

ELECTRICITY BILL, 2021

Arrangement of Sections

Sections.

PART I - PRELIMINARY PROVISIONS

1. Objectives of the Bill.
2. Application and scope of the Bill.

PART II - NATIONAL INTEGRATED ELECTRICITY POLICY AND STRATEGIC IMPLEMENTATION PLAN

3. National Integrated Electricity Policy and Strategic Implementation Plan.
4. Periodic review of the National Integrated Electricity Policy, etc.
5. Supervisory powers of the Minister and functions of the Ministry responsible for Power
6. Oversight responsibility of the National Assembly.

Part III - DEVELOPMENT OF A COMPETITIVE ELECTRICITY MARKET

7. Legal validity of the pre-privatization and post – privatization reforms.
8. Competition during the post- privatization stage.
9. Declaration of Medium Term and Long Term Electricity Markets
10. Sale and purchase of electricity and ancillary services.
11. Market Rules and Grid Code.
12. Commission’s directives respecting eligible customers.
13. Commission’s directives respecting competition transition charges.
14. Commission’s determinations respecting Competition transition charges.
15. Public hearing respecting competition transition charges.

Part IV - INCORPORATION AND LICENSING OF INDEPENDENT SYSTEM OPERATOR.

16. Incorporation and licensing of Independent System Operator (“ISO”).
17. Subscribers to the constitutional documents of the ISO and its Objects.
18. Functions of the ISO.
19. Engagement of Technical Support.
20. Transfer of Employees, assets, and liabilities.
21. Conclusive evidence
22. Enforcement or Continuation of any cause of action or proceedings.
23. Transfer not deemed to constitute a breach of contract.
24. Release from liability or obligation.
25. Guarantee or surety.
26. Provision of records, etc to the ISO
27. Further order amending a transfer Order.
28. Directions to the TCN on matters related to transition.
29. Transfer of employees to the ISO.
30. Exemption from stamp duty or other charges
31. Composition and appointment of the Board of the ISO.
32. Term of office of members of the Board.
33. Protection of land belonging to the ISO.

PART V- ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NIGERIAN
ELECTRICITYREGULATORY COMMISSION.

34. Establishment of the Nigerian Electricity Regulatory Commission
35. Functions and powers of the Commission
36. Appointment of Commissioners.
37. Terms of office and conditions of service of Commissioners.
38. Conditions for appointment of commissioners.
39. Vacation of office by Commissioner.
40. Dismissal or suspension of Commissioners.
41. Filling of vacancies in the Commission.
42. Chairman and Vice Chairman of the Commission.
43. Meetings and procedure of the Commission.
44. Remuneration and expenses of Commissioners.
45. Commissioners to disclose certain connections and interests.
46. No invalidity of decisions and acts of the Commission
47. Proceedings of the Commission.
48. Decisions and orders of the Commission.
49. Commission to give notice to interested parties.
50. Commission to consult experts on technical questions.
51. Questions of law may be referred to the Tribunal.
52. Rehearing and Appeals.
53. Annual programmes and budgets of the Commission.
54. Funds of the Commission.
55. Surplus funds of the Commission.
56. Financial year of the Commission.
57. Accounts of the Commission.
58. Audit of the Commission's account.
59. Powers of auditors.
60. Execution of contracts and instruments by the Commission.
61. Reports of the Commission.
62. Staff of the Commission.
63. Exemption from liability for the Commission.

PART VI - LICENSING

64. Authorized persons to generate, transmit, etc, electricity.
65. General duties of licensees.
66. Generation licenses.
67. Transmission licenses.
68. System operation licenses.
69. Distribution and Supply licenses.
70. Trading licenses.
71. Restriction on licenses.
72. Application and procedure for license.
73. Terms and conditions of licenses.

- 74. Renewal of licenses.
 - 75. Amendment of licenses.
 - 76. Cancellation of licenses.
 - 77. Enforcement of licenses.
 - 78. Sale of undertakings of licensees.
 - 79. Vesting of undertakings in the purchaser.
 - 80. Provision where no purchase takes place.
- PART VII -GENERATION OF ELECTRICITY
- 81. Promotion of generation from Renewable Energy.
 - 82. Directions to generation companies.
 - 83. Establishment of the Hydroelectric Power Producing Areas Development Commission.
- PART VIII – TRANSMISSION OF ELECTRICITY
- 84. Demarcation of Transmission into National Control Centres, etc
 - 85. Private sector investment in transmission undertaking.
 - 86. Fair spread of private sector investment in undertaking.
 - 87. Commission to issue directions to transmission licensee
 - 88. Public – Private partnerships to facilitate transmission of Electricity within a State.
- PART IX – DISTRIBUTION OF ELECTRICITY
- 89. Distribution and supply network and renewable energy.
 - 90. Installation of meters, etc.
 - 91. Disconnection of supply in default of payment.
- PART X - TARIFFS AND SUBSIDIES
- 92. Activities subject to tariff regulation.
 - 93. Provision of electricity subsidies by government.
- Part XI - ACQUISITION OF LAND AND ACCESS TO LAND
- 94. Procedure for acquisition of land for generation, transmission, and Distribution, etc, of electricity.
- PART XII - CONSUMER PROTECTION AND LICENSEE PERFORMANCE AND LICENSEE PERFORMANCE STANDARDS
- 95. Consumer protection standards
 - 96. Performance standards and codes.
- PART XIII – COMPETITION AND MARKET POWER
- 97. Competition and market power
- PART XIV-THE POWER CONSUMER ASSISTANCE FUND.
- 98. Establishment of the Power Consumer Assistance Fund.
 - 99. Contribution rates for the Power Consumer Assistance Fund.
 - 100. Contribution payments for the Power Consumer Assistance Fund.
 - 101. Payments from the Power Consumer Assistance Fund.
 - 102. Fine for non -payment of money owed.
- PART XV - RURAL ELECTRIFICATION AND RENEWABLE ENERGY AGENCY.
- 103. Establishment of the Rural Electrification and Renewable Energy Agency.

104. Objectives of the Agency.
105. Functions and powers of the Agency
106. Establishment and Composition of the Governing Board of the Agency
107. Tenure of members of the Board
108. Cessation of membership of the Board
109. Allowances of the Chairman and non-Executive members of the Board.
110. Powers of the Board
111. Meetings and proceedings of the Board
112. Secretary of the Board.
113. Managing Director of the Agency and Chief Executive Officer of the Agency.
114. Other staff of the Agency
115. Pensions and gratuity, etc
116. Structure of the Agency
117. Functions of Executive Directors and Directorates of the Agency.
118. Establishment of the Rural Electrification and Renewable Energy Fund
119. Purpose of the Fund
120. Management of the Fund
121. Contribution rates for the Rural Electrification Fund
122. Contribution payment for Rural Electrification Fund
123. Criteria for allocation of the Rural Electrification Fund
124. Fine for non -payment for amount owed.
125. Expenditure of the Agency.
126. Exemption from income tax
127. Supervisory powers of the Minister
128. States Rural Electrification Boards and Local Government Implementation Committees
129. Relationship between the Agency, and the States Rural Electrification Board and Local and Government Implementation Committees.
130. Progress Report
131. Monitoring of Rural Electrification Schemes in States and Local Governments.
132. Power to accept gifts
133. Power to borrow
134. Estimates of the Agency
135. Accounts and Audits
136. Annual Reports
137. Limitation of suits against the Agency.
138. Service of documents

139. Restriction on execution against the property of the Agency
 140. Indemnity.
- PART XVI - RENEWABLE ENERGY AND ENERGY EFFICIENCY.
141. Commission to promote the development and utilization of renewable energy.
 142. Commercial activities for renewable energy.
 143. Renewable energy incentives and standards.
 144. Considerations for renewable purchase obligation.
 145. Feed – in tariffs rates
 146. Approval of feed – in tariffs rates.
 147. Publication of feed -in tariffs rates
 148. Connection to transmission and distribution systems.
- PART XVII - NIGERIAN ELECTRICITY MANAGEMENT SERVICES AGENCY
149. Establishment of Nigerian Electricity Management Services Agency
 150. Establishment and membership of the Governing Board.
 151. Tenure of office.
 152. Powers of the Board
 153. Management Team
 154. Objectives and functions Agency
 155. Appointment of the Managing -Director and Chief Executive Officer of the Agency and other staff of the Agency.
 156. Service to be subject to the Pension Reform Act, 2014.
 157. Funds of the Agency
 158. Annual Reports
 159. Access to premises and other enforcement powers
 160. Supervisory powers of the Minister.
 161. Regulations.
 162. General provisions
- PART XVIII – DISPUTE RESOLUTION
163. Establishment of the Electricity Disputes Appeal Tribunal.
 164. Composition of the Tribunal.
 165. Qualification for appointment as member of the Tribunal.
 166. Term of office.
 167. Resignation and removal of members of the Tribunal.
 168. Allowances and Conditions of Service of the Tribunal.
 169. Filling of vacancies
 170. Secretary to the Tribunal.
 171. Other staff of the Tribunal.
 172. Jurisdiction of the Tribunal.

- 173. Criminal Prosecution.
- 174. Appeals from decisions of the Commission.
- 175. Appeals to the Tribunal.
- 176. Ministry, Commission, etc, to refer question of law to the Tribunal.
- 177. Procedure before the Tribunal.
- 178. Procedure following the decision of the Tribunal.
- 179. Appeals to the Federal High Court.
- 180. Right to legal representation.
- 181. Tribunal to encourage Alternative Dispute Resolution.
- 182. Powers and procedure of the Tribunal.
- 183. Minister to make rules and regulations.
- 184. Costs.
- 185. Further Appeals.
- Part XIX – OFFENCES AND PENALTIES
- 186. Theft of electricity.
- 187. Theft of electric lines and materials.
- 188. Offence of receiving stolen electricity materials.
- 189. Interference with meters or works of licensee.
- 190. Negligently breaking or damaging works.
- 191. Intentionally disrupting power supply.
- 192. Offence relating to damage to public streetlights.
- 193. Contravention of regulations, orders, directions, etc
- 194. False declaration
- 195. Offences by companies.
- 196. Abetment.
- 197. Unlawful use of information by inspector, etc.
- 198. Obstruction and impersonation.
- 199. Power to prosecute .
- 200. Power to compound offences
- 201. Jurisdiction to try offences.
- 202. Establishment of the Federal Power Task Force.
- Part XX – MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS
- 203. Exemption of electric lines or electric plants from attachment in certain cases.
- 204. Protection of action done in good faith by members of the Tribunal, etc.
Power of licensee to enter premises and to remove fittings or other apparatuses of licensee.
- 205. Power of the licensee to enter premises and to remove fittings, etc.
- 206. Power of the Commission to make Regulations.
- 207. Local content in the power sector.
- 208. Protection of investments in the power sector.
- 209. Gender mainstreaming.
- Part XXI – FINAL PROVISIONS

- 210 Consequential and transitional provisions.
- 211 Repeal and savings provisions
- 212 Interpretation
- 213 Short title

Schedules

First Schedule -Successor Companies

Second Schedule - Establishment of the Hydroelectric Power Producing Areas Development Commission.

Third Schedule -Establishment of the Federal Power Task Force.

Fourth Schedule – Acts repealed

Fifth Schedule - Supplementary provisions relating to the Nigerian Electricity Management Services Agency Board

Explanatory Memorandum

- (b) promote policy and regulatory measures that would ensure the expansion of power transmission networks in Nigeria to address any imbalance in the existing transmission infrastructure;
- (c) stimulate policy and regulatory measures that will generally scale up efficient power generation, transmission, and distribution capabilities of the power sector in Nigeria with view to achieving national electricity access targets and attaining the highest per capita power consumption in Africa within a reasonable time frame;
- (d) stipulate consequential, transitional and savings provisions regarding reforms made pursuant to the provisions of Electric Power Sector Reform Act, 2005 (in this Bill referred to as the “repealed Act”), the Market Rules, Grid Code and other subsidiary legislations made thereunder;
- (e) provide clear guide and legal basis for a phase-wide development of the Nigerian electricity supply industry since the conclusion of the privatization phase as implemented pursuant to the provisions of the repealed Act and the Market Rules and other subsidiary legislations made thereunder;
- (f) ensure clarity and unanimity of purpose between the statutory and regulatory stipulations on the preconditions for the declaration and establishment of Medium-Term electricity Market and the Long-Term Market at the conclusion of the Transitional electricity Market stage in Nigeria declared by the Minister under the repealed Act;
- (g) stimulate policy measures that will attract private sector investments across the Nigerian Electricity Supply Industry to re-energize economic growth, drive job creation and improve the living conditions of Nigerians;
- (h) provide a clear legal and institutional framework for the formulation and adoption of a National Integrated Electricity Policy and Implementation Plan through an inter-ministerial consultative framework for the power sector, encourage periodic review of such policy and implementation Plan that will eliminate policy overlaps and duplication of efforts and entrench policy and regulatory harmony;
- (i) stimulate policies that would address technology limitation and outdated infrastructure that are part of the factors behind value chain losses in the Nigerian electricity supply industry by attracting sustainable Investments in new and efficient power generation technology and revamping existing power plants;
- (j) eliminate through policy and regulatory measures, all barriers to private sector investments in generation, transmission, distribution, and allied segments of the electricity industry in Nigeria;

- (k) encourage policies and regulatory measures that will increase geographic coverage in power generation, transmission, distribution and supply of electricity in Nigeria;
 - (l) provide a framework to support the development and utilization of renewable energy sources and create an enabling environment to attract investment in renewable energy sources in order to increase the contribution of renewable energy to the energy mix;
 - (m) provide a framework for improvement of access to electricity in rural, unserved, underserved, peri-urban and urban areas through the use of renewable energy off-grid and mini-grid solutions;
 - (n) promote indigenous capacity in technology for renewable energy sources through a framework for local content in the Nigerian electricity supply industry;
 - (o) promote public education on renewable energy production and consumption to increase the generation and consumption of electricity from renewable sources;
 - (p) clarify the constitutional role of States and Local Governments in electricity generation, transmission, and distribution vis-à-vis the role of the Federal Government in rural electrification;
 - (q) provide a clear framework for cross-border electricity trading in the interest of national security and energy self-sufficiency;
 - (r) promote frameworks for security of electricity infrastructure, ensure effective punitive measures against electricity theft and other offences peculiar to the Nigeria electric supply industry; and
 - (s) provide for quick and speedy resolution of disputes within the electricity industry through establishment of the Electricity Disputes Appeal Tribunal and generally sanction a dispute resolution mechanism that conforms with the requirements of fair hearing whilst maintaining the independence of the Commission and other existing alternative dispute resolution mechanisms recognized by the Commission.
2. (1) Subject to the provisions of Section 4 and Paragraph 13 and 14, Part II, Second Schedule to the Constitution, this Bill applies throughout the Federal Republic of Nigeria and with respect to all aspects and segments of the power sector value chain in Nigeria.

