Department of Petroleum Resources;

10 (b) Nigerian National Petroleum Corporation or any of its
11 subsidiaries;

12 (c) Petroleum Equalisation Fund;

13 (d) Petroleum Inspectorate; and

14 (e) Petroleum Products Pricing and Regulatory Authority.

Transfer of Existing Host Community Development Projects and Host Community Development Schemes

15 **316.**-(1) Every settlor shall transfer any existing host community
16 development project or scheme to a host community development trust
17 established pursuant to the provisions of this Act.

18 (2) Every applicable settlor shall notify the Commission or Authority,
19 as the case may be, upon completion of any transfer pursuant to subsection (1)
20 of this section to any one or more host community development trusts of any of
21 its existing host community development projects or schemes.

22 (3) Any financial contribution made by a settlor from the effective
23 date until the date falling 12 months after the effective date to any ongoing host
24 community development project or scheme in accordance with their terms
25 shall be deemed to constitute a contribution made by such holder or holder
26 nominee pursuant to section 240(2) of this Act.

Transitional and Savings Provisions relating to Chapter Four

27 **317.**-(1) Anything made or done, or having effect as if made or done,
28 before the effective date of this Act under or pursuant to any provision of the
29 Petroleum Act, the Petroleum Profit Tax Act and the Deep Offshore and Inland
30 Basin Production Sharing Contract Act by the Service and having any

1 continuing or resulting effect with respect to the taxation of the profits of a
2 company or any matter connected therewith, shall be treated and for all
3 purposes shall have effect as if it were made or done by the Service under the
4 corresponding provisions of this Act.

5 (2) All rules, orders, notices or other subsidiary legislation made
6 under the Petroleum Act, the Petroleum Profits Tax Act, and the Deep
7 Offshore and Inland Basin Production Sharing Contract Act shall continue
8 to have effect as if made under the corresponding provisions of this Act.

9 (3) All references in any other enactment to provisions of the
10 Petroleum Act, the Petroleum Profits Tax Act and the Deep Offshore and
11 Inland Basin Production Sharing Contract Act shall be construed as
12 references to the corresponding provisions of this Act.

13 (4) With respect to petroleum mining leases selected pursuant to
14 section 93 (5)(b) and 93(6)(b) of this Act, any capital allowances existing at
15 the effective date for the related oil mining leases shall be carried over to the
16 selected petroleum mining leases, provided the allowances relate to
17 upstream petroleum operations and do not include investment tax
18 allowances and investment tax credits.

19 (5) Subject to the provisions of Section 303(1) of this Act, the
20 provisions of Parts II and X of Chapter Four of this Act shall apply upon the
21 commencement of the first Accounting Period following the Effective Date.

Interpretation

22 **318.** In this Act unless the context otherwise requires-

23 "accounting date" means the date on which a company usually prepares its
24 accounting statement.

25 "accounting period" in relation to a company engaged in petroleum
26 operations, means-

27 (a) a period of one year commencing on 1st January and ending on
28 31st December of the same year; or

29 (b) any shorter period commencing on the day the company first
30 makes a sale or bulk disposal of chargeable oil, domestic, export or both, and

1 ending on 31st December of the same year; or
2 (c) any period of less than a year being a period commencing on 1st
3 January of any year and ending on the date in the same year when the company
4 ceases to be engaged in petroleum operations;
5 In the event of any dispute with respect to the date of the first sale of chargeable
6 oil above or with respect to the date on which the company ceases to be
7 engaged in petroleum operations, the Commission shall determine the same
8 and no appeal shall lie;
9 "Act" means the Petroleum Industry Act;
10 "adjusted profit" means adjusted profit as stated in sections 262 and 272 of this
11 Act.
12 "advisory committee" has the meaning given to it in section 230 of this Act.
13 "affiliate" means the relationship that exists between two Persons when one
14 controls or is controlled by, an entity which controls, the other Person, where
15 'control' means the direct or indirect ownership of more than 50% of the voting
16 rights in a company, partnership or legal entity;
17 "aggregate gas price" means the gas price determined pursuant to section 167
18 (4) of this Act;
19 "area of operation" means the territory which hosts a Lessee's or licensee's
20 operational or designated facilities and any other ancillary facilities related to
21 upstream and midstream petroleum operations;
22 "assessable profit" means Assessable Profit as stated in sections 262 and 272 of
23 this Act;
24 "associated gas" means-
25 (a) natural gas, commonly known as gas-cap gas, which overlies and
26 is in contact with crude oil in a reservoir; and
27 (b) solution gas dissolved in crude oil in a reservoir and emerging
28 from the fluid as pressure drops.
29 "authorisation" means approval issued by the Commission or Authority for an
30 activity in the petroleum industry;

1 "Authority" means the "The Nigerian Midstream and Downstream
2 Petroleum Regulatory Authority" as provided for in this Act;
3 "Authority Chief Executive" means the executive pursuant to section
4 34(2)(c) of this Act;
5 "Authority Fund" means the fund established pursuant to section 47 of this
6 Act;
7 "barrel" means a barrel of 42 United States gallons;
8 "board" means the Governing Board of the Commission, Authority, NNPC
9 Limited or an Incorporated Joint Venture Company;
10 "board of trustees" means the governing board of the trust established
11 pursuant to section 242 of this Act;
12 "bulk gas storage licence" means a licence granted pursuant to section 132
13 of this Act;
14 "capital fund" means the fund available to the Board of Trustees of a host
15 community development trust for community development projects and
16 other matters on behalf of the holder or holders as provided for in this Act;
17 "chargeable oil" means chargeable oil as defined in section 262 of this Act
18 "chargeable profit" means chargeable profit as stated in section 262 of this
19 Act.
20 "chargeable tax" means chargeable tax as stated in section 267 of this Act.
21 "chargeable volume" in relation to a company engaged in upstream
22 petroleum operations means the chargeable volume as set out in paragraph 7
23 of the Seventh Schedule;
24 "Chief Executive" means the Commission Chief Executive or the Authority
25 Chief Executive;
26 "commercial discovery" means a discovery of crude oil, natural gas or
27 condensates within a petroleum prospecting licence which can be
28 economically developed in the opinion of the licensee after consideration of
29 all relevant economic factors normally applied for the evaluation and
30 development of crude oil, natural gas or condensate;

1 "Commission" means the Nigerian Upstream Petroleum Regulatory
2 Commission established under this Act;

3 "Commission Chief Executive" means the executive pursuant to section
4 11(2)(c) of this Act;

5 "Commission Fund" means the fund established pursuant to section 24 of this
6 Act;

7 "company" means in this Act, any company or corporation, other than a
8 corporation sole, incorporated under the Companies and Allied Matters Act;

9 "Companies and Allied Matters Act" means the Companies and Allied Matters
10 Act CAP C20, Laws of the Federation of Nigeria, 2004;

11 "condensate" means to a portion of natural gas of such composition that are in
12 the gaseous phase at temperature and pressure of the reservoirs, but that, when
13 produced, are in the liquid phase at surface pressure and temperature;

14 "connection agreement" means an agreement setting out the terms on which
15 individual, physical connections to the transportation pipeline, transportation
16 network or gas distribution network will be effected and matters such as the
17 configuration, pressure, technical parameters and cost of the connection;

18 "Constitution" means the Constitution of the Federal Republic of Nigeria 1999
19 (as Altered);

20 "conversion contract" means a contract pursuant to the provisions of section 92
21 of this Act;

22 "conversion date" means the date pursuant to the provisions of section 92 of
23 this Act;

24 "Corporate Affairs Commission" means the Corporate Affairs Commission of
25 Nigeria;

26 "Corrupt Practices Law" means-

27 (a) the laws of the Government in respect of bribery, kickbacks and
28 corrupt business practices;

29 (b) the Foreign Corrupt Practices Act of 1977 of the United States of
30 America (Pub. L. No. 95-213 §§ 101-104 et. seq.), as amended;

1 (c) the OECD Convention on Combating Bribery of Foreign
2 Public Officials in International Business Transactions, signed in Paris on
3 17 December 1997, which entered into force on 15 February 1999, and the
4 Convention's Commentaries;

5 (d) the United Kingdom Bribery Act 2010; and

6 (e) any other law of general application relating to bribery,
7 kickbacks or corrupt business practices.

8 "Council" means the Council established pursuant to section 52(3) and (4)
9 of this Act;

10 "crude oil" means petroleum, which is in liquid conditions upon production
11 from a reservoir either in its natural state or after the extraction of water, sand
12 or other foreign substance from it, but before any such oil has been refined or
13 otherwise treated, other than oil extracted by destructive distillation from
14 coal, bituminous shales or other stratified deposits;

15 "crude oil refiner" means the holder of a crude oil refining licence pursuant
16 to section 183 of this Act;

17 "customary court" means a customary court established by the applicable
18 laws of a State of the Federation or the Federal Capital Territory;

19 "customer client" means a wholesale customer of the strategic sector who is
20 a client of the domestic gas aggregator making use of the escrow account
21 mechanism;

22 "customer client volume" is the volume of natural gas that is paid for by a
23 customer client for the benefit of a specific producer client into the escrow
24 account of the domestic gas aggregator in any one month;

25 "customer protection" means the standards, practices and service
26 protections for customers including, those relating to pricing, service
27 quality and standards, billing practices, performance reporting and any
28 regulations of the Commission and Authority that provide such protections;

29 "decommissioning and abandonment" means the approved process of
30 cessation of operations of crude oil and natural gas wells, installations,

1 plants and structures, including shutting down an installation's operations and
2 production, total or partial removal of installations and structures where
3 applicable, chemicals, radioactive and all such other materials handling,
4 removal and disposal of debris and removed items, environmental restoration
5 of the area after removal of installations, plants and structures; and
6 "decommission" has a corresponding meaning;
7 "decommissioning and abandonment fund" has the meaning given to it in
8 section 232 of this Act;
9 "decommissioning and abandonment plan" is the plan to be submitted in the
10 Field development plan pursuant to section 79(2) for upstream petroleum
11 operations and pursuant to section 111(3) of this Act for midstream petroleum
12 operations;
13 "deep offshore" means any area within the territorial waters, continental shelf
14 or exclusive economic zone offshore of Nigeria having a water depth in excess
15 of 200 meters;
16 "deep rights" are petroleum rights vested in the Government after
17 relinquishment pursuant to section 88(5)(b) of this Act;
18 "Department of Petroleum Resources" means the Department of Petroleum
19 Resources of the Ministry of Petroleum Resources;
20 "designated facilities" means petroleum terminals, crude oil and natural gas
21 transportation pipelines, bulk storage tank farms, refineries, and gas
22 processing plants in midstream petroleum operations and petrochemical
23 plants;
24 "distribution pipeline" means a low-pressure pipeline for the purpose of
25 conveying natural gas or petroleum products to customers;
26 "domestic crude oil supply obligation" means the obligations of an upstream
27 crude oil producer to dedicate a specific volume of crude oil towards the
28 domestic refineries as stipulated in section 109 of this Act;
29 "domestic gas aggregator" means a licensee of a domestic gas aggregation
30 licence;