Application and
scope of the Bill.

- (2) Nothing in subsection (1) of this section invalidates-
- (a) any law passed by the House of Assembly of a State with respect to generation, transmission, and distribution of electricity to areas not covered by a national grid system within that state;
 - (b) any law passed by the House of Assembly of State regarding the establishment of state electricity power stations including any law passed by the State House of Assembly for the establishment of a State Electricity Board or any authority by whatever appellation, for the promotion and management of electric power stations in areas not covered by a national grid system within that State;
 - (c) any law passed by the House of Assembly of State to sanction joint collaboration between the Federal and State Governments; or between the Federal and State Governments and the organized private sector; or between the State Government and the organized private sector for the purpose of facilitating electrification of areas not covered by a national grid system within the State especially through the exploitation of renewable energy sources; and
 - (d) any collaboration between States and Local Governments and the Federal Government for rural electrification, or between the States and Local Governments and distribution licensees to ensure electricity access to rural, unserved and underserved areas, promote investments in electricity or provision of electricity within States or Local Government Areas in accordance with any framework for mini-grid or for Independent Electricity Distribution Networks or Independent Electricity Transmission Network or for investments in Electricity Networks as approved by the Commission.
- (3) In the foregoing provisions of subsection (2) of this section, unless the context otherwise requires, the words :

“power stations” means an assembly of plant or equipment set up by any State Government for generation of electricity to areas not covered by a national grid system within that State.

PART II – NATIONAL INTEGRATED ELECTRICITY POLICY AND STRATEGIC IMPLEMENTATION PLAN.

3. (1) The Federal Government through the Ministry in charge of Power shall within one year from the commencement of this Act, prepare and publish in a Federal Gazette, an Integrated National Integrated Electricity Policy and Strategic Implementation

National Integrated
Electricity Policy
and Strategic
Implementation
Plan.

Plan in consultation with relevant Government Authorities and other stakeholders to guide the overall development of the electric power sector in Nigeria.

- (2) The National Electricity Policy and Strategic Implementation Plan adopted by the Federal Government pursuant to the provisions of subsection (1) of this section shall encompass the following aspects relevant to the development of electric power sector in Nigeria –
 - (a) development of electric power sector based on optimal utilization of resources such as coal, natural gas, nuclear substances and materials as well as renewable energy sources such as , solar, wind, hydro, hydrogen and other renewable sources of energy;
 - (b) captive generation or stand-alone system for generation of electricity for rural areas and non – conventional energy system;
 - (c) rural electrification and for bulk purchase of Power and management of local distribution in rural areas;
 - (d) public private partnerships for provision of access to electricity to all areas including villages, hamlets through rural electricity infrastructure and electrification of households;
 - (e) power–source specific policies including waivers andsubsidies that will stimulate development of renewable energy.
 - (f) any other aspect of the power sector that the Federal Government may determine that it requires clear policydirection bearing in mind changes and newglobal developments in the sector.
4. (1) The National IntegratedElectricity Policy and Strategic Implementation Plan approved by the Federal Executive Council pursuant to the provision of section 3 of this Bill shall be reviewed or revised in consultation with relevant Government Authorities and other stakeholders at least every five years or within such a reasonable timeframe as the Minister may determine based on exigencies of the Nigerian electricity supply industry.
- (2) The National Integrated Electricity Policy and Strategic Implementation Plan or the revised version referred to under sections 3 and 4 of this Billrespectively shall be initiated, formulated, deliberatedupon, and adopted by the Ministry of Power in accordance with the provisions of this Bill and same shall be approved by the Federal Executive Council before final publication in a Federal Gazette for implementation.

Periodic review of the
National Integrated
Electricity Policy, etc.

5. (1) The Minister shall –
- (a) be responsible for the determination, formulation and monitoring of Government policy for the Nigerian electricity supply industry and perform the following functions including other functions assigned to him under this Bill and other Acts of the National Assembly;
 - (b) exercise general supervision over the affairs and operations of the Commission and agencies established under this Bill, and for this purpose give general and specific policy direction including directions on overall system planning and coordination to the Commission or agencies established under this Bill, which the Commission or the agencies shall take into consideration in discharging their respective functions;
Provided that such policy directives issued by the Minister are not in conflict with the provisions of the Constitution, the provisions of this Bill or any other Act of the National Assembly in relation to the Nigerian electricity supply industry and such general and specific directives relating to the overall system planning and coordination are made only after prior consultation with the Commission, the system operator and the Energy Commission of Nigeria;
 - (c) advise the Federal Government on all matters pertaining to the Nigerian electric power sector, subject to prior consultation of the Commission;
 - (d) promote the development of local content in the Nigerian electricity supply industry;
 - (e) in consultation with the Ministry of Women Affairs and other relevant ministries, departments and agencies as the Minister may determine, promote gender mainstreaming in the design and implementation of electricity projects and programmes;
 - (f) issue policy directives on cross border electricity trading in conjunction with the Commission and other relevant ministries, departments and agencies to ensure energy security and energy self-sufficiency;
 - (g) in consultation with the Commission, negotiate and execute international electricity agreements with other countries, international organizations and other similar bodies on behalf of the Federal Government; and
 - (h) do all such other things as are incidental to and necessary for the performance of the functions of the Minister under this Bill.
- (2) The Minister may in writing, delegate to any other senior officer of the Ministry or Commission, any power or function conferred on him by or under this Bill.
- (3) The Ministry of Power under the direct supervision of the Minister shall generally be responsible for initiating and coordinating broad sectorial policies and implementation frameworks for overall development of the electric power sector in Nigeria and perform the following Specific functions –

- (a) initiating concessions in conjunction with the Infrastructure Concession Regulatory Commission and in accordance with the Infrastructure Concession Regulatory Commission (Establishment, etc.) Act 2005, in the power sector;
- (b) coordinating activities of power sector including engagement with various States and Local Governments regarding proposed government subsidy and their respective roles in the implementation of extant National Electricity Policy and Strategic implementation plan, etc.;
- (c) handling policy matters relating to research and development in the Power Sector including regular detailed research on national load demand with a view to projecting future demands for the country over a given time frame;
- (d) participating in bilateral and multilateral relations affecting the power sector;
- (i) provide an enabling framework for the efficient and sustainable production, conversion, distribution, marketing and utilization of renewable energy;
- (j) advise the Minister on all matters pertaining to renewable energy development and utilization.
- (k) recommend to the Federal Government through the Federal Ministry of Finance such exemption from customs, levies and other duties, equipment and machinery necessary for the development, production and utilization of renewable energy sources as he may consider appropriate;
- (l) recommend to the Federal Government through the Federal Ministry of Finance, such financial incentives necessary for the development, production and utilization of renewable energy source;
- (m) in conjunction with relevant ministries, departments and agencies, undertake feasibility studies and maintain data with a view to availing the same to developers of renewable energy resources;
- (n) undertake, in conjunction with the Commission, the Energy Commission of Nigeria and other relevant institutions, research, development and dissemination of appropriate renewable energy technologies;
- (o) promote, in conjunction with the Ministry responsible for the environment, the use of biomass for energy production;
- (p) promote, in conjunction with the Ministry responsible for physical planning, planning activities relating to energy resource areas such as dams, solar and wind farms, municipal waste dumpsites, agricultural and animal waste, ocean energy, wood plantations for production of bio energy feedstock.

- (q) promote, in collaboration with other relevant agencies, the development of appropriate local capacity for the manufacture, installation, maintenance and operation of renewable technologies such as bio digesters, solar systems, turbines and other renewable energy technologies;
 - (r) in collaboration with the Ministry of Environment, harness opportunities offered under clean development mechanism and other mechanisms including, but not limited to, carbon credit trading, renewable energy certificates to promote the development and exploitation of renewable energy sources;
 - (s) generally promote the utilization of renewable energy sources for power generation; and
 - (t) Facilitate the overall coordination of the activities of the parastatals under its supervision with a view to ensuring the efficacy of extant institutional arrangement in the electric power sector and seamless engagements with the Federal Government implementation organs and the other tiers of government in Nigeria.
- (4) In discharging its functions under this Bill or any other instrument, the Ministry shall be under the overall direction of the Minister and shall be guided by the provisions of the Constitution, extant policies and implementation plans as well as the provisions of this Bill or any other Act of the National Assembly with direct or indirect bearing on the discharge of its functions provided under this Bill.
6. (1) subject to the provisions of the Constitution, the National Assembly shall exercise oversight responsibility over the National Electricity supply industry through its respective Committees on Power in the Senate and House of Representatives.
- (2) The oversight responsibility of the National Assembly or its Committees under subsection (1) of this section shall apply notwithstanding the supervisory powers of any government Ministry over government owned enterprises such as Nigerian Bulk Electricity Trading Company Plc, Transmission Company of Nigeria Plc (TCN) or other entities operating in the Nigerian electricity supply industry in which government has not divested its equity holdings, and irrespective of the Ministry where such entities are placed for administrative supervision by the Ministry.
- (3) The exercise of the oversight responsibility of the National Assembly or its Committees in charge of power shall include the power to –
- (a) investigate any matter relating to non-compliance or compliance with the provisions of this Bill or any directive by the Commission or any institution recognized under this Bill or any Act of the National Assembly in relation to the Nigerian electricity supply industry;

Oversight
responsibility of the
National Assembly.

- (b) investigate the affairs of any ministry, department or agency or person in charge of any ministry, department or agency or government owned enterprise operating in the Nigerian electricity supply industry;
- (c) procure evidence or summon for defence of any allegation; or
- (d) review of budget estimates as proposed by any ministry or government –owned enterprise such as NBET, TCN, Nigerian Electricity Liability Management Company (NELMCO) of Nigeria Plc or any other entity operating in the Nigerian electricity supply industry in which government is yet to divest its equity holdings; and
- (e) carry out any such function as may be assigned to it or may be mandated by any referral regarding a resolution of either of the Houses of the National Assembly to its respective Committee on Power in the exercise of its constitutional oversight duties.

PART III - DEVELOPMENT OF A COMPETITIVE ELECTRICITY MARKET

7. (1) Without prejudice to the transitional and savings provisions contained in sections 210 and 211 of this Bill, this Bill recognizes the legal validity of the evolution and reform of the Nigerian electricity supply industry from its previous monopolistic service provision arrangement under the defunct National Electric Power Authority (in this Bill referred to as the “ Authority”) to the privatized phase involving the following stages implemented under the Electric Power Sector Reform Act, 2005 (in this Bill referred to as the “ Repealed Act”) -

- (a) physical unbundling of the Authority into 18 companies and transfer of the assets, liabilities and staff of the Authority to the Power Holding Company of Nigeria (“ the initial holding company in this Bill referred to as the “ PHCN”);
- (b) licensing of the 18 new successor companies that emerged from the PHCN as distinct generation, transmission and distribution companies as contained in the list set out in Part I, First Schedule to this Bill;
- (c) introduction of the National Integrated Power Projects (NIPP) to address infrastructural deficit and fast-track the development of the NESI and licensing of Independent Power Producers (IPPs) contained in the list set out respectively in Parts II and III, First Schedule to this Bill;

[First Schedule]

- (d) establishment of the Nigerian Electricity Liability Management Company LTD/GTE (NELMCO) to assume responsibility for all the PHCN liabilities leading to privatization of successor companies and any other extended mandate as may be approved by the National Council on Privatization regarding the management of tariff deficits accumulated during the post -privatization stage by successor companies;
- (e) the National Power Training Institute of Nigeria (NAPTIN) established with the primary purpose of training power sector personnel and to coordination of manpower training activities in the sector;

Legal validity of pre-privatization and post-privatization reforms.