- 1 "domestic gas aggregation licence" means a licence granted pursuant to
2 section 153 of this Act;
- 3 "domestic gas demand requirement" means an aggregate of the volume of
4 natural gas required to meet the natural gas demand for strategic sectors
5 within the domestic economy for a specified period pursuant to section 173
6 of this Act;
- 7 "domestic gas delivery obligation" means the obligations of a Lessee
8 producing natural gas to dedicate and deliver to a transfer point a specific
9 volume of natural gas towards meeting the domestic gas demand
10 requirement, as stipulated in section 110 of this Act;
- 11 "downstream gas operations" means all activities entered into for the
12 purpose of , distribution and supply of natural gas to retail customers, city
13 gate reception terminals for natural gas; stations for the distribution,
14 marketing and retailing of natural gas;
- 15 "downstream petroleum products operations" means all activities entered
16 into for the purpose of distribution and supply of petroleum products to retail
17 customers, tank farms for distribution of petroleum products; and stations
18 for the distribution, marketing and retailing of petroleum products;
- 19 "downstream petroleum operations" means downstream gas operations and
20 downstream petroleum products operations;
- 21 "effective date" means the date on which this Act comes into force;
- 22 "enforcement order" means an order issued by the Commission or the
23 Authority;
- 24 "exploration well" means a well that in the opinion of the Commission is
25 aimed at discovering petroleum in a separate field in which petroleum has
26 not been previously discovered;
- 27 "domestic base price" means the price determined pursuant the Third
28 Schedule to this Act;
- 29 "Federal High Court" means the Federal High Court established by section
30 249 of the Constitution of the Federal Republic of Nigeria, 1999 (as

1 Altered);

2 "Federation Account" means the Federation Account stated in section 162 of
3 the Constitution of the Federal Republic of Nigeria, 1999 (as Altered);

4 "field" includes an area consisting of a single reservoir or multiple reservoirs all
5 grouped on, or related to, the same geological structural feature, stratigraphic
6 condition, a combination of both and refers to the underground productive
7 formations or their vertical projection to the surface;

8 "fiscal gas price" means the price in US \$/MMBtu determined at the
9 measurement point for natural gas pursuant to applicable regulations.

10 "fiscal oil price" means the price pursuant to applicable regulations for crude
11 oil and condensate in US \$/barrel determined at the measurement point in such
12 a manner that the price is equal to the price for which comparable crude oil and
13 condensate of similar quality could be sold on similar terms at similar times by
14 parties under no compulsion to buy or sell and whereby none of such parties
15 exerts or is in a position to exert influence on the other party having regard to all
16 relevant facts;

17 "Fiscal Responsibility Act" means the Fiscal Responsibility Act, 2007;

18 "force majeure" includes delays or inability to perform any obligations under
19 this Act, (other than a payment obligation), due to any event beyond the
20 reasonable control of a person. The event may be, but is not limited to, any act,
21 event, happening, or occurrence due to natural causes; and acts or perils of
22 navigation, fire, hostilities, war (declared or undeclared), blockade, labour
23 disturbances, strikes, riots, insurrection, civil commotion, quarantine
24 restrictions, epidemics, storms, floods, earthquakes, accidents, blowouts or
25 lightning. An event of force majeure shall not include changes in the laws of
26 Nigeria or any political subdivision thereof or any acts or orders of
27 Government, any minister, ministry, department, sub-division, agency,
28 authority, council, committee, or other constituent element thereof, or any
29 corporation owned and/or controlled by any of the foregoing, where operations
30 are delayed, curtailed or prevented by force majeure, then the time for carrying

1 out the obligation and duties thereby affected, and rights and obligations
2 hereunder, shall be extended for a period equal to the period thus involved
3 provided that such period shall not exceed three years in total after which
4 each party can terminate the respective licence or lease;
5 "frontier acreages" means any or all onshore acreages in an area defined as a
6 frontier in a regulation issued by the Commission;
7 "frontier basin" means basins defined as frontier in a Regulation issued by
8 the Commission;
9 "frontier exploration fund" means the fund established in subsection (3) of
10 section 9 of this Act;
11 "fund manager" means a person or company appointed by the board of
12 trustees to manage and invest the reserve fund established under the
13 provisions of Chapter Three of this Act for the benefit of the trust;
14 "gas distribution licence" means a licence for the distribution of natural gas
15 through a low-pressure pipeline system in a specific geographical area
16 pursuant to section 148 of this Act;
17 "gas distribution network" means a set of interconnected distribution
18 pipelines for natural gas;
19 "gas distributor" is the holder of a gas distribution licence;
20 "gas processing licence" means a licence granted pursuant to section 129 of
21 this Act;
22 "gas retailer" means a holder of a Retail Gas Supply Licence pursuant to
23 section 146 of this Act;
24 "gas transportation network" means a gas transportation network pursuant
25 to section 138 of this Act;
26 "gas transportation network operator licence" means a licence to operate a
27 gas transportation network pursuant to section 138 of this Act;
28 "gas transportation network operator" means the holder of a gas
29 transportation network operator licence;
30 "gas transportation pipeline" means a gas transportation pipeline pursuant to

- 1 section 135 of this Act;
- 2 "gas transportation pipeline licence" means a Licence for a Gas Transportation
3 Pipeline granted pursuant to section 135 of this Act;
- 4 "Gazette" means the Official Gazette of the Federal Government of Nigeria;
- 5 "good international petroleum industry practices" means those uses and
6 practices that are, at the time in question, generally accepted in the
7 international petroleum industry as being good, safe, economical,
8 environmentally sound and efficient in petroleum operations. They should
9 reflect standards of service and technology that are either state-of-the-art or
10 otherwise appropriate to the operations in question and should be applied using
11 standards in all matters that are no less rigorous than those in use by petroleum
12 companies in global operations;
- 13 "Government" means the Federal Government of Nigeria;
- 14 "host community" means any community situated in or appurtenant to the Area
15 of Operation of a Settlor, and any other community as a Settlor may determine
16 pursuant to Chapter Three of this Act;
- 17 "host community development plan" has the meaning given to it in section 252
18 of this Act;
- 19 "host community development trust" has the meaning given to it in subsection
20 (1) of section 235 of this Act;
- 21 "host community development trust fund" means the fund established pursuant
22 to section 235(1) of this Act;
- 23 "host community needs assessment" has the meaning given to it in section
24 252(1) of this Act;
- 25 "large-scale gas utilisation industries" means-
- 26 (a) large-scale industries that use natural gas as a feedstock such as
27 gas-to-liquid plants, petrochemical industries and fertilizer plants; and
- 28 (b) mini-LNG plants, power plants and such other industries as
29 defined in regulations.
- 30 "Land Use Act" means the Land Use Act, CAP L5, Laws of the Federation of

- 1 Nigeria 2004;
- 2 "lease" means a petroleum mining lease;
- 3 "lessee" means a holder of a lease;
- 4 "LIBOR" means| London Interbank Offered Rate;
- 5 "Licence" means a licence issued by the Commission or Authority in respect
6 of any applicable upstream, midstream or downstream petroleum
7 operations;
- 8 "licensee" means a holder of a licence;
- 9 "liquefied natural gas" or "LNG" means natural gas in liquid form through
10 condensation at close to atmospheric pressure and at a temperature of
11 approximately minus 162 degrees celsius;
- 12 "liquefied petroleum gas" or "LPG" means mixtures of propane and butane
13 and small concentrations of other gases which are gaseous under room
14 temperature and pressure but are liquified by applying pressure;
- 15 "licensing round guidelines" means guidelines that are established by the
16 Commission to govern the process of issuing Licences or leases during a
17 licensing round;
- 18 "local distribution zone" means an authorised area as specified in
19 regulations, within which one gas distributor may operate;
- 20 "loss" means a loss ascertained in like manner as an Adjusted Profit;
- 21 "marginal field" means a field or discovery which has been declared a
22 marginal field prior to 1st January 2020;
- 23 "management committee" means the committee set up pursuant to section
24 247 of this Act;
- 25 "marketable natural gas" means a mixture mainly of methane and other
26 hydrocarbons, where necessary through the processing of the raw natural
27 gas for the removal or partial removal of some of its constituents, and which
28 meets specifications determined by the Authority for distribution to
29 wholesale customers and retail customers-
- 30 (a) for use as a domestic, commercial and industrial fuel; and

1 (b) as feedstock or industrial raw material;

2 "marketable natural gas delivery point" means a point where marketable
3 natural gas is made available to customers, at the exit of a gas processing plant
4 or gas conditioning plant or at a measurement point, or such other location
5 immediately downstream of a facility in which such natural gas has been
6 produced, processed, conditioned or treated in order to produce marketable
7 natural gas;

8 "measurement point" means-

9 (a) a point determined in the field development plan pursuant to
10 section 79(2) of this Act, where petroleum is being measured and its value is
11 determined for royalty purposes,

12 (b) where the point has not been determined, a point directly
13 downstream of the flow station in the petroleum mining lease, and

14 (c) where measurements take place outside the petroleum mining lease, a
15 deemed measurement point in the petroleum mining lease based on a
16 calculation procedure approved by the Commission adjusting from the point(s)
17 where petroleum is being measured;

18 "midstream gas infrastructure fund" means the fund established pursuant to
19 section 52 of this Act:

20 "midstream gas operations" means activities downstream of the measurement
21 points of petroleum mining leases, whether or not related to the petroleum
22 mining lease, with respect to the construction and operation of natural gas
23 transport or transmission pipelines, including the related compressor stations;
24 construction and operations of facilities to compress, transport and deliver
25 compressed natural gas ("CNG"); construction and operations of gas
26 processing facilities and central processing facilities, producing ethane,
27 propane, butane and natural gas liquids and marketable natural gas;
28 construction and operation of underground or above ground facilities for the
29 storage of natural gas; ethane extraction plants; construction and operation of
30 gas to liquids ("GTL") plants; construction and operation of lubricant,

1 petrochemical and fertilizer plants, construction and operation of liquefied
2 natural gas ("LNG") plants, and related LNG terminals as well as storage
3 and transport of LNG; acquisition, operation or chartering of LNG tankers
4 for coastal and marine transportation; purchase and sale, trading, bartering,
5 aggregating and marketing of natural gas transported by pipelines,
6 compressed natural gas, liquified natural gas, methane, ethane, propane,
7 butane, natural gas Liquids and liquids from GTL plants with respect to
8 wholesale customers and gas distributors and related administration and
9 overhead;

10 "midstream petroleum liquids operations" means activities downstream of
11 the measurement point(s) of petroleum mining leases, whether or not related
12 to the petroleum mining lease, with respect to the construction and operation
13 of facilities for upgrading of heavy oil; construction and operation of
14 lubricant, petrochemical and fertilizer plants, construction and operation of
15 petroleum liquids transport pipelines, including the related pumping
16 stations; acquisition, operation, leasing, rental or chartering of barges,
17 coastal or ocean-going tankers, railcars and trucks for the transport of
18 petroleum liquids; construction, leasing and operation of tank farms and
19 other storage facilities and export terminals for petroleum liquids;
20 construction and operation of refineries, purchase and sale, trading,
21 bartering, marketing of petroleum liquids and related administration and
22 overhead;

23 "midstream petroleum operations" means midstream petroleum liquids
24 operations and midstream gas operations;

25 "Minister of Petroleum" or "Minister" means the Minister of Petroleum
26 Resources or any person designated by the President as having
27 responsibility for overseeing the Petroleum Industry;

28 "Ministry of Environment" means the Federal Ministry in charge of
29 environmental matters;

30 "Ministry of Finance" means the Federal Ministry in charge of finance

1 matters;

2 "MMBtu" means millions of British thermal units;

3 "Ministry of Finance Incorporated" means the corporation sole established by
4 the Ministry of Finance Incorporated Act CAP M15 Laws of the Federation of
5 Nigeria, 2004;

6 "model contract" means a contract pursuant to section 84(2) and (3) of this Act;

7 "model lease" means a standard petroleum mining lease with terms and
8 conditions adopted for a specific licensing round and may contain contractual
9 provisions in a model contract attached to the lease;

10 "model licence" means a standard Petroleum prospecting licence with terms
11 and conditions adopted for a specific licensing round and may contain
12 contractual provisions in a model contract attached to the licence;

13 "National Data Repository" means national petroleum data bank as defined in
14 the National Data Repository Regulation, 2007 and its amendment;

15 "National Salaries, Incomes and Wages Commission" means the National
16 Salaries, Incomes and Wages Commission established by section 1 of the
17 National Salaries, Incomes and Wages Commission Act CAPN72, Laws of the
18 Federation of Nigeria, 2004;

19 "national strategic stock" means the reserve of petroleum products kept in
20 certain storage depots and facilities by the Government or on behalf of the
21 Government to provide for emergency;

22 "Natural Gas" means all gaseous hydrocarbons, and all substances contained in
23 it and as exist in natural state in strata, associated or not with crude oil, and are
24 in a gaseous state upon production from a reservoir and excludes condensates.

25 "Natural Gas Liquids" or "NGL" means hydrocarbons liquefied at the surface
26 in separators, field facilities or in gas processing plants, and include but are not
27 limited to, ethane, propane, butanes, pentanes, and natural gasoline.

28 "NIBOR" means Nigerian Interbank Offered Rate;

29 "Nigeria" means the territory of the Federal Republic of Nigeria inclusive of its
30 land borders, territorial waters, continental shelf and exclusive economic zone;

1 "Nigerian National Petroleum Corporation" or "NNPC" means the Nigerian
2 National Petroleum Corporation established by section 1 of the Nigerian
3 National Petroleum Corporation Act CAP N123, Laws of the Federation of
4 Nigeria, 2004;

5 "NNPC limited" means Nigerian National Petroleum Company Limited, a
6 company to be incorporated under the Companies and Allied Matters Act
7 pursuant to the provisions of this Act;

8 "non-associated gas" means natural gas that is found in a reservoir which
9 does not contain significant quantities of crude oil;

10 "oil mining lease" means an oil mining lease granted pursuant to the
11 Petroleum Act, 1969, prior to the effective date of this Act;

12 "oil prospecting licence" means an oil prospecting licence granted pursuant
13 to the Petroleum Act, 1969, prior to the effective date of this Act;

14 "onshore" means any land areas above the high-water mark, other than
15 Frontier Acreages;

16 "parcel" shall be a parcel pursuant to section 69(4) of this Act;

17 "Pensions Reforms Act" means the Pensions Reforms Act 2014;

18 "permit" means an official certificate of permission to undertake an activity
19 issued by the Commission or Authority;

20 "person" means any individual, company or other juristic person;

21 "petroleum" means hydrocarbons and associated substances as exist in its
22 natural state in strata, and includes crude oil, natural gas, condensate and
23 mixtures of any of them, but does not include bitumen and coal;

24 "petroleum exploration licence" means a Licence pursuant to section 71 of
25 this Act;

26 "petroleum exploration operations" or "PEL" means any geological,
27 geophysical, geochemical and other surveys and any interpretation of data
28 relating thereto, and the drilling of such shot holes, core holes and
29 stratigraphic tests, related to the exploration for crude oil and natural gas, but
30 not including exploration wells;

1 "Petroleum Equalisation Fund" means the fund established under the
2 Petroleum Equalisation Fund (Management Board etc.) Act No. 9 of 1975,
3 CAPP11 Laws of the Federation of Nigeria 2004;

4 "petroleum industry" means the industries involved in upstream, midstream
5 and downstream petroleum operations in Nigeria;

6 "Petroleum Inspectorate" means the Petroleum Inspectorate established under
7 section 10 of the Nigerian National Petroleum Corporation Act CAP N123,
8 Laws of the Federation of Nigeria, 2004;

9 "petroleum liquids" means crude oil, condensates, liquid petroleum products
10 and Liquefied Petroleum Gas;

11 "petroleum liquids transportation pipeline licence" means a licence for a
12 petroleum liquids transportation pipeline granted pursuant to section 190 of
13 this Act;

14 "petroleum liquids transportation network operator licence" means a licence to
15 operate a petroleum liquids transportation network pursuant to section 193 of
16 this Act;

17 "petroleum liquids transportation network operator" means the holder of a
18 petroleum liquids transportation network operator licence;

19 "petroleum liquids transportation network" means a network pursuant to
20 section 193 of this Act;

21 "petroleum liquids transportation pipeline" means a pipeline pursuant to
22 section 190 of this Act;

23 "petroleum mining lease" means a Lease pursuant to section 81 of this Act;

24 "petroleum operations" means upstream, midstream and downstream
25 petroleum operations;

26 "Petroleum Pricing and Product Regulatory Agency" means the Petroleum
27 Pricing and Product Regulatory Agency established under section 1 of the
28 Petroleum Pricing and Product Regulatory Agency (Establishment) Act CAP
29 P43, Laws of the Federation of Nigeria, 2004;

30 "petroleum product distribution licence" means a licence for the distribution of

1 petroleum products pursuant to section 201 of this Act;

2 "petroleum product distributor" is the holder of a petroleum product

3 distribution licence;

4 "petroleum product retailer" means a holder of a petroleum product retail

5 licence;

6 "petroleum product retail licence" means a permit to retail petroleum

7 products to final customers pursuant to section 203 of this Act;

8 "petroleum products" means materials derived from crude oil and natural

9 gas processing such as ethane, propane, butanes, pentanes, liquefied

10 petroleum gas, natural gas liquids, asphalts, gasoline, diesel, gas oil, jet fuel,

11 transportation fuels, fuel oils for heating and electricity generation and such

12 other derivatives;

13 "Petroleum prospecting licence" or "PPL" means a licence pursuant to

14 section 72 of this Act;

15 "pipeline" means all parts of any tubular infrastructure through which

16 petroleum is conveyed, including pipes, valves, pumping and compressor

17 stations and other equipment appurtenant to pipes;

18 "President" means the President of the Federal Republic of Nigeria;

19 "producer client" means a Lessee who is a client of the domestic gas

20 aggregator making use of the escrow account mechanism;

21 "production sharing contract" means any agreement for the exploration,

22 development and production of petroleum on terms under which the

23 financial risk-bearing party shall recover costs and receives a share of the

24 profits based on a share of production as established in the contract from the

25 applicable area;

26 "Public Procurement Act" means Public Procurement Act 2007;

27 "public service obligations" means specific obligations imposed by the

28 Authority on licensees in relation to security of supply, social service,

29 economic development, environmental protection or the use of indigenous

30

1 materials;

2 "qualified person" in respect of the issuance of a licence, lease or permit to any
3 person with respect to upstream, midstream and downstream petroleum
4 operations is such a person as is designated by regulation;

5 "regulation" means rule or order having force of law issued by the Minister,
6 Minister of Finance, the Commission or the Authority in accordance with the
7 provisions of this Act;

8 "Rent" means the annual charge made in respect of a Licence or Lease granted
9 under this Act;

10 "renegotiated production sharing contract" means a production sharing
11 contract for which court cases or arbitration cases were outstanding, and was or
12 is being renegotiated after the effective date of this Act with the objective of
13 settling the outstanding court cases or arbitration cases;

14 "reserve fund" has the meaning given to it in section 244 of this Act;

15 "reservoir" means a subsurface rock formation containing an individual and
16 separate natural accumulation of producible Petroleum characterised by a
17 single natural pressure system;

18 "retail gas supply licence" means a Licence granted pursuant to section 146 of
19 this Act;

20 "retention period" means the period not exceeding 10 years, in the first
21 instance, granted by the Commission to the holder of a petroleum licence to
22 retain rights to develop an area over which a significant gas discovery has been
23 made;

24 "retention area" means the area approved by the Commission for a significant
25 gas discovery under this Act;

26 "royalties" means the royalties specified in the Seventh schedule;

27 "shallow water" means areas in the offshore of Nigeria up to and including a
28 water depth of 200 meters;

29 "Service" means the Federal Inland Revenue Service;

30 "settlor" is a holder of an interest in a petroleum prospecting licence or

1 petroleum mining lease or a holder of an interest in a licence for midstream
2 petroleum operations, whose area of operations is located in or appurtenant
3 to any community or communities;

4 "signature bonuses" means payments made with respect to the acquisition of
5 petroleum prospecting licences or petroleum mining leases;

6 "significant gas discovery" means a discovery of natural gas that is
7 substantial in terms of reserves and is potentially commercial, but cannot be
8 declared commercial for one or more of the following reasons-

9 (a) no markets for natural gas within Nigeria;

10 (b) export markets need to be identified and developed;

11 (c) no pipeline, processing or liquefaction capacity is available in
12 existing systems where commercial conditions indicate that the best option
13 for development is based on the future expansion of such systems or the use
14 of such systems when capacity will become available in the future; or

15 (d) where the natural gas discovery would only be commercial
16 when jointly developed with other existing natural gas discoveries or
17 potential future natural gas discoveries;

18 "special investigation unit" means a unit established either under section 27
19 or section 50 of this Act;