- (f) establishment of the Nigerian Electricity Bulk Trading Plc, the trading licensee holding a bulk purchase and resale license and to which the function of bulk procurement and bulk sale of electricity and ancillary services was transferred; and
 - (g) introduction of a rule and contract-based electricity market together with the interim, pre-transitional and transitional rules introduced to regulate the interim, pre-transitional and transitional stages of the market.
8. (1) From the commencement of this Act, the Commission shall, without prejudice to its powers under section 39 of this Bill, have the continuing responsibility in the post-privatization stage of the Nigerian electricity supply industry, to ensure a phase-wise development of the Nigerian electricity market from its current transitional electricity market stage to the medium term and long-term electricity market stages or such stages of the market in accordance with such terms, preconditions or features as may be prescribed in the market rules or amendment to such rules as may be approved by the Commission.
- (2) For the purpose of subsection (1) of this section and preparatory to the initiation of Medium Term and Long-Term Electricity Market stages as recognized under this Bill and the Commission shall –
- (a) monitor and ensure that all market operator and market participants in the Transitional Electricity Market perform their respective responsibilities as stipulated under this Bill and the Market Rules, prescribing timelines for completion of such responsibilities and imposing sanctions to ensure strict and timely compliance where necessary;
 - (b) monitor and ensure that all market participants and the market operator perform their responsibilities as stipulated under the Market Rules and this Bill in relation to preparation for the initiation of the Medium and Long-Term Electricity Markets stages respectively, prescribing timelines for completion of such responsibilities and imposing sanctions to ensure strict and timely compliance where necessary;
 - (c) prepare and submit annual reports on the market conditions, including advise to the Minister on the end of the transitional electricity market and the establishment and operational dates for the Medium- and Long-Term Markets respectively taking into consideration the satisfaction of the preconditions and features for operationalizing of the Medium Term and Long-Term Market as prescribed in the Market Rules; and
 - (d) by its directive and within such period as it may specify, direct NBET Plc, the trading licensee holding the license for the bulk procurement and bulk sale of electricity and ancillary services, to, in accordance with its license, cease to enter into contracts for the purchase and resale of electricity and ancillary services and novate its existing contractual rights and obligations to other licensees.

9. (1) The Minister shall present to the President and the National Assembly each report submitted by the Commission under section 8(2) (c) of this Bill, and when the Commission, in Consultation with the Minister is satisfied that the electricity market in Nigeria has developed to a point where either a Medium Term or Long Term Electricity Market ought to be established, having regards to the satisfaction of the pre-conditions and features for declaration of a Medium Term or Long Term Electricity Market prescribed under the Market Rules, the Commission shall issue a declaration that a Medium Term or Long Term Electricity Market be commenced in accordance with subsection (1) of this section.

(2) The Medium Term electricity Market established by the Commission pursuant to the provisions of subsection (1) of this Bill shall retain the features and conditions of a Medium Term Electricity Market as contained under the Market Rules and shall remain operational until such a time as the Commission shall declare the commencement of a Long Term Market in accordance with subsection(1) of this section and the Market Rules.

(10) (1) The sale and purchase of electricity and ancillary services during the Medium-Term Market stage shall be in accordance with the provisions of the Market Rules and the Grid Code.

(2) For effective operation of the Long-Term Market established by the Commission under section 9(2) of this Bill, the Commission shall, in accordance with the procedure for amendment of the Market Rules, approve such amendments to the Market Rules to prescribe the preconditions for the declaration of the Long-Term Market and the Commission shall further introduce a Retail Tariff scheme for retail sale of electricity under Long-Term Market as may be appropriate.

11. (1) The Market Rules together with the Grid Code or such amendments thereto made pursuant to the provisions of the Market Rules shall apply to the operation of:

- (a) the national grid by the system operator; and
- (b) the establishment and governance of markets related to electricity and ancillary services.

(2) In respect of markets for electricity and ancillary services, the Market Rules shall include provisions and where appropriate be amended to include provisions on:

- (a) governing the making and publication of market rules;
- (b) settlement of payments among different participants;
- (c) authorizing and governing the making of order by the system operator, including orders:

Declaration of
Medium Term and
Long-Term
Electricity Markets.

Sale and
purchase of
electricity and
ancillary
services.

Market Rules
and Grid Code.

- (i) imposing financial penalty on market participant;
- (ii) authorizing a person to participate in market; or
- (iii) terminating, suspending, or restricting a person's rights to participate in the market; and

(d) concerning the administration and enforcement of the Market Rules, including provisions for market rules amendments, dispute resolutions, penalties, and market surveillance.

12. (1) From the commencement of this Act, it shall be responsibility of the Commission to issue directives specifying the class or classes of end-use customers that may from time to time constitute eligible customers at every market stage recognized under this Bill or the market rules.

Commission's directive respecting eligible customers.

(2) For the purpose of subsection (1) of this section, the Commission shall monitor the development of the electricity market during Transitional, Medium and Long Term Stages of the market indicating in a report such preconditions as the Commission has determined as being ripe for the declaration of Eligible Customers including the timing and modalities of eligibility to be followed by the Commission to make its declaration at every market stage.

(3) In issuing his directive on eligible customers under subsection (1) of this section, the Commission shall further specify the conditions that must be observed to ensure fair and effective implementation of the classes of eligible customers listed in the declaration and to ensure that electrical energy to be made available to eligible customers pursuant to the Commission's declaration under this section is not being supplied to other end-use customers, and the Commission shall ensure compliance with its extant regulations on eligibility of customers.

(4) The Commission shall have the power to review any class or classes of eligible customers already declared by the Minister prior to the commencement of this Act.

13. (1) If the Commission determines that following its directive given under section 12 of this Bill will result in decreasing electricity prices to such an extent that a trading licensee or a distribution licensee would have inadequate revenue to enable payment for its committed expenditure or is unable to earn committed rates of return on its assets, despite its efficient management, the Commission may issue further directives on the collection of a competition transition charges from eligible customers, the distribution of the funds collected to the trading licensees or distribution licensees licensed under this Bill and the duration of the competition transition charges.

Commission's directive respecting competition transition charges

(2) Without prejudice to the terms of any Electricity Distribution Franchise Agreement entered into between a distribution franchisee and distribution licensee pursuant to any guidelines or regulations issued by the Commission, the Commission may, where the exit of an eligible customer from a franchised area may negatively affect return on investments made by the franchisee or render such a franchisee incapable of meeting its obligations under the Electricity Distribution Franchise Agreement make payment to be made to the affected franchisees from the competition transition charges collected by the Commission pursuant subsection(1) of this section.

14. The Commission shall establish the amount for the competition transition charge and the arrangements for the collection and distribution of the competition transition charge, all in accordance with the Minister’s directives under section 13 of this Bill.

Commission’s determinations respecting competition transition charges.

15. Prior to the making of the determination set out in section 14 of this Bill, the Commission shall hold a public hearing to obtain the views of interested parties.

Public hearing respecting competition transition charges.

Part IV – INCORPORATION AND LICENSING OF INDEPENDENT SYSTEM OPERATOR.

16. (1) The Transmission Company of Nigeria Plc, being the successor company issued the license that covers Transmission Service Provider ,market and system operation functions under the repealed Act shall in accordance with the terms of its license and within such stage or period of the market as the Commission may in a written directive specify , take such steps as are necessary under the Companies and Allied Matters Act, 2020 to incorporate an entity, the Independent System Operator which may be a company limited by shares or have such ownership and governance structure as the Commission may specify and the entity once incorporated pursuant to the provisions of this section shall immediately apply to the Commission and be licensed by the Commission as an Independent System Operator to carry out such market and system operation functions as stipulated under this Bill, its license and such terms and conditions as the Commission may direct;

Incorporation and licensing of the ISO.

(2) Upon incorporation and issuance of license by the Commission pursuant to subsection (1) of this section -

(a) the TCN shall transfer to the Independent System Operator (hereinafter called “ the “ISO” in this Bill) ,all the assets and liabilities held by the Transmission Company of Nigeria Plc pertaining to its market and system operation functions and the Independent System Operator shall be subject to such powers and duties of an independent System Operator under the terms of its license and the provisions of this Bill in relation to market and system operation ;

(b) The TCN shall be issued a Transmission Service Provider license and shall be responsible for transmission assets and liabilities and perform such functions as are

relevant to the development and maintenance of the power transmission infrastructure in accordance with the terms of its license as may be issued by the Commission and the provisions of this Bill.

- (c) The Commission shall, through an order put in place a clear plan and timeline for the transition process in Sections 16 (1) and (2) above to avoid disruption of industry operations:

Provided that such timelines for transitioning into the new entities including the commencement and completion of novation of all market and system related contractual rights and obligations by the Transmission Company of Nigeria Plc to the Independent System Operator shall not be later than 12 months to the declaration of the Medium-Term Electricity Market by the Commission pursuant to section 9 of this Bill.

17. (1) At the time of incorporation, the subscribers to the Constitutional Document of the ISO shall be as may be directed by Commission in consultation with relevant stakeholders.
- (2) The Commission shall ensure that the Constitutional Document of the Independent System Operator submitted to the Corporate Affairs Commission for incorporation includes the following objects –
- (a) to hold and manage all assets and liabilities pertaining to market and system operation on behalf of market participants and consumer groups or such stakeholders as the Commission may specify;
 - (b) to ensure maximum value (in terms of return on investments) for market stakeholders through prudent management of the assets;
 - (c) to carry out all market and system operation related contractual rights and obligations novated to it by the Transmission Company of Nigeria;
 - (d) to negotiate and enter into contract for the procurement of ancillary services with independent power producers, successor generation licensees, etc and generally carry out market and system operations functions as specified under this Bill and the terms of its license in the interest of market participants and system users.
 - (e) the income and property transferred to it by the Transmission Company of Nigeria Plc or whensoever derived shall be applied solely towards the promotion of its objects as set forth in its Constitutional Document and no portion thereof shall be paid or transferred directly or indirectly by way of dividend, or bonus otherwise howsoever, by way of profit to the subscribers provided that nothing herein contained shall prevent the payment in good faith of remuneration to any

Subscribers to the constitutional documents of the ISO and its Objects.

contractor or staff of the company in return for any services rendered to the Company.

18. (1) The Independent System Operator shall be responsible for planning, dispatch and operation of the Power System and implementation of open access and new connections of equipment or loads in collaboration with the Transmission Service Provider, to the Transmission System in compliance with its functions contained in the Grid Code, and its license issued pursuant to the provisions of this Bill, and shall carry out the following functions as it relates to system operation –
- (a) implement and enforce the Grid Code, and shall draft and implement such Operating Procedures as may be required for the proper functioning of the Power System;
 - (b) undertake system planning of both generation and transmission;
 - (c) implement and supervise open access to the Transmission System in collaboration with the Transmission Service Provider;
 - (d) provide demand forecasts;
 - (e) undertake operation planning and maintenance outages;
 - (f) undertake dispatch and generation scheduling;
 - (g) in the event that available Generation is not sufficient to satisfy all loads, schedule Energy allocated to each Load Participant;
 - (h) ensure reliability and availability of Ancillary Services;
 - (i) undertake real time operation and supervisory control and data acquisition system (SACDA);
 - (j) undertake administration of system constraints (congestion), emergencies and system partial or total recovery; and
 - (k) undertake coordination of regional Interconnectors.
- (2) The Independent System Operator shall perform the following functions as it relates to the Grid Code-
- (a) implement the Grid Code and draft such amendments thereto as may be required to:
 - (i) guarantee efficient, predictable and non-discriminatory system operation service and open access to all Participants;
 - (ii) adapt the Grid Code to regional Wholesale Electricity Markets or Regional Interconnector Agreements;

Functions of the
ISO.

- (iii) improve the procedures including those for Demand forecast, planning and Dispatch in the system; and
 - (iv) maintain reliability and quality in the Power System.
- (3) The ISO shall perform the following functions as it relates to market administration-
- (a) implement and operate the Market in a manner designed to:
 - (i) guarantee an efficient, transparent and non-discriminatory market administration service to all Participants;
 - (ii) facilitate the development of a sustainable competitive Wholesale Electricity Market; and
 - (iii) adapt to regional Wholesale Electricity Markets or regional electricity trading agreements.
- (4) The ISO shall perform the following functions as it relates to implementation of the Market Rules-
- (a) implement the Market Rules, draft and implement any and all requisite Market Procedures;
 - (b) review the efficiency and adequacy of Market Rules and Market Procedures, and propose such Amendments as may be required to ensure their efficacy and adequacy, taking into consideration the market stages as may be declared by the Minister under this Bill;
 - (c) admit and register Participants;
 - (d) organize and maintain a Participants' Register;
 - (e) centralize the information required for market administration, and organize and maintain the related data base;
 - (f) verify that each Connection Point where a Participant injects or extracts Energy has proper commercial metering related to physical exchange of Energy and other necessary commercial transactions;
 - (g) calculate and recover Ancillary Service and must run Generation costs, when necessary;
 - (h) centralize and process commercial metering data;
 - (i) administer the Wholesale Electricity Market settlement process and Wholesale Electricity Market payment system;

- (j) settle payments in respect of Ancillary Services and other costs of operating the system and administering the Wholesale Electricity Market;
- (k) calculate and settle payments in respect of Transmission charges;
- (l) during the Transitional Stage:
 - (i) Receive Contract information and maintain Contract Register;
- (ii) use forecast Load projections to prepare the Generation Adequacy Report; and
- (iii) calculate Contract Imbalance Quantities in aggregate, byContract and by Participant, using MeteredQuantities adjusted as necessary for losses in each month;
 - (m) during the Medium-Term Market:
 - (i) Calculate Contract Imbalance Quantities, Uninstructed Imbalance Quantities and Instructed Imbalance Quantities in aggregate and by Participant - adjusted as necessary for losses in each and every DispatchPeriod;
 - (ii) determine the System Marginal Price for each and every Dispatch Period; and
 - (iii) issue invoices and arrange recovery and payments of charges for imbalanceEnergy and Ancillary Services and the System Operationand Market Administration Charge from, and to, theParticipants;
 - (iv)Such other functions as may be necessary following the evolution of the market.
- (n) manage Wholesale Electricity Market billing including issuance of Invoicesand operating the settlement and payment system in accordancewith theMarket Rules;
- (o) recover the TUOS Charge from the Participants and remit it to the Transmission Service Providerand other Transmitter(s), if any; and
- (p)supervise Participants compliance with, and enforce the Market Rules and Grid Code.
- (q) receive and validate Dispatch Nominations by Generators, and dispatch in accordance with the Grid Code;
- (r) confirm and/or report on Generating Unit Availability;
- (s) confirm and/or report on Generating Unit Start-up;