20 "strategic sectors" means in relation to marketable natural gas purchases,
21 Wholesale Customers of the following sectors the-

22 (a) power sector,

23 (b) gas based industries, consisting of industries using gas as a feed
24 stock or industrial raw material, and

25 (c) commercial sector, consisting of industries, as may be
26 determined by the Authority, which use gas as an energy source;

27 "standard cubic foot" means, in relation to natural gas, the quantity of dry
28 ideal natural gas at a temperature of sixty (60) degrees Fahrenheit and a
29 pressure of fourteen decimal six nine six (14.696) pounds per square inch
30 absolute contained in a volume of one (1) cubic foot;

1 "supplier" means the holder of a wholesale gas supply licence, a wholesale
2 petroleum liquids supply licence or a retail gas supply licence;

3 "tariff" means the price charged for the provision of a particular service, or
4 group of services, with respect to midstream and downstream petroleum
5 operations;

6 "terrain" refers to the area of any PEL, PPL or PML;

7 "terminal" means a terminal for Petroleum Liquids, pumping or booster
8 station, or other installation or structure associated with a terminal, including
9 its storage facilities, other than a terminal situated within "a port or any
10 approaches thereto" within the meaning of the Nigerian Ports Authority Act;

11 "third party access" means the legal requirement for owners of certain
12 infrastructure facilities to grant access to those facilities to parties other than
13 themselves or their own customers, for uncommitted capacity, including
14 competitors in the provision of the relevant services, on terms stipulated in this
15 Act or regulations;

16 "transportation fuels" means fuels used for transport on land, on water and in
17 the air, such as gasoline, aviation gasoline, diesel, jet fuel, marine bunker fuel,
18 LNG, CNG and other fossil fuel based products, as well as hydrogen, bio-
19 diesel, bio-jet fuel, ethanol and other fuels used for transport purposes;

20 "transportation network" means a system of interconnected transportation
21 pipelines and other facilities required to transport natural gas or petroleum
22 liquids;

23 "transportation pipeline" means a pipeline used for the bulk conveyance of
24 petroleum liquids and for natural gas under high-pressure;

25 "transportation pipeline owner" means the holder of a gas transportation
26 pipeline licence or a petroleum liquids transportation pipeline licence;

27 "upstream petroleum operations" means the winning or obtaining of petroleum
28 in Nigeria by or on behalf of a company on its own account for commercial
29 purposes; petroleum exploration operations; all activities upstream of the
30 measurement points, related to the winning of petroleum through wells or

1 mining from petroleum reservoirs, drilling, fracking, completing, treatment
2 and operation of wells producing Petroleum; construction and operation of
3 gathering lines and manifolds for crude oil, natural gas and water;
4 construction and operation of high and low pressure separators;
5 construction and operation of facilities to treat crude oil and natural gas;
6 flaring of natural gas; compression and reinjection of natural gas in
7 reservoirs; construction and operation of facilities for the production of
8 electricity or heat from natural gas or other fuels as energy source for the
9 winning of petroleum; injection or re-injection of water into the reservoirs;
10 construction and operation of pipelines and other facilities for the discharge
11 of water; construction and operation of fixed or floating platforms or other
12 vessels required for the winning of Petroleum; construction and operation of
13 fixed or floating storage facilities of crude oil in the licence area;
14 transportation to and from the licence area of personnel, goods and
15 equipment; metering of well stream fluids; metering of petroleum at the
16 measurement point(s) prior to transportation; sale and marketing of Crude
17 Oil, natural gas or condensates or any of them at the measurement point(s)
18 and such other activities which by regulation are considered upstream
19 petroleum operations; and related administration and overhead; provided,
20 however, that where field facilities or fixed or floating platforms or vessels
21 provide for fully integrated upstream and midstream petroleum operations,
22 the Commission may consider the entire operations as upstream Petroleum
23 operations;

24 "UTM" means the Universal Transverse Mercator, a conformal projection
25 which uses a two-dimensional Cartesian coordinate system to give locations
26 on the surface of the Earth;

27 "wholesale customer" means a class of customers designated in regulations
28 with respect to-

29 (a) natural gas, the right to contract for and purchase a supply of
30 wholesale gas, with a capability to connect individually and economically to

1 a transportation pipeline or transportation network and shall include gas
2 distributors, and

3 (b) crude oil or petroleum products, it shall be a customer of a yearly
4 volume defined by regulation and shall include petroleum product distributors;

5 "wholesale gas" means natural gas sold by a supplier to wholesale customers;

6 "wholesale gas supplier" means the holder of a wholesale gas supply licence;

7 "wholesale gas supply licence" means a licence for the supply to wholesale
8 customers of natural gas pursuant to section 142 of this Act;

9 "wholesale petroleum liquids supply licence" means a licence for the supply to
10 wholesale customers of petroleum liquids pursuant to section 197 of this Act;

Short title

11 "wholesale petroleum liquids supplier" means a holder of a wholesale
12 petroleum liquids supply licence.

13 **319.** This Bill may be cited as the Petroleum Industry Bill, 2020.

14 FIRST SCHEDULE

15 *[section 3 (3)]*

16 *Rights of Pre-Emption*

17 1. The Minister shall have the right to require the holder of any
18 Licence or Lease granted under this Act (referred to in this Schedule as "the
19 licensee or lessee") to-

20 (a) provide for the Federal Government, to the extent of any refinery
21 or petroleum products storage capacity he may have in Nigeria, petroleum
22 products complying with specification given by the Minister; or

23 (b) deliver to any person holding a Licence to operate a refinery, such
24 quantity and quality of crude oil as may be specified by the Minister to the
25 extent that the licensee or lessee has crude oil of that quantity and quality.

26 2. The licensee or lessee shall use his best endeavours to increase so
27 far as possible with his existing facilities, the supply of petroleum or petroleum
28 products, or both, for the Federal Government to the extent required by the
29 Minister.

30 3. The licensee or lessee shall, with all reasonable expedition and so

1 as to avoid demurrage on the vessels conveying the same, use his best
2 endeavours to deliver all petroleum or petroleum products purchases by the
3 Minister under the right of pre-emption in such quantities, and at such places
4 of shipment or storage in Nigeria, as may be determined by the Minister.

5 4. Where a vessel employed to carry petroleum or petroleum
6 products pursuant to paragraph 3 of this Schedule is detained on demurrage
7 at the port of loading, the licensee or lessee shall pay the amount due for
8 demurrage according to the terms of the charter-party or the rates of loading
9 previously agreed to by the licensee or lessee, unless the delay is due to
10 causes beyond the control of the licensee or lessee.

11 5. Any dispute which may arise as to whether a delay is due to
12 causes beyond the control of the licensee or lessee shall be settled by
13 agreement between the Minister and the licensee or lessee or, in default of
14 agreement, by arbitration.

15 6. The price to be paid for petroleum or petroleum products taken
16 by the Minister in exercise of the right of pre-emption shall be-

17 (a) the reasonable value at the point of delivery, less discount to be
18 agreed by both parties; or

19 (b) where no such agreement has been entered into prior to the
20 exercise of the right of pre-emption, a fair price at the port of delivery to be
21 settled by agreement between the Minister and the Licensee or Lessee or, in
22 default of agreement, by arbitration.

23 7. To assist in arriving at a fair price for the purposes of paragraph
24 6(b) of this Schedule, the licensee or lessee shall, if the Minister so requires-

25 (a) furnish for the confidential information of the Minister
26 particulars of quantities, descriptions and prices of petroleum or petroleum
27 products sold to other customers and of charters or contracts entered into for
28 their carriage; and

29 (b) exhibit original or authenticated copies of the relevant contracts
30 or charter-parties.

1 8. The Minister may take control of any works, plants or premises of
2 the licensee or lessee and if he does so, the licensee or lessee and his servants or
3 agents shall conform to and obey all directions issued by the Minister or on his
4 behalf.

5 9. Reasonable compensation shall be paid to the licensee or lessee for
6 any loss or damage caused to him by reason of the exercise by the Minister of
7 the powers conferred by paragraph 8 of this Schedule.

8 10. Any compensation payable under paragraph 9 of this Schedule
9 shall be settled by agreement between the Minister and the licensee or lessee or,
10 in default of agreement, by arbitration.

11 11. Any arbitration under the First Schedule shall take place after the
12 Petroleum or Petroleum Products have been delivered.

13 SECOND SCHEDULE

14 *[sections 54(7) and 65(1)]*

15 PRINCIPLES OF NEGOTIATING INCORPORATED JOINT VENTURES

16 *General Provisions*

17 1.-(1) An incorporated joint venture company may be created for an
18 existing joint operating agreement. Each incorporated joint venture company
19 shall be formed under the Companies and Allied Matters Act. NNPC Limited
20 shall enter into negotiations with the other parties to such existing joint
21 operating agreements with a view to, among other things-

22 (a) agreeing and executing a shareholders' agreement in respect of the
23 applicable incorporated joint venture company;

24 (b) agreeing the provisions of the memorandum and articles of
25 association of the applicable incorporated joint venture company; and

26 (c) incorporating the applicable incorporated joint venture company.

27 (2) Prior to the incorporation of each incorporated joint venture
28 company, the parties to each applicable joint operating agreement shall
29 continue to carry out their obligations under such joint operating agreement in
30 the ordinary course of business.

1 (3) Each incorporated joint venture company shall be owned by the
2 parties to the applicable existing joint operating agreement in the same
3 proportion as their existing participating interests set forth in such joint
4 operating agreement, or in such other proportion as the parties thereto shall
5 mutually agree.

6 (4) Upon and following the incorporation of an incorporated joint
7 venture company-

8 (a) it can carry out upstream, midstream and downstream
9 petroleum operations subject to the appropriate fiscal regime as specified in
10 the this Act;

11 (b) it shall be deemed to be the sole licensee or lessee (as
12 applicable) of each petroleum prospecting licence or petroleum mining
13 lease held jointly pursuant to the applicable existing joint operating
14 agreement immediately prior to its incorporation;

15 (c) it shall at all times be the operator of petroleum operations
16 under each petroleum prospecting licence and petroleum mining lease that it
17 holds;

18 (d) it may contract for specific petroleum services but may not
19 enter into any contract or group of contracts which would have the effect of
20 transferring, directly or indirectly, any of the functions as operator except
21 with the approval of the Commission, in the case of upstream petroleum
22 operations, or the Authority, in the case of midstream and downstream
23 petroleum operations;

24 (e) it shall by publication on its website make public reasonable
25 details relating to its incorporation and constitutional documents; and

26 (f) it may render any services related to its operations (other than
27 financial and insurance services), to any other incorporated joint venture
28 company, NNPC Limited, or any other third party under such conditions as
29 it may deem necessary or desirable.

1 *Special Provisions Relating to Incorporated Joint Venture Companies*

2 2.-(1) No incorporated joint venture company shall be subject to the
3 provisions of the Fiscal Responsibility Act and the Public Procurement Act.

4 (2) Once incorporated, the following provisions shall apply to each
5 Incorporated joint venture company-

6 (a) prior to any sale of shares in an Incorporated joint venture
7 company by any shareholder (other than NNPC Limited) of such Incorporated
8 joint venture company, such shareholder shall first offer such shares for sale to
9 NNPC Limited at fair market value and on commercially reasonable terms.

10 (b) each incorporated joint venture company shall have its head office
11 and main operational offices in Nigeria.

12 *Organisation of Incorporated Joint Venture Companies*

13 3.-(1) Each incorporated joint venture company shall have a board of
14 directors to be appointed by the shareholders of the incorporated joint venture
15 company.

16 (2)The board of directors of each incorporated joint venture
17 company shall be made up of persons:

18 (a) who have distinguished themselves in their various capacities; and

19 (b) who are able to exercise independence and objectivity with
20 respect to the affairs of the incorporated joint venture company.

21 (3) The powers of the Board of directors of each incorporated joint
22 venture company shall be established in the articles of association of such
23 incorporated joint venture company; provided, that the Board of directors of
24 such incorporated joint venture company shall have the power to approve the
25 annual work program and budget of such incorporated joint venture company
26 and any revisions thereof.

27 (4) The Board of directors of each incorporated joint venture
28 company may create committees and subcommittees.

29 (5) Decisions of the Board of directors of each incorporated joint

1 venture company shall be guided by commercial and technical
2 considerations that represent good international petroleum industry
3 practices.

4 *Special provisions relating to the shares of incorporated*
5 *joint venture companies*

6 4.-(1) The share capital of each incorporated joint venture
7 company shall consist only of ordinary shares.

8 (2) The shares held directly or indirectly by NNPC Limited in each
9 incorporated joint venture company shall at all times during the life of each
10 incorporated joint venture company remain non-transferable either by way
11 of sale, assignment, mortgage or pledge to any other entity except as
12 approved by the Government and such sale or transfer shall be at fair market
13 value after an open, transparent and competitive bidding process.

14 (3) No holder of shares of an incorporated joint venture company
15 shall encumber, grant as security, assign or transfer (except for a transfer to
16 an entity which is exclusively owned by the ultimate parent company of the
17 transferring shareholder) its shares in an incorporated joint venture
18 company without the prior written consent of NNPC Limited.

19 (4) Any change of control in respect of any holder of shares (other
20 than of the NNPC Limited) in an incorporated joint venture company shall
21 require the prior approval of NNPC Limited.

22 (5) For the purposes of this section:

23 (a) "change of control" means if any person or combination of
24 persons acting jointly or in concert (other than permitted holders) shall at
25 any time acquire direct or indirect beneficial ownership of a percentage of
26 the voting power of the outstanding voting securities of the holder (by
27 contract or otherwise) that exceeds 50% thereof; and

28 (b) "permitted holder" means any person or combination of
29 persons acting jointly or in concert that held more than 50% of the direct or

1 indirect beneficial ownership of the voting power of the voting securities of the
2 holder (by contract or otherwise) at the time the applicable petroleum
3 prospecting licence or petroleum mining lease was granted to such holder.

4 *Special provisions relating to rents, royalties, taxes and other levies payable*
5 *by an incorporated joint venture company*

6 5.-(1) Each incorporated joint venture company shall be subject to
7 this Act on payment of rents, royalties and taxes.

8 (2) The initial capitalisation of each incorporated joint venture
9 company and the transactions required to create such incorporated joint
10 venture company shall not create any additional tax liabilities for any of the
11 holders of shares in the incorporated joint venture company; provided that all
12 assets, interests and liabilities previously held jointly pursuant to the applicable
13 joint operating agreement are transferred to the incorporated joint venture
14 company at their net book value.

15 *Special right of shareholders in an incorporated joint venture company to*
16 *purchase petroleum and any petroleum derivatives*

17 6.-(1) Each direct holder of shares in an incorporated joint venture
18 company shall have the right to purchase from the incorporated joint venture
19 company:

20 (a) at open market prices, a percentage of the crude oil, natural gas and
21 condensates produced by such incorporated joint venture company equal to its
22 shareholding interest in such incorporated joint venture company; and

23 (b) at open market prices, a percentage of the petroleum products
24 produced by such incorporated joint venture company equal to its percentage
25 ownership interest in the incorporated joint venture company.

26 (2) Where the direct holders of shares in an incorporated joint venture
27 company do not purchase all crude oil, natural gas, condensates and petroleum
28 products that they are entitled to pursuant to subsection (1) of this section, such
29 incorporated joint venture company may sell the remaining balance to any
30 Person at open market prices and on arm's length terms.

1 (3) Any income received by an incorporated joint venture company
2 as a result of the export of Petroleum may be held in bank accounts abroad
3 and may be used by such incorporated joint venture company to pay its
4 obligations outside Nigeria, subject to any obligations of such incorporated
5 joint venture company under this Act and any other applicable enactments.

6 (4) The transfer overseas of any funds by an incorporated joint
7 venture company shall be subject to the Regulations and policies of the
8 Central Bank of Nigeria.

9 *Pro-rata dividend distribution*

10 7.-(1) Each incorporated joint venture company shall pay
11 dividends and other distributions pro rata among the number of issued
12 shares held directly by its shareholders.

13 (2) Each dividend payment or other distribution shall be subject to
14 any withholding tax applicable under the Companies Income Tax Act.

15 *Dividend Policy*

16 8. The board of directors of each incorporated joint venture
17 company shall establish and from time to time amend the dividend
18 distribution policy of such incorporated joint venture company. Such
19 dividend distribution policy shall be premised on the prudent and
20 commercially reasonable management of the finances and operations of the
21 incorporated joint venture company.

22 *Special Provisions Relating to Financing of Operations*

23 9.-(1) Each incorporated joint venture company shall finance any
24 exploration for new prospects, development of new Fields, or any other
25 investments in accordance with the applicable approved annual work
26 program and budget for such incorporated joint venture from the cash flows
27 of the incorporated joint venture company and any borrowings by such
28 incorporated joint venture company, in each case as approved by its Board
29 of directors.

30 (2) Where the cash flow, together with any borrowings, of an

1 incorporated joint venture company is insufficient to finance the work program
2 in respect of any exploration for new prospects, development of new Fields, or
3 any other investments approved by the Board of directors of such incorporated
4 joint venture company, the shareholders of such incorporated joint venture
5 company shall consult as to the manner in which further financing can be
6 raised.

7 THIRD SCHEDULE

8 *[section 167(c)]*

9 DOMESTIC BASE PRICE AND PRICING FRAMEWORK

10 (1) The domestic base price as of January 1, 2021 shall be \$ 3.20 per
11 MMBtu

12 (2) The domestic base price shall be increased every year by \$ 0.05
13 per MMBtu until 2037, when a price of \$ 4.00 per MMBtu will apply for that
14 year and future years.

15 (3) The Authority, may, by regulations, change the domestic base
16 price pursuant to paragraph (1) and the yearly increase pursuant to paragraph
17 (2) to reflect changed market conditions and supply frameworks. The
18 objective is to establish a fully functioning free market in natural gas for
19 domestic supplies. This is to be achieved through the voluntary supplies
20 pursuant to subsection 110(2). Where insufficient voluntary supplies are
21 occurring, the Authority may increase the domestic base price and, or the
22 yearly increases. At the same time, the Authority shall monitor the gas prices in

other major emerging countries and ensure that Nigeria continuous to have a price level for natural gas that is less than the average of these emerging countries in order to promote the non-oil sectors in the Nigerian economy.

Fourth Schedule

[sections 168(1) and 266(1)(d)]

PRICING FORMULA FOR GAS PRICE FOR THE GAS BASED INDUSTRIES

The gas price for the gas based industries shall be determined by the following pricing formula:

$$CP = NRP * (1 + EPF) \leq EPP$$

Where -

CP is the applicable gas price in \$/Mmbtu

NRP is the National Reference Price which is \$1.00/MMbtu

EPF is the End Product Factor which is described by the following formula (CMPP - PRP)/PRP

End Product	NRP (\$/mmbtu) Net of transport Tariff \$/Kcf	PRP (\$/MT)
Ammonia	1.00	250
Urea	1.00	250
Methanol	1.00	250
Polypropylene (LDPPE/HDPPE)	1.00	250
Low Sulphur Diesel (GTL)	1.00	325

1 FIFTH SCHEDULE

2 [*sections 263(1)(d), 271 (2)(b), (2)(c)(5)(a), 277(1)(c) and 280(1)(b)*]

3 CAPITAL ALLOWANCES

4 *Interpretation*5 1. For the purposes of this schedule, unless the context otherwise
6 requires-7 (a) "Concession" includes a petroleum exploration licence,
8 petroleum prospecting licence, petroleum mining lease, any right, title or
9 interest in or to Petroleum in the ground and any option of acquiring any such
10 right, title or interest;11 (b) "Lease" includes an agreement for a lease where the term to be
12 covered by the lease has begun, any tenancy and any agreement for the letting
13 or hiring out of an asset, but does not include a mortgage, and all cognate
14 expressions including "LEASEHOLD INTEREST" shall be construed
15 accordingly and where,-16 (i) with the consent of the lessor, a lessee of any asset remains in
17 possession after the termination of the lease without a new lease being granted,
18 that lease shall be deemed for the purposes of this schedule to continue so long
19 as the lessee remains in possession; and20 (ii) on the termination of a lease of any asset, a new lease of that asset
21 is granted to the lessee, the provisions of this schedule shall have effect as if the
22 second lease were a continuation of the first lease;23 (c) Qualifying expenditure means, subject to the express provisions
24 of this schedule, expenditure incurred for the purpose of hydrocarbon tax in an
25 accounting period, which is capital expenditure, refers to as-26 (i) "qualifying plant expenditure" incurred on plant, machinery and
27 fixtures directly for upstream petroleum operations applicable to crude oil for
28 petroleum mining leases or petroleum prospecting licence;29 (ii) "qualifying pipeline and storage expenditure" including floating
30 production systems incurred directly or gathering pipelines for upstream

1 petroleum operations applicable to crude oil for petroleum mining leases or
2 petroleum prospecting licences;

3 (iii) "qualifying building expenditure" other than expenditure,
4 which is included in subparagraphs c(i), c(ii) or c(iv) of this "Interpretation",
5 incurred directly on the construction of buildings, structures or works of a
6 permanent nature for upstream petroleum operations applicable to crude oil
7 for petroleum mining leases or petroleum prospecting licences; or

8 (iv) "qualifying drilling expenditure", tangible and intangible,
9 other than expenditure which is included in subparagraphs c(i) or c(ii) of this
10 "Interpretation", incurred directly in connection with upstream petroleum
11 operations for petroleum mining leases or petroleum prospecting licence; in
12 view of-

13 (1) searching for or discovering and testing petroleum deposits, or
14 winning access, or

15 (2) the construction of any works or buildings which are likely to
16 be of little or no value when the upstream petroleum operations for which
17 they were constructed cease to be carried on, provided that, for the purposes
18 of these definitions, qualifying expenditure shall not include any sum which
19 may be deducted under the provisions of Section 263 of this Act and have
20 benefited from capital allowances prior to the acquisition of the asset by
21 another entity.