- (t) during the Transitional Stage, the Medium-Term Market, and the Long-Term Market stage, decide and order Market Suspension;
 - (u) during the Long-Term Market, prepare for the recommendation of the Commission to the Minister, Long Term Market Rules to provide a framework for the retail sale of electricity and to address other aspects of the Long-Term Market.
19. In carrying out its subjects including the discharge of its functions under its license and the provisions of this Bill, the Independent System Operator has the power to enter into any arms-length arrangement with any entity or expert to provide the ISO with technical support and expertise in relation to the performance of its functions including the training and re-training of its staff to fill any manpower gap.
- 20.(1) The Order issued by the Commission pursuant to section 16(2) (c) of this Bill shall state the date for the commencement and completion of transfer of relevant employees, assets, liabilities, and novation of market and system operation related contractual rights and obligations of the Transmission Company of Nigeria to the Independent System Operator.
- (2) A transfer order shall be binding on the Transmission Company of Nigeria, the Independent System Operator and all other persons.
 - (3) the provisions of subsection (2) of this section applies notwithstanding the provisions of any general or special enactment of the National Assembly or any rule of law that requires notice or registration of transfers.
 - (4) A transfer order may specify and describe employees, assets, liabilities, rights and obligations to be transferred –
 - (a) by reference to specific employees, assets, liabilities, rights and obligations;
 - (b) by reference to any class of employees, assets, liabilities, rights and obligations; or
 - (c) partly in accordance with the provisions of subsection (4)(a) of this section and partly in accordance with subsection (4)(b) of this section.
 - (5) With effect from the date specified in the relevant transfer order, all bonds, loans, financing agreements, alternative financing agreements, deeds, contracts instruments, documents and such other working arrangements that subsisted prior to the transfer date and relating to the assets to be transferred pursuant to the provisions of this section and to which the Transmission Company of Nigeria Plc was party to as the holder of the transmission license that covers Transmission Service Provider, market and system operation functions shall, on and after the effective date, be as fully effective and enforceable against and in favour of the Independent

Engagement of technical support.

Transfer of employees, assets, and liabilities.

System Operator as if, instead of the Transmission Company of Nigeria Plc, the Independent System Operator had been named therein.

- (6) A transfer order may –
- (a) specify the date that the transfer takes effect and any interest in the property that is being transferred by the order shall vest in the Independent System Operator on that date;
 - (b) provide that the transfer shall be deemed to have taken effect on a date earlier than the date the transfer order is made, but the transfer date shall not be earlier than the dates on which the Independent System Operator was incorporated and licensed;
 - (c) provide that the transfer specified in the order and other transactions associated with the transfers shall be deemed to have occurred in sequence and at times specified in the order;
 - (d) require the Transmission Company of Nigeria Plc or the Independent System operator to enter to –
 - (i) enter into any written agreement or execute any instrument specified in the order; and
 - (ii) register in accordance with the order, any agreement or instrument entered into or executed under subsection 6(d)(i) of this section.
 - (e) provide that any liability or obligation that is transferred by the order may be enforced against the Independent System Operator or relevant successor; and that any right that is transferred by the order may be enforced against the Independent System Operator; or
 - (f) impose conditions on the exercise of powers by the Independent System Operator that are related to employees, assets, liabilities, rights or obligations transferred by the transfer order.
- (7) A transfer order may contain provisions dealing with other matters not specifically referred to in this part that the Commission considers necessary or advisable in connection with a transfer.
- (8) The Market Participants and consumer groups who are subscribers to the Constitutional Documents of the ISO shall thereafter vest in the Independent System Operator any further assets as they may deem fit.
- 21.(1) A statement, in a registered document to which the Independent System Operator is a party, that land described in the document was transferred to it from the

Conclusive
evidence

Transmission Company of Nigeria Plc by or pursuant to a transfer order, or any other statement in the document relating to the transfer order, or any other statement in the document relating to the transfer order, shall be deemed to be conclusive evidence of the facts stated.

- (2) Nothing in subsection (1) of this section shall create for any person an interest in land that the Transmission Company of Nigeria, Plc did not have and did not transfer except where such interest in land is derived pursuant to section 16(2)(c) of this Bill.

22.(1) The Independent System Operator shall without further assurance be entitled to enforce or defend all rights and obligations for or against the Transmission Company of Nigeria Plc in respect of the portion of interests transferred pursuant to section 16(2) as if the Independent System Operator was the original party to such obligations.

- (2) any pending action or proceeding including arbitration in relation to the transferred assets brought by or against the Transmission Company of Nigeria Plc immediately before the initial transfer date may be enforced or continued, as the case may be, on and after that date by or against the Independent System Operator in the same way as if this Act has not been enacted.

23. (1) Notwithstanding the provisions of sections 22 of this Bill-

- (a) No action or other proceedings shall be commenced against the Independent System Operator in respect of any employee, asset, liability, right or obligation if, had there been no transfer, the time for commencing the action or other proceedings would have expired; and
- (b) the transfer of the employees, assets and liabilities to the Independent System Operator by or pursuant to the provisions of section 16(2) of this Bill shall not be deemed to –
- (i) constitute a breach, termination, repudiation or frustration of any contract, including a contract of employment or insurance;
- (ii) constitute a breach of any Act of the National Assembly, regulation or by-law;
- (iii) constitute an event of default or force majeure;
- (iv) give rise to a breach, termination or repudiation or frustration of any license, permit or other right;
- (v) give rise to any right to terminate or repudiate a contract, license, permit or other right; or
- (v) give rise to any estoppel

Enforcement or continuation of any cause of action or proceedings.

Transfer not deemed to constitute breach of contract.

- (2) subsection (1)(b) of this section shall not apply to such contracts as may be prescribed by any regulation made for that purpose.
24. (1) The transfer of assets and liabilities under section 16(2) of this Bill without any further assurance other than the provision of the forgoing section releases the Transmission Company of Nigeria Plc from any further liability or obligation in respect of the assets and liabilities transferred.
25. Any guarantee or surety which was given or made by the TCN on any other person in respect of any debt or obligation of the TCN and which was effective immediately before the transfer of the principal debt or obligation to the ISO, shall remain fully effective against the guarantor or surety on and after the transfer date in relation to the repayment of the debt or the performance of the obligation, as the case may be, by the ISO.
26. The TCN shall provide the ISO with all records or copies of records, that are in its custody or control and that relate to an officer, employee, asset, liability, right or obligation that is transferred by or pursuant to a transfer order, including personal information.
27. The Commission may, at any time within one year after making a transfer order, make a further order amending the transfer order in any way that the Commission considers necessary or advisable, including such order or orders as may be necessary to rectify the transfer of any of the employees, assets, liabilities, rights and obligations pursuant to a verification or an audit of the employees, assets and liabilities of the ISO as at the date of the relevant transfer order and section applies with necessary modifications to the amendment.
28. prior to the vesting of assets and liabilities of the TCN in the ISO, the Commission shall give the Board of Directors of the TCN directions in writing to ensure the proper transfer of the assets and liabilities of the TCN to the ISO, and the Board of Directors of the TCN shall, without delay, comply with such directions.
29. (1) Any employee of the TCN transferred to the ISO pursuant to the provisions of this Bill shall be transferred to the service of ISO on terms not less favorable than those enjoyed by him immediately prior to the transfer.
- (2) The service rendered by an employee transferred pursuant to the provisions of this Bill shall be transferred to the service of the ISO for the purpose of determining employment-related entitlements as specified by the relevant laws of employment in Nigeria.
- (3) Until such time as conditions of service are drawn up by the ISO-

Release from liability or obligation.

Guarantee or surety

Provision of records, etc to the ISO.

Further order amending a transfer order.

Directions to the TCN on matters related to transition.

Transfer of employees to the ISO.

- (a) the terms and conditions of service applicable to employees of the TCN shall continue to apply to every person transferred to the ISO as if every such person were still in the service of the TCN;
- (b) an employee transferred by the TCN to the ISO shall be permitted to continue to contribute towards a pension scheme he was contributing to when he was in the employment of the TCN; and
- (c) the ISO shall continue to contribute towards a pension scheme to which the TCN was contributing in respect of employees in the employ of the TCN prior to the date of transfer.

30. (1) Stamp duty shall not be chargeable under the Stamp Duties Act in respect of any transfer made or transaction entered into pursuant to the provisions of this Part on which, except for the exemption granted under this section, stamp duty would have been payable and in particular, and without derogation from the foregoing, no stamp duty shall be chargeable-

- (a) during the incorporation of the ISO, and any successor company created pursuant to section 16(1) of this Bill or any subsequent increase to their authorized share capital, prior to the transfer of an interest to one or more private investors;
- (b) in respect of any security issued in compliance with a transfer order issued under section 16 (2) of this Bill;
- (c) where any convertible securities were issued in compliance with a transfer order issued under section 16(2), in respect of the exercise of the conversion rights attached to any such security; or
- (d) in respect of any other transfer of rights and assets pursuant to this part

(2) Capital gains tax shall not be chargeable under the Capital Gains Tax Act, in respect of any transfer made or transaction entered into pursuant to this Part on which, except for the exemption granted under this section, capital gains tax would have been payable.

31. (1) The ISO shall be subject to the National Code of Corporate Governance.

(2) The Commission shall cause the Constitutional Document of the ISO to provide for the composition of the Board as follows-

- (a) a non-executive Chairman who may be the Minister;
- (b) the Managing Director of the ISO who shall possess at least 15-year cognate professional or management experience in an electricity generation, transmission, system operation or distribution company;

Exemption from stamp duty or other charges

Composition and appointment of the Board of the ISO.

- (c) four other Executive Directors of the ISO who shall possess at least 15-year cognate professional or management experience in an electricity generation, transmission, system operation or distribution company;
 - (d) four Non-Executive Directors who shall be possess at least 15 years cognate professional or management experience in an electricity generation,transmission, system operation or distribution company;
 - (e) A representative of the Ministry of Power who shall not be below the rank of director.
- (3) Notwithstanding the provisions of the Companies and Allied Matters Act or any other enactment, the power of the shareholders to appoint or remove directors, shall be subject to subsections (4) and (5) of this section.
- (4) For the purpose of making appointments to the Board of Directors of the ISO, the subscribers to the Constitutional Document of the ISO shall constitute an Independent committee (“the Board Nomination Committee”) of five persons with proven qualifications and tested industry experience one of which shall include a representative of the Ministry of power who shall not be below the rank of director, to identify and recommend highly qualified candidates for such positions in a competitive and transparent manner.
32. The Commission shall cause theConstitutional Document of the ISO to include the following-
- (a) an Executive Member of the Board shall cease to be a Director of the ISO if he ceases to be an employee of the company for any reason or if otherwise removed in accordance with the provisions of the Companies and Allied Matters Act.
 - (b) the non-executive members of the Board may serve for an initial term of 4years and no more.
 - (c) upon the expiration of the initial term of any of the non-executive members of the Board appointed, such member may be eligible for reappointment for another term of 4years and no more.
33. (1) Land vested in the ISO shall not be liable to be acquired compulsorily underany enactment or law; and notwithstanding anything in other enactment or law, no mining operations shall be carried on, in or under any land vested in the ISO or any land over which the ISO is entitled to rights of support for the benefit of lands so vested except with the prior consent in writing of the Minister.
- (2) For the purpose of this section, “land” includes any land under water beyond the territorial waters of Nigeria to which Nigeria is for the time being entitled to any exclusive rights.

Term of office of members of the Board.

Protection of land belonging to the ISO.

PART V – ESTABLISHMENT, FUNCTIONS AND POWERS OF THE NIGERIAN ELECTRICITY REGULATORY COMMISSION.

34. (1) There is established a Commission to be known as the Nigerian Electricity Regulatory Commission (in this Bill, referred to as “the Commission”), which shall be a body corporate with perpetual succession which can sue or be sued in its corporate name and subject to this Bill, perform all acts that bodies corporate may by law perform.
- (2) The headquarters of the Commission shall be at Abuja with such Zonal Offices and State Offices as may be approved and established by the Commission for effective performance of its functions.
35. (1) Subject to the provisions of this Bill, the Commission shall perform the following principal functions, that is, to -
- (a) create, promote, and preserve efficient electricity industry and market structures, and to ensure the optimal utilization of resources for the provision of electricity services;
 - (b) maximize access to electricity services, by promoting and facilitating consumer connections to distribution systems in both rural and urban areas
 - (c) ensure adequate supply of electricity to consumers;
 - (d) ensure that the prices charged by licensees are fair to consumers and are sufficient to allow the licensees to finance their activities and to allow for reasonable profit for efficient operation;
 - (e) ensure the safety, security, reliability, and quality of service in the production and delivery of electricity to consumers;
 - (f) ensure that regulation is fair and balanced for licensees, consumers, investors, and other stakeholders;
 - (g) present quarterly reports to the President and National Assembly on its activities;
 - (h) ensure a phase-wise development of a competitive electricity market across the applicable market stages;
 - (i) issue directives and carry out such measures to ensure the gradual development and smooth operation of the various stages of the market;
 - (j) promote the development and utilization of renewable energy services and increase the contribution of renewable energy to Nigeria’s energy mix;
 - (k) promote cost reflective and service reflective tariffs and ensure gradual elimination of cross-subsidies within a specified timeframe; and
 - (l) promote gender mainstreaming and local content requirements within the Nigerian Electricity Supply Industry

Establishment of the Nigerian Electricity Regulatory Commission.

Functions and powers of the Commission.

- (2) Without prejudice to any other powers assigned to the Commission under this Bill, the Commission shall in furtherance of its functions under subsection (1) of this section, exercise the following powers –
- (a) Promote competition and private sector participation in the post-privatized power sector, when and where feasible;
 - (b) Establish or, as the case may be, approve appropriate operating codes and safety, security, reliability, and quality standards;
 - (c) Establish appropriate consumer rights and obligations regarding the provision and use of electricity services;
 - (d) License and regulate persons engaged in the generation, transmission, system operation, distribution, supply and trading of electricity;
 - (e) approve amendments to the Market Rules in accordance with the procedure in the Market Rules;
 - (f) Monitor the operation of the electricity markets and sanction licensees in deserving circumstances in accordance with the provisions of this Bill and other subsidiary legislation; and
 - (g) Undertake such other activities which are necessary, ancillary or convenient for or ancillary to giving full effect to the functions of the Commission under this Bill.
- (3) Without prejudice to its independence in decision making, the Commission shall in the discharge of its functions and powers under this Bill, consult from time to time, and to the extent the Commission considers appropriate, such persons or groups of persons who may or are likely to be affected by the decisions or orders of the Commission including, but not limited to licensees, consumers, potential investors, and other interested parties.
- 36.(1) Subject to subsections (2) and (3) of this section, the Commission shall consist of seven full time Commissioners appointed by the President subject to confirmation by the Senate.
- (2) In selecting potential nominees, the President shall ensure that individuals are chosen, from the public and private sectors, for their experience or professional qualifications in the following fields or areas of competence:
- (a) generation, transmission, system operation, distribution, supply or marketing of electricity; and

Appointment of
Commissioners.

- (b) law, accountancy, economics, finance, computer sciences, engineering, or administration.
- (3) The seven Commissioners shall be appointed to reflect one Commissioner per each of the six geo-political zones in Nigeria and a chairman from any zone.
- 37. (1) Subject to the provisions of this section, a Commissioner shall hold office for a period of five years provided that to ensure continuity in the Commission, the period of appointment of the first seven Commissioners shall be as follows:
 - (a) the Chairman shall be appointed for five years.
 - (b) the Vice Chairman and other Commissioners shall be appointed for four years.
- (2) A Commissioner shall not continue in office after the expiry of his term.
- (3) Subject to section 38, a Commissioner shall hold office on such terms and conditions as the President may fix in relation to Commissioners generally.
- (4) A Commissioner whose term of office has expired is eligible for reappointment for another term and no more.
- (5) All appointments or re-appointments of Commissioners shall be made before expiry of their term of office in accordance with section 36 of this Bill.
- 38. (1) A person shall not be appointed as a Commissioner who:
 - (a) is not a Nigerian citizen;
 - (b) has a financial interest in any business connected, either directly or indirectly, with generation, transmission, system operation, distribution, supply or trading of electricity in Nigeria, or is engaged in any activity (whether for remuneration or otherwise) connected with any such service or system, or is a relative of a person who has such an interest or is engaged in such an activity, unless the President is satisfied that the interest or activity is in effect passive and will not interfere with the person's impartial discharge of his duties as a Commissioner, or unless the financial interest is terminated prior to the appointment taking effect; or
 - (c) has, in terms of a law in force in any country:
 - (i) been adjudged or otherwise declared insolvent or bankrupt and has not been rehabilitated or discharged; or
 - (ii) made an assignment to, or arrangement or composition with, his creditors which has not been rescinded or set aside, or
 - (d) has, in terms of a law in force in any country:

- (i) been adjudged, by a court of competent jurisdiction, to be of unsound mind; or
 - (ii) been banned from practicing his profession; or
 - (iii) been convicted of an offence and sentenced to a term of imprisonment imposed with or without the option of a fine, whether or not any portion has been suspended, and has not received a free pardon.
- (2) A person who holds the office of Commissioner, and for a period of two years after he ceases to be a Commissioner for any reason whatsoever, shall not acquire, hold or maintain, directly or indirectly, any interest, office, employment or consultancy arrangements, either for remuneration or otherwise, connected with the generation, transmission, system operation, distribution or trading of electricity in Nigeria or any activity connected with any such service or system and if such person acquires any such interest involuntarily or by way of succession or testamentary disposition, he shall divest himself from such interest within a period of three months of such interest being acquired.
39. A Commissioner shall vacate his office and his office shall become vacant:
- (a) Three months after the date upon which he gives notice in writing to the President of his intention to resign.
 - (b) on the date he is convicted:
 - (i) in Nigeria, in respect of an offence; or
 - (ii) outside Nigeria, in respect of an offence involving financial impropriety or any conduct which, if committed in Nigeria, would constitute an offence; or
 - (c) if he becomes disqualified under sections 38 (1) (a), (b), (c) or (d), to hold office as a Commissioner; or
 - (d) if he is required under section 40 to vacate his office; or
 - (e) when he attains the age of 70 years, whichever is earlier
- 40.(1) The President shall require a Commissioner to vacate his office if the Commissioner:
- (a) has, subject to section 38 (2), been found to have conducted himself in a manner that renders him unsuitable as a Commissioner, including a contravention of section 45 or section 58 (2); or
 - (b) has failed to comply with any term or condition of his office fixed by the President under section 37(3) of this Bill; or

Vacation of office by Commissioner.

Dismissal and suspension of commissioner.

- (c) is mentally or physically incapable of efficiently carrying out his functions as a Commissioner; or
 - (d) The Commissioner is convicted of an offence in respect of which a sentence of imprisonment without the option of a fine has been imposed, whether in Nigeria or abroad.
- (2) A Commissioner shall not be removed unless the request is made by the President and supported by a simple majority vote of the Senate.
41. Subject to section 42 (6), on the death of, or vacation of office by a Commissioner, the President shall nominate a candidate to fill that vacancy, and submit that nomination to the Senate, within one month, in accordance with section 36 of this Bill.
42. (1) The President shall designate one of the Commissioners as Chairman who shall be the Chief Executive and Accounting Officer of the Commission and another Commissioner as Vice-Chairman.
- (2) A Commissioner whose term of office has expired is eligible for reappointment for another term and no more.
- (3) The Vice-Chairman shall retain his position as Vice-Chairman until his term of office as a Commissioner is expired.
- (4) The Vice-Chairman shall perform the Chairman's functions whenever the Chairman is for any reason unable to perform them.
- (5) The Chairman or Vice-Chairman may at any time resign his office as such by one month's notice in writing to the President.
- (6) Whenever the office of Chairman or Vice-Chairman falls vacant, or on the death of the Chairman or Vice-Chairman, the President shall, within three weeks, select another Commissioner to fill the vacancy under section 41.
- 43.(1) The Commission shall meet for the dispatch of business as often as is necessary or expedient and, subject to this section, may adjourn, close and otherwise regulate its meetings and procedure as it thinks fit.
- (2) The Chairman or, in his absence, the Vice-Chairman shall preside at all meetings of the Commission.
- (3) All decisions of the Commission shall be on the basis of majority of the members present and voting.

Filling of vacancies in the Commission

Chairman and Vice Chairman of the Commission.

Meetings and procedure of the Commission

- (4) The quorum for the meeting of the Commission shall be four and subject to section 45 of this Bill, at all meetings of the Commission each Commissioner present shall have one vote on each question before the Commission and, in the event of a tie in votes, the Chairman shall have a casting vote.
 - (5) For a meeting of the Commission to review any previous decision or order taken by the Commission, the quorum shall be no less than the Commissioners present when the decision was taken or order was made.
 - (6) Without derogation from subsection (1) of this section, the Commission may conduct its business by means of written resolutions signed by all the Commissioners, provided that, if any Commissioner requires that a matter be placed before all the Commissioners for discussion, this subsection shall not apply to such matter.
44. (1) Commissioners shall be paid from the funds of the Commission:
- (a) such remuneration, if any, as the Commission may from time to time determine, having regard to the recommendations of the National Salaries, Incomes and Wages Commission; and
 - (b) such allowances, if any, as the Commission, may from time to time determine, having regard to the recommendations of the National Salaries, Incomes and Wages, Commission, to meet any reasonable expenses incurred by such Commissioners in connection with the business of the Commission.
- (2) While making recommendations, the National Salaries, Incomes and Wages Commission shall have due regard to the following principles:
- (a) the specialized nature of work to be performed by the Commission;
 - (b) the need to ensure the financial self-sufficiency of the Commissioners;
 - (c) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills;
 - (d) the nature of the expenses incurred by the Commissioners, including national and international travel expenses; and
 - (e) such other considerations that may be necessary to arrive at a fair and competitive salaries and allowances recommendation for Commissioners.
45. (1) If a Commissioner:
- (a) acquires or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission;

Remuneration and expenses of Commissioners.

Commissioners to disclose certain connections and interests.

- (b) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the Commissioner's private interests coming or appearing to come into conflict with his functions as a Commissioner;
 - (c) knows or has reason to believe that a relative of the Commissioner:
 - (i) has acquired or holds a direct or indirect pecuniary interest in any matter that is under consideration by the Commission; or
 - (ii) owns any property or has a right in property or a direct or indirect pecuniary interest in a company or association of persons which results in the Commissioner's private interests coming or appearing to come into conflict with his functions as a Commissioner; or
 - (d) if for any reason the private interests of a Commissioner come into conflict with his functions as a Commissioner, the Commissioner shall forthwith disclose the fact to the Commission.
- (2) A Commissioner referred to in subsection (1) of this section shall take no part in the consideration or discussion of, or vote on, any question before the Commission which relates to any contract, right, immovable property or interest referred to in that subsection.
- (3) A Commissioner shall, prior to accepting his appointment to the Commission, make a declaration of assets in accordance with paragraph 11 of the Fifth schedule to the Constitution of the Federal Republic of Nigeria, 1999 and shall terminate all other engagements for gain, including appointment to any office in the Public Service.
- (4) A Commissioner who contravenes subsection (1), (2) or (3) of this section commits an offence and is liable on conviction to a fine not exceeding one million Naira or imprisonment for a period not exceeding six months or to both such fine and imprisonment.
- 46.(1) No decision or act of the Commission or act done under the direction of the Commission shall be invalid on the ground that:
- (a) there existed a vacancy or vacancies among the Commissioners; or
 - (b) there existed some defect in the constitution of the Commission at the time the decision was taken or act was done or authorized.
- (2) If a Commissioner referred to in section 45 takes part in the consideration of a matter in which his private interests are in conflict with his functions as Commissioner, the other Commissioners may subsequently ratify any such decision or action.

No invalidity
of decisions and
acts of
the Commission

- 47.(1) The Commission shall be entitled to conduct its proceedings, consultations, and hearings at its headquarters or at any other place in Nigeria.
- (2) The Commission shall make regulations for the discharge of its functions and for the conduct of its proceedings, consultations and hearings, including procedures for the participation of licensees, consumers, eligible customers and other persons.
48. (1) The Chairman shall ensure that all Commission decisions and orders:
- (a) contain the basis for the decision or order;
 - (b) are properly recorded in writing; and
 - (c) are accessible to the public at reasonable times and places.
- (2) The Commission shall issue written reasons in respect of any decisions or orders affecting the existing rights of any person if the affected person requests such written reasons.
- (3) The Commission may issue written reasons in respect of any other decision or order as the Commission deems necessary.
- (4) Every recommendation, declaration, decision or order of the Commission, if purported to be signed by a person describing himself as the Chairman of the Commission, or by a person describing himself as the Vice-Chairman acting in the capacity of the Chairman, shall, unless the contrary is shown, be deemed to be made by the Commission and to have been so signed and may be proved by the production of a copy thereof purporting to have been so signed.
- (5) The Commission may make interim orders pending the final disposition of a matter before it.
- 49.(1) The Commission shall hold a hearing of any matter, which under this Bill or any other enactment is required or permitted to conduct or on which it is required or permitted to take any action and the Commission shall hold public hearing on matters which the Commission determine to be of significant interest to the general public.
- (2) Where the Commission is required to, or otherwise decides to, hold a hearing, all persons having an interest in such matter shall, as far as reasonably practicable, be notified of the questions at issue and given opportunities for making representations if they so wish.
50. When any matter arises which entails the consideration of any professional or technical question, the Commission may consult such persons as may be qualified to advise thereon.

Proceedings of
the Commission.

Decisions and orders
of the Commission.

Commission to
give notice to
interested parties

Commission to
consult experts on
technical questions.

51. (1) If a question of law arises from an order or decision of the Commission, the Commission shall, on its initiative or at the request of any person directly affected by such order or decision, reserve that question for the determination of the Tribunal established under part VII of this Bill.

Question of law may be referred to the Tribunal.

(2) where a question has been reserved under subsection (1) of this section, the Commission shall state the question in form of a special case and file with the secretary of the Tribunal established under part VII of this Bill.

52. (1) subject to this section, any person who is aggrieved by –

Rehearing and appeals.