22 (d) For the purposes of interpretation of qualifying expenditure,
23 where expenditure is incurred by a company before its first accounting
24 period and such expenditure would have fallen to be treated as qualifying
25 expenditure (ascertained without the qualification contained in the
26 foregoing proviso) if it had been incurred by the company on the first day of
27 its first accounting period and that expenditure is incurred in respect of an
28 asset,-

29 (a) owned by the company then such expenditure shall be deemed
30 to be qualifying expenditure incurred by it on that day; or

1 (b) which has been disposed of by the company before the beginning
2 of its first accounting period, then any Loss suffered by the company on the
3 disposal of such asset shall not be allowed on commencement of accounting
4 period. Any profit realized by the company on such disposal shall be liable to
5 capital gains tax in the same period accordingly.

6 *Provisions relating to pre-production expenditure*

7 2. For the purposes of this Schedule, where-

8 (a) expenditure has been incurred before its first accounting period
9 and the expenditure would have been treated as a qualifying expenditure in any
10 of the classes of qualifying expenditures stated in subparagraphs 1c(i)-(iv)
11 above, then it shall be so classified and capital allowances claimed
12 accordingly; and

13 (b) Where the expenditure before the first accounting date should
14 have been treated as allowable deduction in an accounting period, it shall be so
15 allowed but fully amortized over a period of five (5) years with a 1% retention
16 value.

17 *Owner and meaning of relevant interest*

18 3.-(1) For the purposes of this Schedule, where an asset consists of a
19 building, structure or works, the owner shall be taken to be the owner of the
20 relevant interest in such building, structure or works.

21 (2) Subject to the provisions of this paragraph, in this Schedule, the
22 expressions "the relevant interest" means, in relation to any expenditure
23 incurred on the construction of a building, structure or works, the interest in
24 such building, structure or works to which the company which incurred the
25 expenditure was entitled when it incurred the expenditure.

26 (3) Where a Company incurs qualifying building expenditure or
27 qualifying drilling expenditure on the construction of a building, structure or
28 works, the company is entitled to two or more interests therein, and one of
29 those interests is an interest which is reversionary on all the others, that interest
30 shall be the relevant interest for the purposes of this Schedule.

1 (4) Where the owner of the relevant interest does not have statutory
2 title to the asset, that is, it is not the licensee or lessee to the asset, the
3 qualifying capital expenditure and the capital allowances accruing
4 therefrom, for the purposes of this Schedule, shall be to the benefits of the
5 holder of the licence or lease.

6 *Sale of Buildings, etc.*

7 4. Where capital expenditure has been incurred on the construction
8 of a building, structure or works and the relevant interest is sold, the
9 company which buys that interest shall be deemed, for the purposes of this
10 Schedule, to have incurred, on the date when the purchase price became
11 payable, capital expenditure on the construction equal to the price paid by it
12 for such interest or to the original cost of construction, whichever is the less
13 and the capital expenditure shall not be eligible for capital allowance
14 deduction under the hydrocarbon tax, provided that where such relevant
15 interest is sold before the building, structure or works has been used; the
16 foregoing provisions of this paragraph shall have effect with respect to sale
17 and the original cost of construction shall be taken to be the amount of the
18 purchase price on such sale.

19 *Annual Allowance*

20 5.-(1) Subject to the provisions of this Schedule, where in any
21 accounting period, a company owning any asset has incurred in respect of
22 the asset qualifying expenditure wholly, reasonably, exclusively and
23 necessarily for the purposes of upstream petroleum operations applicable to
24 crude oil carried on by it, there shall be due to that company as from the
25 accounting period in which the expenditure was incurred, an allowance "an
26 annual allowance" at the appropriate rate percent specified in the table to
27 this Schedule.

28 (2) Notwithstanding the provisions of sub-paragraph (1) of this
29 paragraph, there shall be retained in the books, in respect of each asset 1
30 percent of the initial cost of the asset which may only be written off in

1 accordance with sub-paragraph (3) of this paragraph.

2 (3) Any asset or part of it in respect of which capital allowances have
3 been granted, may only be disposed of on the authority of a certificate of
4 disposal issued by the Commission or any person authorized by it.

5 *Asset to be in use at end of accounting period*

6 6. An annual allowance in respect of qualifying expenditure incurred
7 in respect of any asset shall only be due to a company for any accounting period
8 if at the end of the accounting period it was the owner of that asset and costs
9 were incurred for the purposes of the upstream petroleum operations
10 applicable to crude oil carried on by it.

11 *Balancing allowances*

12 7. Subject to the provisions of this schedule, where in any accounting
13 period of a company, the company owning any asset in respect of which it has
14 incurred qualifying expenditure wholly and exclusively for the purposes of
15 upstream petroleum operations applicable to crude oil carried on by it, disposes
16 of that asset, an allowance "a balancing allowance" shall be due to that
17 company for that accounting period of the excess of the residue of that
18 expenditure, at the date such asset is disposed of, over the value of that asset at
19 that date, provided that a balancing allowance shall only be due in respect of
20 such asset if immediately prior to its disposal it was in use by such company for
21 the purposes of the upstream petroleum operations applicable to crude oil for
22 which such qualifying expenditure was incurred.

23 *Balancing charges.*

24 8. Subject to the provisions of this schedule, where in any accounting
25 period of a company, the company owning any asset in respect of which it has
26 incurred qualifying expenditure wholly and exclusively for the purposes of
27 upstream petroleum operations applicable to crude oil carried on by it, disposes
28 of that asset, the excess "a balancing charge" of the value of that asset, at the
29 date of its disposal, over the residue of that expenditure at that date shall, for the
30 purposes of section 262(1)(a) of this Act, be treated as income of the company

1 of that accounting period, provided that a balancing charge in respect of such
2 asset shall only be so treated if immediately prior to the disposal of that asset
3 it was in use by such company for the purposes of the upstream petroleum
4 operations applicable to crude oil for which the qualifying expenditure was
5 incurred and shall not exceed the total of annual allowances due under the
6 provisions of this schedule, in respect of such asset.

7 *Residue*

8 9. The residue of qualifying expenditure, in respect of any asset, at
9 any date, shall be taken to be the total qualifying expenditure incurred on or
10 before that date, by the owner, in respect of that asset, less the total of any
11 annual allowances due to such owner, in respect of that asset, before that
12 date.

13 *Meaning of "disposed of"*

14 10. Subject to any express provision to the contrary, for the
15 purposes of this schedule-

16 (a) a building, structure or works of a permanent nature is disposed
17 of if any of the following events occur-

18 (i) the relevant interest is sold, or

19 (ii) that interest, being an interest depending on the duration of a
20 concession, comes to an end at the end of that concession, or

21 (iii) that interest, being a Leasehold interest, comes to an end and
22 the possession of the building, structure or works of a permanent nature
23 reverts to the holder of the reversionary interest, or

24 (iv) the building, structure or works of a permanent nature are
25 demolished or destroyed or, without being demolished or destroyed, cease
26 altogether to be used for the purposes of upstream petroleum operations
27 applicable to crude oil carried on by the owner;

28 (b) plant, machinery or fixtures are disposed of if they are sold,
29 discarded or cease altogether to be used for the purposes of upstream
30 petroleum operations applicable to crude oil carried on by the owner;

1 (c) assets in respect of which qualifying drilling expenditure is
2 incurred are disposed of if they are sold or if they cease to be used for the
3 purposes of the upstream petroleum operations applicable to crude oil of the
4 company incurring the expenditure either on the company ceasing to carry on
5 the operations or on such company receiving insurance or compensation
6 monies therefrom.

7 *Value of an asset or interest in a petroleum prospecting licence or*
8 *petroleum mining lease*

9 11.-(1) The value of an asset or interest in a petroleum prospecting
10 licence or petroleum mining lease at the date of its disposal shall be the net
11 proceeds of the sale or of the relevant interest, or, where it was disposed of
12 without being sold, the amount which, in the opinion of the service, the asset or
13 the relevant interest, as the case may be, would have fetched if sold in the open
14 market at that date, less the amount of any expenses which the owner might
15 reasonably be expected to incur if the asset were so sold.

16 (2) For the purpose of this paragraph, where an asset is disposed of in
17 the circumstances that insurance or compensation money are received by the
18 owner, the asset or the relevant interest, as the case may be, shall be treated as
19 having been sold and as though the net proceeds of the insurance or
20 compensation money were the net proceeds of the sale.

21 *Apportionment*

22 12.-(1) Any reference in this schedule to the disposal, sale or purchase
23 of any asset or interest includes a reference to the disposal, sale or purchase of
24 that asset, as the case maybe, together with any other asset, whether or not
25 qualifying expenditure has been incurred on such last-mentioned asset, and,
26 where an asset is disposed of, sold, or purchased together with another asset, so
27 much of the value of the assets as, on a just apportionment, is properly
28 attributable to the first mentioned asset shall, for the purposes of this Schedule,
29 be deemed to be the value of, or the price paid for that asset, as the case may be.

30 (2) For the purposes of this sub-paragraph, all the assets or interest

1 which are purchased or disposed of in pursuance of one bargain shall be
2 deemed to be purchased or disposed of together, notwithstanding that
3 separate prices are or purport to be agreed for each of those assets or that
4 there are or purport to be separate purchases or disposals of those assets.

5 (3) The provisions of sub-paragraph (1) of this paragraph shall
6 apply, with modifications, to the sale or purchase of the relevant interest in
7 any asset together with any other asset or relevant interest in that other asset
8 provided that the provisions for apportionment in sub-paragraphs (1) and (2)
9 above shall not apply in the sale or disposal of concessions or interest in a
10 part of the asset.

11 *Part of an asset*

12 13. Any reference in this schedule to any asset shall be construed
13 whenever necessary as including a reference to a part of any asset (including
14 an undivided part of that asset in the case of joint interests) and when so
15 construed, any necessary apportionment shall be made in a manner, which in
16 the opinion of the Service, is just and reasonable.

17 *Exclusion of certain expenditure*

18 14. Subject to the express provisions of this schedule, where any
19 company has incurred expenditure which is allowed to be deducted under
20 any provision (other than a provision of this Schedule) of this Act, such
21 expenditure shall not be treated as qualifying expenditure.