(a) a decision of the Commission not to issue a license;

(b) any term or condition of a license issued to him, or a refusal by the Commission to specify a term or condition of a licence;

(c) a refusal by the Commission to renew a licence;

(d) any amendment of a licence or refusal by the Commission to amend a licence;

(e) the cancellation of a licence;

(f) the grant or refusal by the Commission to grant any approval or authority in terms of this Bill;

(g) the outcome of any arbitration or mediation by the Commission of any dispute between licensees;

(h) a decision of the Commission with respect to prices or tariffs;

(i) any other decision of the Commission, may apply to the Commission for review of the decision, order or refusal.

(2) the Commission may, reconsider, vary or rescind its decision before issuing a final decision in accordance with such procedures as the Commission may, establish; Provided that such review or reconsideration shall be completed within thirty days of the date it was requested.

(3) any person dissatisfied with the decision of the Commission under subsection(2) of this section shall, subject to the rules of the Tribunal, within thirty days from the date the final decisions of the Commission was reached, file an appeal to the Tribunal established under part VII of this Bill.

(4) the Tribunal may affirm, modify or set aside the decision of the Commission reached under subsection (2) of this section.

53.(1) On or before such date as the Minister may specify before the beginning of every financial year, the Commission shall prepare and submit to the Minister a budget

Annual Programmes and budgets of the Commission

showing the expenditures which the Commission proposes to incur in respect of that financial year in order to carry out the functions of the Commission.

- (2) During any financial year, the Commission may prepare and submit to the Minister a supplementary budget relating to expenditures which were inadequately provided for in the annual budget due to unforeseen circumstances.
 - (3) A supplementary budget shall be deemed to form part of the annual budget of the Commission for the financial year to which it relates.
 - (4) The Commission may vary a budget prepared under this section, provided that no variation may be made which has the effect of increasing the total amount of expenditure provided for in the budget.
54. The funds of the Commission shall consist of:
- (a) Fees, charges and other income accruing to the Commission from licensees and other things done by it in terms of this Bill, excluding any fines or penalties recovered pursuant to this Bill;
 - (b) Funds allocated to the Commission by the National Assembly, pursuant to a request by the Commission for additional funds required to meet its reasonable expenditures; and
 - (c) Such other monies as may vest in or accrue to the Commission, whether in the course of its operations or otherwise.
55. (1) The Commission shall –
- (a) in respect of each financial year following the audit of its accounts under section 62 of this Bill, determine its operating surplus which shall be the remaining sum from the funds received pursuant to section 58 of this Bill after meeting all budgeted expenditure;
 - (b) within 30 days following the audit and determination of its operating surplus, pay such operating surplus directly to the Rural Electrification and Renewable Energy Fund established under section 128 of this Bill.
- (2) The operating surplus of the Commission as determined in accordance with the provisions of this Bill shall be paid to the Rural Electrification and Renewable Energy Fund notwithstanding the provisions of any Act of the National Assembly on remittances of operating surplus by government ministries, departments and agencies.
56. The financial year of the Commission shall be the period of twelve months commencing from January 1st and ending on the 31st December in each year.

Funds of the
Commission.

Surplus funds of the
Commission

The financial year of
the Commission

- 57.(1) The Commission shall ensure that proper accounts and other records relating to such accounts are kept in respect of all the Commission's activities, funds and property, including such particular accounts and records as the Minister may require.
- (2) The Commission shall, not later than three months, after the end of the financial year, prepare and submit to the Auditor General of the Federation and National Assembly a statement of accounts in respect of that financial year.
- (3) The Commission shall present quarterly reports on all its activities to the Minister for onward transmission to the President and National Assembly.
- 58.(1) The Commission shall appoint an auditor in accordance with the guidelines for the appointment of auditors issued by the Auditor-General of the Federation.
- (2) The accounts kept by the Commission under section 57(1) of this Bill shall be examined by the auditor.
- (3) The auditor shall within six months after the end of each financial year, make a report to the Commission and the Minister on the statement of accounts prepared under section 57 (2) and such report shall state whether or not, in the opinion of the auditor, the statement of accounts gives a true and fair view of the Commission's affairs.
- (4) The Minister may require the Commission to obtain from its auditor such other reports, statements or explanations in connection with the Commission's operations, funds and property as the Minister may consider necessary, and the Commission shall forthwith comply with any such requirement.
- (5) Notwithstanding the provision of subsection (4) of this section, the Minister shall authorize the Commission to publish its audited statement of accounts in two national newspapers within one month following the receipt of the auditor's report under subsection (3) of this section, and the Commission shall thereafter publish the statement of accounts in the manner that has been authorized.
- 59.(1) The auditor shall be entitled at all reasonable times to require to be produced to him all accounts and other records relating to such accounts which are kept by the Commission or its agents and to require from any Commissioner or employee or agent of the Commission such information and explanations as in the auditor's opinion are necessary for the purposes of their audit.
- (2) Any Commissioner or employee or agent of the Commission who fails without just cause to comply with a requirement of an auditor in terms of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding two

Accounts of the
Commission

Audit of the
Commission's
Accounts.

Powers of
the auditors.

hundred thousand Naira or to imprisonment for a period not exceeding three months or to both such fine and imprisonment.

60. Any agreement, contract or instrument approved by the Commission may be entered into or executed on behalf of the Commission by any persons generally or specially authorized by the Commission for that purpose

Execution of contracts and instruments by the Commission.

61.(1) In addition to any report which the Commission is required by this Bill to submit to the Minister, the Commission may submit to the Minister such other reports as the Commission considers advisable.

Reports of the Commission.

(2) The Minister shall publicly release any reports submitted pursuant to subsection (1) of this section, within two months following the receipt of such a report.

62.(1) The Commission shall employ such persons as it considers expedient for the better exercise of the functions of the Commission.

Staff of the Commission

(2) The terms and conditions of service, including remuneration, allowances and pension benefits, of the staff of the Commission shall be as determined by the Commission.

(3) Subject to subsection (5) of this section, the Commission may assign to its staff such functions of the Commission as the Commission deem fit.

(4) Any assignment of functions under subsection (3) of this section may be made either generally or specially and subject to such reservations, restrictions and exceptions as the Commission may determine, and may be revoked by the Commission at any time.

(5) Anything authorized or required by or under this Bill to be done by the Commission, other than the making of final orders, may be done by any member of the Commission staff who has been authorized either generally or specifically by the Commission to do so.

63. No liability shall attach to the Commission or to any employee of the Commission or to a Commissioner for any loss or damage sustained by any person as a result of the bona fide exercise or performance of any function which, by or in terms of this Bill, is conferred or imposed upon the Commission or the Commissioners.

Exemption from Liability for the Commission.

PART VI – LICENSING

64. (1) No person, except in accordance with a license issued pursuant to the provisions of this Bill or deemed to have been issued under section 210 or as provided under this Bill, shall construct, own, operate an undertaking other than an undertaking specified under subsection (2) of this section, or in any way engage in the business of -

Authorized persons to generate, transmit, etc electricity.

- (a) electricity generation, excluding captive generation;
 - (b) electricity transmission;
 - (c) electricity distribution;
 - (d) electricity supply;
 - (e) electricity trading; or
 - (f) system operation.
- (2) Notwithstanding the provisions of subsection (1) of this section, a person may construct, own or operate an undertaking for generating electricity not exceeding 1 megawatt (MW) in aggregate at a site or an undertaking for distribution for electricity with a capacity not exceeding 100 kilowatts (KW) in aggregate at a site, or such other capacity as the Commission may determine from time to time, without a license.
- (3) Subject to the provisions of this Bill, the Commission shall have the power to resolve disputes as to whether a person is engaging or is about to engage in a business for which a license is required under subsection (1) of this section.
- (4) The Commission shall have the authority to order any person who contravenes subsection (1) of this section to cease his operations, and to make such other orders, including an order to another licensee to disconnect facilities, as may be necessary to prevent the continuation or reoccurrence of the contravention.
- (5) Any person who contravenes the provision of subsection (1) of this section commits an offence and is liable on conviction to a fine not exceeding three million Naira or to imprisonment for a period not exceeding three years or to both such fine and imprisonment.
- (6) The Commission shall have the authority to penalize a licensee for violations of its license terms and conditions or to cancel such license in accordance with the provisions of this Bill
65. (1) A licensee shall comply with the provisions of its license, regulations, codes, orders and other requirements issued by the Commission from time to time.
- (2) Unless stayed by the Tribunal, each licensee shall duly implement or follow, as the case may be, the Commission's orders and written notices, notwithstanding that the licensee has or may intend to take legal action challenging any such order or notice.
- 66.(1) Subject to such terms and conditions as the Commission may fix in the license, a generation license shall, as the circumstances may require bearing in mind the current grid network capacity, authorize the licensee to construct, own, operate and maintain a generation station for purposes of generation and supply of electricity in accordance with the provisions of this Bill.

General duties of licensees.

Generation licenses.

- (2) Subject to the provisions of this Bill, the holder of a generation licensee may sell power or ancillary services to any of the classes of persons specified in the license and under this Bill.
 - (3) Without prejudice to the rights and obligations of successor generation companies which are deemed to be generation licensees under this Bill, the Commission shall, for the purpose of subsection (1) of this section have the power to grant multiple generation licenses to independent power producers for generation of electricity from renewable and non-renewable sources subject to such terms and conditions as may be stipulated by the Commission under such licenses.
67. (1) Subject to the provisions of section 16 (1) to(2) of this Bill and such terms and conditions as are contained in the license issued to the Transmission Service Provider, such license shall authorize the licensee to –
- (a) construct, maintain and operate an efficient, coordinated, economical and technology -integrated grid and transmission system within Nigeria, or that which connects Nigeria with a neighboring country; and
 - (b) provide non-discriminatory and open access to its transmission system for use by any successor generating company, independent power producer, consumers, licensees or other generators upon payment of appropriate transmission charges.
- (2) without prejudice to the rights and obligations of transmission licensees under subsection (1) of this Bill, the Commission shall have the power to issue independent electricity transmission network license) where –
- (a) there is no existing transmission facility and there is need for extension of the transmission network to increase electricity access; or
 - (b) there are existing transmission facilities that requires reinforcement of transmission network to connect new power generating facilities.
- (3) For the purpose of subsection (1) of this section, the jurisdiction of the independent electricity transmission network license shall be restricted to the greenfield sites covered under the independent electricity transmission network license while the jurisdiction of the transmission service provider shall be over areas that the transmission service provider described under section 16(2) (b) has its transmission facilities.
- (4) Notwithstanding the provisions of section 16(2)(a) of this Bill, the Commission may issue independent transmission network Operator license (in this Bill referred to as (IETNOs) in respect of –
- (a) any independent electricity transmission network licensed by the Commission pursuant to subsection (2) of this of this section in circumstances that requires the independent electricity transmission network operator to perform the functions; or
 - (b) authorize the ISO in its license given under section 16(2) of this Bill to continue to perform system operations nationwide.

Transmission licenses.

68. (1) Subject to the provisions of this Bill and such terms and conditions as the Commission may fix in the license, a system operation license shall authorize the licensee to carry on system operation, including, but not limited to, the following activities as may be specified in the license:

System operation
licenss

- (a) generation scheduling, commitment and dispatch;
- (b) transmission scheduling and generation outage co-ordination;
- (c) transmission congestion management;
- (d) international transmission co-ordination;
- (e) procurement and scheduling of ancillary services and system planning for long term capacity;
- (f) administration of the wholesale electricity market, including the activity of administration of settlement payments, in accordance with the market rules; and
- (g) such other activities as may be required for reliable and efficient system operation.

(2) All contracts for procuring ancillary services shall be awarded according to an open transparent and competitive manner, pursuant to a procedure established by the Commission, unless the circumstances require otherwise, and the Commission allows or requires an alternative method.

69. (1) Subject to the provisions of this Bill and such terms and conditions as are contained in a distribution license issued to successor distribution companies, a distribution license shall authorize the licensee to construct, operate and maintain a distribution system and facilities, including, but not limited to, the following activities as may be specified in the license:

Distribution and
Supply licenses.

- (a) The connection of customers for the purpose of receiving a supply of electricity;
- (b) The installation, maintenance and reading of meters, billing and collection;
- (c) Expansion of the distribution network in the licensed areas; and
- (d) such other distribution service as may be prescribed for the purposes of this section

(2) A distribution licensee may also have the obligation to provide electricity to its customers, pursuant to the terms of a distribution license issued by the Commission to the distribution licensee.

- (3) A distribution licensee that has a trading license issued under subsection (2) of this section may purchase power for resale from another trading licensee and may, with the prior approval of the Commission, purchase power from other sources except for the rights and obligations of the trading licensee described in section 7(1)(f) of this Bill novated to a distribution licensee under section 7(2)(d), all contract for bulk purchase of electricity by a distribution licensee shall be awarded on according to an open, transparent, and competitive manner, pursuant to a procedure established by the Commission, unless the circumstances require otherwise, and the Commission allows or requires an alternative method.
- (4) Notwithstanding the provisions of section 64 of this Bill, the Commission shall have the power to approve a distribution or supply franchising arrangement or any other commercial arrangement between the distribution or supply licensees and third parties within the respective distribution or supply licensees' operations and coverage areas in accordance with approved franchising terms, franchising models, tariffs as may be approved by the Commission:
Provided that the franchisee shall not be deemed to hold a distribution or supply license or sublicense but shall operate under the terms of distribution and supply licensee's license, whichever is applicable, with the distribution and supply licensees being ultimately responsible for quality distribution and supply of electricity in their respective licensed areas of operational coverage.
- (5) For the purpose of subsection (4) of this section, the Commission may approve a request for electricity distribution franchising at any time during any of the market stages recognized under this Bill and the Market Rules, taking into cognizance the aggregate tenure of licenses held by successor distribution companies, any disaggregation of the distribution licenses into distribution and supply licenses and such distribution franchising framework as may be put in place by the Commission.
- (6) Without prejudice to the right and obligations of a successor distribution company, the Commission shall at any stage of the market it considers appropriate, recognize electricity supply as a separate activity from distribution and accordingly issue a directive for the disaggregation of distribution licenses into supply and distribution licensed companies in accordance with the provisions of this Bill.
- (7) For the purpose of subsection (6) of this section, the Commission shall implement a transfer scheme for the disaggregation of successor distribution companies or other distribution licensees into supply and distribution licensees, prescribing in such order, the phases for the transfer of functions, property, interest and liabilities relating to the supply of electricity to intermediary companies to be incorporated by successor companies under the Companies and Allied Matters Act, 2020 or any law replacing same to function as a supply license in accordance with the transfer order as may be issued by the Commission under this section.

- (8) Upon completion of the transfer scheme under subsection (7) of this section-
- (a) successor distribution licensees or other distribution licensees as the case may be, shall cease to function as distribution and supply licensees but only as distribution licensees and in accordance with distribution license issued by the Commission under this subsection to cover their unexpired aggregate license tenure of its distribution license or under the terms of a renewed license granted by the Commission; and
 - (b) the intermediary companies described under subsection (7) of this Bill shall be issued distinct supply licenses and shall function as supply licensees in accordance with the provisions of this Bill and such terms and conditions as may be stipulated by the Commission in its supply license.
- (9) The Commission shall have the power to grant independent electricity distribution network and independent electricity distribution network Operators license to construct, own, operate, maintain or procure the construction and maintenance of independent electricity distribution network within an area with no existing distribution system or where the existing distribution infrastructure owned by the distribution licensee is unable to meet the demands of such customers giving due regard to the independent electricity distribution network operator framework as may be approved by the Commission for this purpose.
70. (1) A trading licensee shall be permitted to engage in the purchasing, selling, and trading of electricity and the Commission shall have the power to determine the terms and conditions of trading licenses as may be appropriate in the circumstances, and having due regard to the nature of the activities in which the licensee intends to engage.
- (2) For the purpose of giving effect to the provisions of section 8(2)(d) of this Bill and ensure smooth transition of the market without interruption, the Commission shall, at the stage of the market it considers appropriate, issue such number of trading licensees as it considers appropriate, authorizing such trading licensees to purchase, sale and trade in electricity and ancillary services, specifying the technical requirements, capital adequacy requirements, credit worthiness and such other terms and condition as may be stipulated in such trading licenses.
- (3) Trading licenses issued by the Commission pursuant to provisions of subsection (2) of this section shall authorize the trading licensees to -
- (a) enter into novation agreements with the trading licensee described under section 7(1)(f) of this Bill for the novation of the contractual rights and obligations for purchase and resale of electricity and ancillary services in accordance with section 8 (2) (d) of this Bill; and

Trading licenses

(b) enter into contract with successor generating companies, independent power producers and other generators for the purchase and resale of electricity and ancillary services.

(5) All contracts for purchases of electrical power and ancillary services by the trading licensees described under section 7(1)(f) and the holders of trading licenses issued by the Commission pursuant to the provisions of subsection (2) of this section shall be awarded according to an open, transparent, and competitive manner, pursuant to a procedure established by the Commission, unless the circumstances require otherwise, and the Commission allows or requires an alternative method.

71.(1) A licensee shall not, except as provided under sections 8(2)(d), 16(2)(a), 69(4) 69(5) and 69(8) of this Bill, assign or cede its license or transfer his undertaking, or any part thereof, by way of sale, mortgage, charge, pledge, lease, franchise, exchange or otherwise without the prior consent of the Commission:

Provided that, should the Commission determine that in any instance the circumstances so require, it may establish license terms and conditions providing its specific or general consent for any or all of the foregoing.

(2) No licensee shall, without the prior written consent of the Commission, acquire by purchase or otherwise, or affiliate or merge his undertaking with of any other licensee or person that is in the business of electricity generation, transmission, system operation, distribution, supplier trading, other than as recognized under section 7(1)(b), 71, 73(2), and 82 of this Bill:

Provided that the Commission may, as part of its consent, impose conditions such as, but not limited to, adherence to codes of conduct approved by the Commission.

72. (1) An application for a licence shall be made to the Commission in the form and manner prescribed and be accompanied by the prescribed fee and such information or documents as may be prescribed or as the Commission may require.

(2) Within thirty days after applying for a license under subsection (1) of this section, the applicant shall, at his own expense, cause a notice of the application to be published in a newspaper circulating in the area in which he intends to operate as a licensee, and in a separate, national circulation newspaper in accordance with such directions as may be given by the Commission, stating the period, prescribed by the Commission, within which objections or representation in connection with the application may be made to the Commission, and the Commission shall not issue any licence until all objections or representations received by the Commission have been considered and determined.

Restriction on licenses.

Application and Procedure for licence.

- (3) An applicant for a licence who owns, or a licensee who acquires, more than ten percent or such other percentage as the Commission may specify, of the shares in a body corporate which has applied for or holds another licence issued by the Commission shall disclose such interest to the Commission.
 - (4) Subject to subsection (5) of this section, if on consideration of an application that satisfies the requirements of subsection (1) of this section, the Commission is also satisfied that:
 - (a) the applicant is likely to comply with such provisions of this Bill, including, without limitation, all codes of conduct, standards, regulations and license terms and conditions, as apply to the service or system it intends to provide or operate; and
 - (b) the grant of the licence is in the public interest; the Commission shall issue the appropriate licence, as the case may be, to the applicant.
 - (5) If on consideration of an application that satisfies the requirements of subsection (1) of this section, the Commission is not satisfied as to the additional matters referred to in subsection (4), it shall refuse to issue a licence to the applicant, but before refusing to issue the licence on the ground that it is not satisfied as to the matters referred to in subsection (4) of this section, the Commission shall notify the applicant in writing that it proposes to refuse the application and of its reasons for doing so, and shall afford the applicant an adequate opportunity to make representations in the matter.
 - (6) The period between the Commission's receipt of an application under subsection (1) of this section and all documents and information submitted in support of it, and the date on which it notifies the applicant of the adequacy of the documents and information, shall not exceed one month.
 - (7) The period between the Commission's receipt of an application that satisfies the requirements of subsection (1) of this section, and the date on which the Commission notifies the applicant of its decision or proposed decision in accordance with subsection (4) or subsection (5), as the case may be, shall not exceed six months.
 - (8) Notwithstanding subsections (1) to (7) of this section, the Commission may establish simplified procedures for undertakings and businesses that are limited in size and scope so as to expedite the application and licensing process.
73. (1) A license shall be issued subject to such terms and conditions as may be prescribed, or as the Commission may reasonably determine, including terms and conditions prescribing the use of a tariff methodology approved by the Commission under Part X of this Bill.
- (2) Without derogation from subsection (1) of this section, a license may contain specific or general conditions which shall apply either to a licensee or class of licensee and may require the licensee to:

Terms and
conditions of
licences

- (a) enter into agreements on specified terms with other persons for the provision of or use of electric lines and associated equipment operated by the licensee;
 - (b) purchase power and other resources in an economical and transparent manners; and
 - (c) refer disputes to the Commission for arbitration, mediation, or determination by the Commission and file appeal against the decisions of the Commission to the Electricity Disputes Appeal Tribunal established under PartXVII of this Bill; and
 - (d) comply with such renewable purchase obligations or renewable generation obligations as may be prescribed by the Commission pursuant to the provisions of this Bill to promote generation and consumption of energy from renewable sources.
- (3) In the case of a license issued to an applicant referred to in section 76(3), the license may be issued subject to the condition that the licensee shall divest itself within a specified time of any holding of shares in another licensee or such other conditions, including adherence to codes of conduct, that the Commission determines to be in the public interest.
- (4) In issuing or renewing a distribution license, the Commission may impose a condition requiring the licensee to make such reasonable provision as may be specified by the Commission in the license for the facilitation of rural electrification in the proximity of the service, having due regard to the tariff methodology established by the Commission under Part X of this Bill.
- (5) A license may require the licensee to provide information to the Commission on a periodic basis, in such form and detail as the Commission may determine.
- (6) Unless expressly indicated in the license, the grant of a license shall not hinder or restrict the grant of a license to another person for a like purpose and, in the absence of such an express indication, the licensee, shall not claim any exclusivity:
- Provided that the Commission may allow a licensed activity to be exclusive for all or part of the period of the license, for a specific purpose, for a geographical area, or for some combination of the foregoing.
- (7) A license may contain terms and conditions for the license to cease to have effect or to be modified or amended by the Commission in such circumstances as may be specified in the license or as may be determined by the Commission.
- (8) As a condition of its license, every licensee shall, unless expressly exempted by its license, prepare and submit to the Commission each year such accounting information as the Commission may require.

(9) The Commission shall include in each license such details as it determines or are required regarding the rights and obligations of the licensee, and procedures to be followed, at the end of its license term.

(10) The tenure or duration of a license may be open or shall be valid for such duration as stipulated in such license granted by the Commission:

Provided that the Commission shall reserve the discretionary power to cancel, suspend, amend or renew any license taking into account the performance track record of the licensee, the nature of the undertaking, public interest and the provisions of this Bill relating to amendment, suspension, cancellation or renewal of licenses.

(11) Every license shall be deemed to contain a provision that the licensee complies with the market rules to the extent applicable to the licensee.

74. (1) Subject to the provisions of this Bill, the holder of a license may apply for a renewal of the license before it expires.

(2) An application for the renewal of a license shall be made to the Commission in the form and manner and within the period prescribed by the Commission, and it shall be accompanied by the prescribed fee, if any.

(3) The provisions of section 73 of this Bill shall apply, mutatis mutandis, to the renewal of licenses.

75. (1) Subject to the provisions of this section, the Commission may, at any time, amend a license or any term or condition of a license:

- (a) if the licensee requests the amendment; or
- (b) if the amendment is pursuant to a condition of the license imposed under section 73(7) of the Bill; or
- (c) upon receiving a complaint from any consumer, eligible customer, consumer association, association of eligible customers, or other licensee; and
- (d) where public interest demands, the Commission, may, on the application of the licensee or on the Commission's initiative make such amendments in the terms and conditions of a license as it thinks fit:

Provided that no such amendment under this paragraph shall be made except with the consent of the licensee unless such has, in the opinion of the Commission, been unreasonably withheld.

(2) Where a licensee makes an application for the amendment of a license, the licensee shall publish a notice of the proposed amendment to the license in accordance with such directions as may be given by the Commission, stating the period, prescribed by the Commission, within which objections or representations in connection with the

Renewal of licenses

Amendment of licenses

amendments may be made to the Commission, and the Commission shall not amend any license until all objections or representations received by the Commission have been considered and determined.

- (3) In the case of an application proposing amendments to a license of a licensee who provides services to an area covering a building or place occupied by the Federal Ministry of Defense for defense purposes, the Commission shall obtain the consent of the Federal Ministry of Defense before making the amendment to the license.
 - (4) Before making amendments in a license otherwise than on the application of the licensee, the Commission shall direct the applicant to publish the proposed amendments, stating the period within which objections or representations may be made to the Commission, and the Commission shall not amend any such license until all such objections or representations received by the Commission have been considered and determined.
76. (1) The Commission may, on its own initiative or upon a complaint from any consumer, eligible customers, consumer association or a licensee, inquire into the conduct or functioning of any licensee in carrying out the licensee's obligations under this Bill, rules or regulations, codes of conduct, or the terms and conditions of the licence.
- (2) Subject to this section, and after an inquiry, including an opportunity for the licensee to show cause as to why the licence should not be cancelled, the Commission may cancel any licence if, in its opinion:
 - (a) the licence was issued through fraud or the misrepresentation or nondisclosure of a material fact by the licensee; or
 - (b) the licensee has willfully or unreasonably contravened any provision of this Bill that is applicable to the licensee; or
 - (c) the licensee has failed to comply with any term or condition of the licence, the breach of which is expressly declared by such licence to render it liable to cancellation; or
 - (d) the financial position of the licensee is such that he is unable to fully and efficiently discharge the duties and obligations imposed by the licence:

provided that this provision shall not be invoked by the Commission where the licensee's inability to fully discharge its obligations under the license, which affects his financial position is due to non-compliance by other government agencies or other licensees with their responsibilities under the provisions of this Act or other extant regulations.
 - (3) Before cancelling a licence under subsection (2) of this section, the Commission shall notify the licensee in writing of its intention to cancel the licence concerned and the reasons for doing so, and shall allow the licensee an opportunity to demonstrate,

Cancellation of
licences

within 60 days following the delivery of such a notification, that circumstances have changed such that cancellation may no longer be warranted.