22 *Asset used or expenditure incurred partly for the purpose of*

23 *Petroleum operations*

24 15.-(1) The following provisions of this paragraph shall apply
25 where either or both of the following conditions apply with respect to any
26 asset-

27 (a) the owner of the asset has incurred in respect of the asset a
28 qualifying expenditure partly for the purposes of upstream petroleum
29 operations applicable to crude oil carried on by him and partly for other
30 purposes;

1 (b) the asset in respect of which the owner has incurred qualifying
2 expenditure is used partly for the purposes of upstream petroleum operations
3 applicable to crude oil carried on by such owner and partly for other purposes.

4 (2) Any allowances which would be due or any balancing charges
5 which would be treated as income if both expenditure were incurred wholly
6 and exclusively for the purposes of the upstream petroleum operations
7 applicable to crude oil and if the asset were used wholly and exclusively for the
8 purposes of such operations, shall be computed in accordance with the
9 provisions of this schedule.

10 (3) So much of the allowances and charges computed in accordance
11 with provisions of sub-paragraph (2) of this paragraph shall be due or shall be
12 so treated, as the case may be, as in the opinion of the Service is just and
13 reasonable having regard to all circumstances and to the provisions of this
14 Schedule.

15 *Disposal without change of ownership*

16 16. Where an asset in respect of which qualifying expenditure has
17 been incurred by the owner has been disposed of in circumstances that the
18 owner remains the owner, then, for the purposes of determining whether and,
19 if so, in what amount, any annual or balancing allowance or balancing charge
20 shall be made to or on such owner in respect of his use of that asset after the date
21 of the disposal-

22 (a) qualifying expenditure incurred by the owner in respect of the
23 asset prior to the date of the disposal shall be left out of account;

24 (b) the owner shall be deemed to have bought such asset immediately
25 after the disposal for a price equal to the residue of the qualifying expenditure at
26 the date of the disposal, increased by the amount of any balancing charge or
27 decreased by the amount of any balancing allowance made as a result of the
28 disposal.

29 Capital allowances shall be for the computation of Hydrocarbon Tax and not
30 for cost recovery purposes in Production Sharing Contracts, which shall have

their own provisions under the Model Contract.

Capital allowance rates

17. Qualifying expenditure shall be subject to the rates below:

Qualifying Capital Expenditure	1st Year	2nd Year	3rd Year	4th Year	5th Year
Qualifying Plant Expenditure	20%	20%	20%	20%	19%
Qualifying Pipeline Expenditure	20%	20%	20%	20%	19%
Qualifying Building Expenditure	20%	20%	20%	20%	19%
Qualifying Drilling Expenditure	20%	20%	20%	20%	19%

Exploration expenditure and the first two appraisal wells expenditure in the same field are to be treated as deductible costs 100% in the year incurred, while for additional exploration expenditures and appraisal expenditures in the same field relating to pre-production period are to be amortized and deducted on commencement of accounting period at an annual allowance of 20 per cent (20%) in the first to fourth year and 19% in the fifth year with a 1% retention value.

SIXTH SCHEDULE

[sections (254)(o), 277(1)(d) and 280(1)(c)]

PRODUCTION ALLOWANCES AND COST PRICE RATIO LIMIT

Production Allowance

1.-(1) There shall be a production allowance for crude oil production by Leases which are converted oil mining leases based on a conversion contract and their renewals, which shall be the lower of US \$ 2.50 per barrel and 20% of the fiscal oil price.

(2) There shall be a production allowance per field for crude oil production by a company for leases granted after the commencement of this Act and determined as follows-

(a) for onshore areas - the lower of US\$ 8.00 per Barrel and 20% of the fiscal oil price per barrel up to a cumulative maximum production of 50 million Barrels from commencement of production and the lower of US\$ 4.00 per barrel and 20% of the fiscal oil price thereafter;

(b) for shallow water areas - the lower of US\$8.00 per barrel and 20% of the fiscal oil price, up to a cumulative maximum production of 100 million barrels from commencement of production and the lower of \$4.00 per barrel and 20% of the fiscal oil price thereafter;

(c) for deep offshore areas and frontier basins - the lower of US\$ 8.00 per barrel and 20% of the fiscal oil price, up to a cumulative maximum production of 500 million barrels from the

1 commencement of production and the lower of US \$4.00 per barrel and 20% of
2 the fiscal oil price thereafter.

3 (3) The detailed procedures for determining the production
4 allowances shall be established in regulations.

5 *Cost Price Ratio (CPR) Limit*

6 2.-(1) All costs prescribed under Section 263 and the First Schedule to
7 this Act in an accounting period the sum of which is eligible for deduction
8 under the hydrocarbon tax shall be subject to a cost price ratio limit of 65% of
9 gross revenues determined at the measurement points.

10 (2) Where, as a result of sub-paragraph (1) of this paragraph, any
11 excess costs incurred has not been allowed for deduction for that year of
12 assessment, then-

13 (a) the costs may be allowed for deduction for the purposes of
14 ascertaining the profits of the company for subsequent years of assessment
15 provided that-

16 (i) the total costs to be deducted shall not exceed the actual costs
17 incurred, and

18 (ii) in carrying costs forward, capital allowances shall be carried
19 forward with priority over operating costs;

20 (b) the total costs to be allowed as deduction in those subsequent years
21 shall be such an amount that if added to the sum of the total costs to be allowed
22 as deduction under subparagraph (1) of this paragraph shall not exceed the
23 specified cost price ratio limit of 65%; and

24 (c) where pursuant to paragraph 2(2)(b) to this schedule, any costs
25 exceed the cost price ratio limit upon the termination of upstream petroleum
26 operations related to crude oil, such costs shall be not deductible for purposes
27 of calculation of the hydrocarbon tax.

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SEVENTH SCHEDULE

[section 306]

PETROLEUM FEES, RENTS AND ROYALTY

Part I - Fees

Fees payable for licences and leases

1. The Commission shall through Regulations publish the rates or fees payable in respect of the following-

- (a) application for a petroleum exploration licences;
- (b) application for a renewal of a petroleum mining lease;
- (c) application to assign an interest or sublet a petroleum exploration licence, petroleum prospecting licence or petroleum mining lease;
- (d) application to terminate or effect a partial or full surrender of a petroleum exploration licence, petroleum prospecting licence or petroleum mining lease;
- (e) application for permit to operate a drilling rig;
- (f) application for grant of field development plan approval and the related petroleum mining lease;
- (g) application for the approval of the drilling of a well;
- (h) permit to export samples for analysis;
- (i) application to withdraw any of the applications above; and
- (j) application for other fees as may be deemed necessary by the Commission.

Part II - Rents and bonuses

Rents for Licences

2. Every petroleum prospecting licence and petroleum mining lease shall be subject to rent as prescribed in the relevant regulation and the rent shall be an amount per hectare per year.

Payment of fees before grant of licence or lease

3.-(1) A petroleum prospecting licence and petroleum mining lease

1 shall not be granted without prior payment of the applicable fees, applicable
2 signature bonuses, and the rent applicable to the first year.

3 (2) A petroleum mining lease shall not be renewed without prior
4 payments of the renewal bonus pursuant to this Act.

5 *Penalty for default in payment of rent*

6 4. Failure to pay the rent as prescribed in the relevant regulation shall
7 result in a penalty as prescribed in the said regulation or any other enactment,
8 provided that where no penalty is prescribed in the said regulation, there shall
9 be an application of an interest rate of LIBOR or any other successor rate plus
10 10% to the outstanding payment in dollars and where the payment of the
11 applicable rent is not made within three months, revocation of such licence or
12 lease under this Act shall be initiated.

13 *Verification and payment account*

14 5. Any rents imposed under this section shall be paid into the
15 Federation Account and verified by the Commission.

16 **Part III - Royalties**

17 *All Petroleum production subject to Royalties*

18 6. All production of petroleum, including production tests, shall be
19 subject to royalties on a non-discriminatory basis with respect to all licensee
20 and lessees and shall be paid into the Federation Account and verified by the
21 Commission. For royalty purposes condensates shall be treated as crude oil
22 and natural gas liquids shall be treated as natural gas.

23 *Measurement Point for the determination of production volumes*

24 7.-(1) The royalties shall be determined on a monthly basis at the
25 measurement point(s). Where there is production from production tests under
26 a petroleum prospecting licence, the Commission shall determine
27 measurement point for such production. Where there is no measurement
28 equipment at a possible measurement point in the field at the commencement
29 of this Act, or where logistical conditions make the installation of measurement
30 equipment at a possible measurement point impractical or uneconomic in the

1 opinion of the Commission, the Commission may approve procedures for
2 determining the chargeable volumes at a deemed measurement point in the
3 field based on measurements at the point of sale, export terminal or other
4 point downstream of such deemed measurement point pursuant to the
5 regulations or guidelines. The measurement of crude oil, condensates and
6 natural gas liquids shall be in barrels and of natural gas in standard cubic
7 feet. Where so justified, the Commission may approve reporting of
8 production of natural gas liquids in metric tons.

9 (2) The chargeable volume for royalty purposes shall be calculated
10 by ascertaining the quantity of natural gas, crude oil, condensates and
11 natural gas liquids produced in the relevant month from each field operated
12 by the licensee or lessee pursuant to the regulations or guidelines.

13 (3) Where natural gas liquids are extracted in a gas processing plant
14 downstream of the measurement point, the rich natural gas volumes, still
15 including the natural gas liquids, shall be measured at the measurement
16 point and be the basis for royalty calculations. The value of such rich natural
17 gas shall be the value of the marketable natural gas plus the natural gas
18 liquids at the exit of the gas processing plant, less the gas processing costs
19 and less the transport cost between the measurement point and the gas
20 processing plant based on tariffs established by the Authority.

21 (4) Natural gas liquids and liquid petroleum gases shall have the
22 same royalty rates as the natural gas from which these products are derived.

23 (5) The chargeable volume shall be measured at standard
24 temperatures and pressures as defined by regulation or guidelines and
25 production shall not include any-

26 (a) volumes burned, flared or vented with the approval of the
27 Commission;

28 (b) volumes re-injected by the lessee into reservoirs for the purpose
29 of improving or enhancing production of crude oil or for conservation of
30 natural gas;

1 (c) volumes used in the upstream petroleum operations for the
2 production of electricity or heat for exclusive use in the operations of the
3 lessee; and

4 (d) water or sediments.

5 (6) The obligation to install the necessary measurement equipment
6 shall be that of the licensee or lessee and shall be certified by the Commission.
7 The measurement procedures and equipment for measurement at and prior to
8 the measurement point shall be established in regulations or guidelines.

9 *Determination of price for royalty*

10 8.-(1) The royalties applicable to crude oil and condensates shall be
11 based on the fiscal oil price determined for the field at the measurement
12 point(s) under applicable regulations or guidelines. This price shall be
13 determined by the Commission on the basis of information supplied by the
14 lessees and from non-confidential independent publications making such
15 adjustments for quality and transport costs as appropriate to prices of
16 comparable crude oils and condensates sold in the international market, as
17 determined by the Commission, for which appropriate information is available
18 and with the objective to approximate as reasonably as possible the average fair
19 market value of the month of the crude oil and condensates for such month for
20 such field.

21 (2) The fiscal oil price for each field shall consider any quality
22 differentials related to international crude oils and condensates and shall be an
23 export parity price taking into consideration the transportation costs within
24 Nigeria as determined by the Authority to export terminals.

25 (3) The royalties applicable to natural gas shall be based on the fiscal
26 gas price determined for the field at the measurement point under to applicable
27 regulations or guidelines. This price shall be determined by the Commission,
28 taking into consideration submissions by the lessees, and shall be based on the
29 netback value at the measurement point based on the composition of the natural
30 gas in terms of marketable natural gas, ethane, propane, butane, pentanes and

1 other natural gas liquids as may be derived by processing of the natural gas.
2 The net back procedure shall take into consideration the type of natural gas
3 markets to which the natural gas from the field is being sold, such as export
4 markets, domestic wholesale markets, markets based on the aggregate gas
5 price or other natural gas pricing framework as permitted under this Act. The
6 procedure shall take into consideration conditioning costs, processing costs
7 and transportation costs within Nigeria as determined by the Authority from
8 the measurement point to the market, where the sales point is downstream of
9 the measurement Point. Where natural gas liquids are produced in the field,
10 the total gross value of the liquids shall be taken into account in the
11 determination of the total gross value of the natural gas for purposes of the
12 fiscal gas price.

13 *Royalties in kind or cash*

14 9.-(1) The Commission shall receive the royalty in kind or in cash
15 at its discretion and the payment shall be subject to notice periods and
16 procedures as provided for in regulations or guidelines. Where royalties are
17 paid in cash the payments shall be based on the fiscal oil price and fiscal gas
18 price.

19 (2) The Licensee or Lessee shall pay royalties to the Commission
20 within a period that is not more than one month after the end of every month
21 during which the petroleum is produced or as the Commission may direct:

22 (a) with respect crude oil and condensates the royalties shall be
23 based on the royalties based on production pursuant to paragraph 10 of this
24 Schedule plus the royalties based on price pursuant to paragraph 11 of this
25 Schedule;

26 (b) With respect to natural gas and natural gas liquids the royalties
27 shall be based on the royalties based on production pursuant to paragraph 10
28 of this Schedule.

29 *Royalties based on production*

30 10.-(1) For the purposes of Paragraph 9 of this Schedule, royalties

1 based on production shall be calculated on a field basis.

2 (2) The royalty shall be at a rate per centum of the chargeable volume
3 of the crude oil and condensates produced from the field area in the relevant
4 month on terrain basis as follows in-

5 (a) onshore areas 18 per cent

6 (b) shallow water (up to 200m water depth) 16 per cent

7 (c) deep offshore (greater than 200m water depth) 10 per cent

8 (d) frontier basins 7.5 per cent

9 (3) For deep offshore fields with a production during a month of not
10 more than 15,000 bopd, the royalty rate shall be 7.5%. Production above
11 15,000 bopd shall be at the royalty rate specified in subparagraph (2) of this
12 paragraph.

13 (4) Royalties for onshore fields and shallow water fields, including
14 marginal fields, with crude oil and condensate production not more than
15 10,000 bopd during a month shall be at a rate per centum of the chargeable
16 volume of the crude oil and condensates produced from the field area per
17 production day during a month on trached basis as follows -

18 (a) for the first 5,000 bopd 5 per cent

19 (b) for the next 5,000 bopd 7.5 per cent

20 Provided that fields with crude oil and condensate production more than
21 10,000 bopd during a month shall be charged royalty rates specified under
22 subparagraph (2) of this Paragraph.

23 With respect to paragraphs (3) and (4), where a single Field covers two or more
24 petroleum mining leases, the royalty shall be determined based on the total
25 production from the field.

26 (5) Royalty based on production for natural gas and natural gas
27 liquids shall be at a rate per centum of the chargeable volume in the relevant
28 area on Terrain basis as follows in-

29 (a) onshore areas 7.5per cent;

30 (b) deep offshore areas 5 per cent;

1 (c) shallow water 5 percent; and
2 (d) frontier basins 5 percent.
3 Royalty rate for natural gas produced and utilized in-country shall be 5 per
4 cent of the chargeable volume.

5 (6) Where a field is located partially in onshore and in shallow
6 water or partially in shallow water and deep offshore areas, the weighted
7 average royalty shall be calculated as per regulations.

8 *Royalty by price*

9 11. There shall be payable, in addition to the royalty set out in
10 paragraph 10 of this Schedule, for onshore, shallow water and deep offshore
11 a royalty by price with respect to crude oil and condensates at the rates set
12 out below-

13 (a) Below \$ 50 per barrel 0 per cent
14 (b) At \$ 100 per barrel 5 per cent
15 (c) Above \$ 150 per barrel 10 per cent
16 (d) Between \$ 50 and \$ 100 per barrel and between \$ 100 and \$ 150
17 per barrel the royalty by price shall be determined based on linear
18 interpolation. (As an example if in 2020 the price is \$ 75/bbl, the royalty by
19 price shall be 2.5%);

20 (e) The price levels mentioned in (a), (b),(c) and (d) shall apply to
21 the year 2020. At the beginning of 2021 and of each succeeding calendar
22 year these price levels shall be increased by 2% relative to the values of the
23 previous year.

24 (3) There shall be no royalty by price for frontier acreages.

25 (4) Royalty derived from "royalty by price" shall be for the credit
26 of Nigerian Sovereign Investment Authority.

27 *Penalty for non-payment and outstanding payments of Royalties and*
28 *enforcement of payment*

29 12. Where any royalty due and payable under this Act is not paid
30 within two months after the month in which the royalty is due, then it

1 qualifies to be a debt which shall attract the following-

2 (a) a sum equal to 10 per cent of the amount of the royalty payable
3 which shall be added to the royalty;

4 (b) in the case of foreign currency transactions, the outstanding
5 payments due shall incur interest at the prevailing LIBOR or any other
6 successor rate plus 10 percent (point basis); or

7 (c) in the case of Naira transactions, the outstanding payments due
8 shall incur interest at the prevailing NIBOR plus 10 percent (point basis);

9 (d) N10,000,000 or US Dollar equivalent on the first day the failure to
10 pay the royalty occurs; and

11 (e) N2,000,000 or US Dollar equivalent for each day in which the
12 failure continues.

13 *Revocation, seizure and distraint*

14 13. Where any fee, rent or royalty due under this Act is unpaid within
15 three months after the month when it becomes due (whether legally demanded
16 or not), the Commission may, in addition to any other remedies which may be
17 available:

18 (a) initiate revocation of such licence or lease pursuant to this Act; and

19 (b) enter into any land, property or premises possessed or occupied by
20 the licensee or lessee in connection with the licence or lease; and-

21 (i) seize and distraint and sell as landlords may do for rents in arrear
22 any petroleum, petroleum products, engines, machinery, tools, implements or
23 other effects belonging to the licensee or lease which may be found in or upon
24 the land, property or premises; and

25 (ii) out of money arising from the sale of the distress, retain and pay
26 off the arrears of the fee, rent or royalty and also the costs and expenses
27 incidental to the distress and sale, rendering the surplus (if any) to the licensee
28 or lessee.

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Part IV - Supplemental

Production Sharing, Profit Sharing and Risk Service Contracts

14.-(1) Where the Commission decides to grant a petroleum prospecting licence or petroleum mining lease under contractual terms pursuant to Section 84 of this Act, the Commission shall prepare the related model contract, which stipulates the fiscal and other provisions related to such contract, to be attached to such licence or lease. The contracts shall be administered by the Commission and the Government revenues related to the contracts shall be paid to the Federation Account and verified by the Commission.

(2) The model contract shall contain as a minimum, the provisions related to fees, rents, royalties, hydrocarbon tax and companies income tax stipulated in this Act.

(3) A model licence related to frontier acreages shall not contain contractual provisions pursuant to Section 84 of this Act and shall only contain the minimum provisions related to fees, rents, royalties under paragraph 10 of this Schedule and companies income tax stipulated in this Act and upon the renewal of any petroleum mining leases, hydrocarbon tax and royalty based on price under paragraph 11 of this Schedule based on onshore conditions shall apply.

(4) For new acreage any production sharing contract shall have a cost limit of 70% based on total oil production, and where applicable condensates and natural gas liquids derived from associated gas, measured at the measurement point. Furthermore, the minimum profit oil scale to Government in a production sharing contract shall be based on cumulative production per field as follows-

- (a) up to and including 50 million barrels - 5%;
- (b) over 50 million barrels and up to and including 100 million barrels - 10%;

1 (c) over 100 million barrels and up to and including 350 million
2 barrels - 15%;

3 (d) over 250 million barrels up to and including 750 million barrels -
4 25%;

5 (e) over 750 million barrels ad up to and including 1500 million
6 barrels - 35%;

7 (f) over 1500 million barrels 45%.

8 (5) There shall be no production sharing for associated or non-
9 associated natural gas, to which only the rents, royalties and companies income
10 tax applies under this Act. Capital and operating costs related to making
11 associated natural gas available at the measurement point(s) can be recovered
12 from cost oil.

13 (6) The contractors shall be the licensees or lessees and shall thereby
14 be entitled to the capital allowances under the Fifth Schedule.

15 (7) The profit oil for crude oil under conversion contracts or for new
16 acreages shall be determined as the total volume of crude oil, where applicable,
17 condensates and natural gas liquids derived from associated gas, less the
18 royalties and less the cost oil as defined in the model contract.

19 (8) For production sharing purposes, the adjusted profit of a company
20 for hydrocarbon tax shall be determined pursuant to Section 263(1)(b), which
21 means that royalties and the value of profit oil delivered in kind or cash from all
22 fields to the Federation Account shall be deductible for the purposes of
23 determining the adjusted profits. The calculation shall be consolidated as per
24 the six groups under Section 267, subject to the provisions of Section 261 and
25 the capital allowances under the Fifth Schedule shall be applied.

26 (9) For a production sharing contract subject to a conversion contract
under this Act, the cost limit shall be 60%.

EXPLANATORY MEMORANDUM

This Bill seeks to provide Legal, Governance, Regulatory and Fiscal Framework for the Nigerian Petroleum Industry, the development of Host Communities.