- (4) If, at the end of the inquiry and any further opportunity to be heard, under subsections (2) and (3) of this section, the Commission is satisfied for any reason specified in subsection (2) of this section that it is in the public interest that the licence concerned should be cancelled, the Commission may, by notice in writing to the licensee, cancel the licence or take such other action as it considers appropriate.
 - (5) Notwithstanding subsections (2) to (4) of this section, instead of cancelling a licence, the Commission may allow the licence to remain in force, subject to such further terms and conditions as it may deem necessary to impose, and such terms and conditions shall form part of the licence.
 - (6) In the event that the Commission decides to cancel a licence, it shall serve on the licensee a notice of cancellation fixing the date on which the cancellation shall take effect and the Commission may make orders in regard to the undertaking of the licensee, including an interim order on the appointment of administrators and special directors for the undertaking, an order for the sale of the undertaking of the licensee, as are, in the opinion of the Commission, necessary for maintaining continuity in the provision of electricity service.
77. (1) Without derogation from its powers under section 76, where the Commission is satisfied that a licensee is contravening, has contravened or is likely to contravene any of the conditions of the licence, the Commission may serve upon the licensee an order:
- (a) requiring the licensee to do, or not to do, such things as are specified in the order for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of the licence; and
 - (b) stipulating the period within which any requirement referred to in subsection (1) (a) of this section shall be commenced and completed; and notice of the order shall be published by the Commission in such manner as it considers appropriate to draw the attention of other persons affected or likely to be affected by the contravention or threatened contravention of the licence.
- (2) Before serving an order in terms of subsection (1) of this section, the Commission shall serve a notice upon the licensee concerned:
- (a) specifying the grounds upon which the order is to be issued and what the Commission considers reasonably necessary for the purpose of rectifying or avoiding any contravention or threatened contravention of any condition of the licence;
 - (b) stipulating the maximum period that the Commission considers reasonable for the implementation of any requirement it proposes to order; and

Enforcement of
license.

- (c) allowing the licensee, to make representations to the Commission within such period from the date of service of the notice as it shall specify.
 - (3) After considering any representations made under subsection (2)(c) of this section, the Commission may serve, or refrain from or defer serving, an order in terms of subsection (1), or serve an order on different terms.
 - (4) An order served under subsection (1) of this section may specify a penalty for each day that the licensee subjected to the order is in default of compliance with the order, not to exceed one hundred thousand Naira for each such day.
78. (1) Where the Commission cancels a license under section 76 of this Bill, the Commission shall make an order regarding the sale of the undertaking of the licensee under section 76(6) of this Bill and shall -
- (a) invite applications for acquiring the undertaking of the licensee whose license has been cancelled and determine which of such applications should be accepted, primarily on the basis of the highest and best price offered for the undertaking;
 - (b) require the licensee to sell his undertaking and thereupon the licensee shall sell his undertaking to the person (hereafter in this section referred to as the "purchaser") whose application has been accepted by that Commission;
 - (c) all the rights, duties, obligations and liabilities of the licensee, on and from the date of cancellation of license or on and from the date, if earlier, on which the undertaking of the licensee is sold to a purchaser, shall absolutely cease except for any liabilities which have accrued prior to that date;
 - (d) The Commission may make such interim arrangements in regard to the operation of the undertaking as it may consider appropriate including the appointment of an Administrator;
 - (e) The Administrator appointed under paragraph (d) of this subsection shall exercise such powers and discharge such functions as the Commission may direct.
- (2) Where the undertaking of a licensee is sold under sub-section (1) of this section, the purchaser shall pay to the licensee the purchase price of the undertaking in such a manner as may be agreed upon.
- (3) Where the Commission issues any order under sub-section (1) requiring the licensee to sell the undertaking, it may, by such notice, require the licensee to deliver the undertaking, and thereupon the licensee shall deliver on a date specified in the notice, the undertaking to the designated purchaser on payment of the purchase price thereof.

Sale of
undertakings
of licenses.

(4) Where the licensee has delivered the undertaking referred to in sub-section (3) to the purchaser, but its sale has not been completed by the date fixed in the order issued by the Commission, the Commission may, if it deems fit, permit the intending purchaser to operate and maintain the undertaking system pending the completion of the sale.

79. (1) Where the undertaking is sold under section 78 of this Bill then, upon completion of the sale or on the date on which the undertaking is delivered to the intending purchaser, as the case may be, whichever is earlier –

Vesting of undertaking in the purchaser.

(a) the undertaking shall vest in the purchaser or the intending purchaser, as the case may be, free from any debt, mortgage or similar obligation of the licensee or attaching to the undertaking:

Provided that any such debt, mortgage or similar obligation shall attach to the purchase money in substitution for the undertaking; and

(b) the rights, powers, authorities, duties and obligations of the licensee under its license shall stand transferred to the purchaser and such purchaser shall be deemed to be the licensee.

80. (1) If the undertaking is not sold in the manner provided under section 78 of this Bill, the Commission may, to protect the interest of consumers or in the public interest, issue such directions or formulate such scheme as it may deem necessary for operation of the undertaking.

Provision where no purchase takes place.

(2) The Commission shall give due regard to its relevant regulation on business continuity in issuing :

(a) an order for sale of undertaking pursuant to section 76(6); and

(b) directions or formulating a scheme pursuant to subsection (1) of this section which may be necessary for the operation of the undertaking of the licensee where no purchase of the undertaking takes place.

(3) For the purpose of sections 78, 79, and 80 (1) and (2) of this Bill, the Commission shall make such Regulations of Business and Service Continuity for the Nigerian electricity supply industry in order to ensure that the interests of licensees and that of customers are protected.

PART VII – GENERATION OF ELECTRICITY

81.(1) Without prejudice to the provisions of section 66 of this Bill, generation licensee shall be under an obligation to meet Renewable Generation Obligation as may be stipulated by the Commission to promote the generation of electricity from renewable energy sources as defined under this Bill and reduce greenhouse gas emission in residential areas.

Promotion of Generation from Renewable Energy.

(2) The renewable generation purchase obligation provided in subsection (1) of this section shall be fulfilled either by establishing renewable energy sources or

by purchase of renewable energy or any instrument representing renewable energy as the case may, and sale of such energy along with electricity generated from non-renewable sources. Such renewable power procured by the obligated entity shall be considered for meeting the prescribed renewable generation purchase obligation.

- (3) In granting generating licenses, the Commission shall promote embedded generation, hybridized generation, co-generation and the generation of electricity from renewable sources such as solar energy, wind, small hydro, biomass and such other renewable sources as defined under this Bill or may be developed from time to time.
- (4) Distribution, connection requirements and commercial arrangements for sale of electricity from embedded sources shall be in accordance with such regulation as may be issued by the Commission.

82. (1) The Commission may specify in accordance with section 78 (1)(d) of this Bill or in extra-ordinary circumstances direct a generating licensee to operate and maintain any generating station in accordance with the terms and conditions as the Commission may direct.

(2) In this section, "extra-ordinary circumstances" means circumstances arising out of threat to security of the State, public order or natural calamity or such other circumstances arising in the public interest.

(3) The Commission shall determine the means to offset the adverse impact of directions made to a generating licensee pursuant to subsection (1) of this section.

83. (1) There is established as provided in the First Schedule to this Bill, the Hydroelectric Power Producing Areas Development Commission (in this Act referred to as "HYPPADEC") charged with the responsibility for managing ecological menace to operation of dams for hydroelectricity generation.

(2) The Commission shall carry out the functions as provided in the First Schedule to this Bill.

[Second Schedule]

PART VIII – TRANSMISSION OF ELECTRICITY

84. For the purpose of this part, the successor transmission licensee or other transmission licensee may structure and demarcate transmission control in the country into National Control Centre, Supplementary National Control Centre, and Regional Control Centres with such changes in the location and spread of the transmission infrastructure as may be necessary to facilitate interconnections and coordination of efficient transmission of generated power throughout the country.

85. (1) Investment in the national grid may be made in accordance with such regulation the Commission may issue from time to time and shall be undertaken by–

Directions to generation companies

Establishment of the Hydroelectric Power Producing Areas Development Commission.

Demarcation of transmission into National Control Centre, etc.

Private sector investment in transmission network.

- (a) the successor transmission license with the approval of the Commission for the expansion or integration of technology into existing transmission infrastructure described under section 84 of this Bill; or
- (b) a non – licensee -
 - (i) in the existing transmission owned, operated and maintained by the successor transmission licensee based on project agreement between such a non – licensee and the licensee;
 - (ii) in Independent Electricity Transmission Network and Independent Electricity Transmission Network Operators recognized under this Bill.

- (2) Nothing in subsection (1) of this section prohibits the Commission in consultation with the appropriate Authority from approving an application by a non-licensee for -
 - (a) a long term concession of new transmission lines under any concession or commercial arrangement it deems necessary;
 - (b) any concession or commercial arrangement between concessioners and successor transmission licensee for expansion of the transmission network; and
 - (c) Project Finance by private investors whereby such investors finance, build, own and maintain parts of the network.

86. In giving effect to the provisions of section 91 of this Bill, the Commission shall, without compromising on the economic viability of investments made by licensees and non-licensees in the transmission network, ensure the fair spread of investments in the six geopolitical zones of Nigeria.

Fair spread of private sector investment in transmission network.

- 87. (1) Without prejudice to the provisions of section 67 of this Bill, the Commission shall issue directions and exercise such supervision and control as may be necessary to ensure stability and efficient operations of the national grid under the control of a transmission licensee.
- (2) If any dispute arises with reference to the quality of electricity or safe, secure and integrated operation of the national grid in relation to any direction given under subsection (1) of this section, it shall be referred to the Tribunal for settlement:

Commission to issue directives to the transmission licensee.

Provided that pending the decision of the Tribunal, the directions of the Commission shall be complied with by the licensee concerned and such pending decision of the Commission supersede any contrary directive from any other Agency under this Bill except as otherwise determined by the Tribunal.

88. From the commencement of this Bill, Federal or State Governments may enter into a public-private partnership arrangement with private companies for investment in the transmission network in accordance with Section 85 of this Bill.

Public and private partnerships to facilitate transmission of electricity within a State

PART IX– DISTRIBUTION AND SUPPLY OF ELECTRICITY

89. (1) Without prejudice to the provisions of section 69 of this Bill and subject to the provisions of this Bill, distribution or supply licensees shall be under an obligation to –
- (a) meet the Renewable Purchase Obligation as may be stipulated by the Commission to promote the consumption of energy produced from renewable energy sources and ensure open access to embedded generators in accordance with the regulations issued by the Commission from time to time; and
 - (b) enter into long term/medium term power agreements to meet the annual average demand of power of the area which it has the obligation to serve.
- (2) The Commission shall carry out a review every two years and assess whether –
- (a) the Distribution or Supply licensee has tied up adequate sources of power through long term and medium term Power Purchase Agreements to meet the annual average demand of the area it is required to serve;
 - (b) the distribution licensee is maintaining the distribution system in good condition in order to ensure uninterrupted and reliable power supply; and
 - (c) the complaints of consumers are promptly addressed and in case of default take appropriate regulatory measure under this Bill.
- (2) Where any person, whose premises is situated within the area of supply of a distribution licensee requires supply of electricity from a generating company or any licensee other than such distribution licensee, such person may, enter into a distribution use of system agreement with the distribution licensee to wheel such electricity in accordance with regulations made by the Commission and the duties of the distribution licensee with respect to such supply shall be of a common carrier providing non-discriminatory open access.
- (3) Where the Commission permits a consumer or class of consumers to receive supply of electricity from a person other than the distribution licensee of his area of supply, such consumer shall be liable to pay an additional surcharge on the wheeling of the electricity, as may be specified by the Commission, to meet the fixed cost of such distribution licensee arising out of its obligation to supply the electricity.
- (4) Every distribution and supply licensee shall, establish separate forums for redress of grievances of the consumers in accordance with the guidelines as may be specified by the Commission:

Distribution and Supply Network and Renewable Energy.

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Comment [1]: This cannot be by notice but rather by distribution use of system agreement entered into with the distribution licensee

Provided that in case of multiple distribution or supply licensee, a joint forum for redress of grievances of consumers may be established separately for distribution licensees and supply licensees.

- (5) Any consumer, who is aggrieved, may make a complaint for the redress of his grievance to the licensee and the licensee shall settle such grievances within a time frame as specified by the Commission.
- (6) Where the licensee fails to settle the grievances of the consumer within such time and in such manner as may be specified under subsection (5) of this Bill, the consumer shall bring his complaint to the attention of the Commission for quick mediation and resolution of the matter.
- (7) The provisions of sub-sections (5) and (6) shall be without prejudice to the right of the consumer to approach the Tribunal established under part VII of this Bill to ventilate his grievances:
Provided that any matter brought before the Tribunal under this section shall arise as an appeal by a customer against the decision of the Commission under subsection (6) of this Bill.

90. (1) From the Commencement of this Act, no licensee shall supply electricity, after the expiry of the date appointed by the Commission, except through installation of a proper meter in accordance with the regulations made in this regard by the Commission:

Provided that the licensee may under such circumstances as may be approved by the Commission require the consumer to pay for the price of a meter and enter into an agreement for the hire thereof.

- (2) Notwithstanding the provisions of subsection (1) of this section, the Commission may extend the period given under subsection (1) of this section for metering, where such extension is necessary for a class or classes of persons or for such area as may be specified in the extension notification issued by the Commission in this regard.
- (3) For proper accounting and audit in the generation, transmission and distribution or trading of electricity, the Commission may direct the installation of meters by a generating company or licensee at such stages of generation, transmission or distribution or trading of electricity and at such locations of generation, transmission or distribution or trading, as it may deem necessary.
- (4) If a person makes default in complying with the provisions contained in this section or the regulations made by the Commission under this section, the Commission may make such order as it thinks fit for requiring the default to be made good by the

Installation of
meters, etc.

licensee or by any officers of a company or other association or any other person who is responsible for its default.

91.(1) From the commencement of this Bill, there is a mandatory obligation on all customers to pay electricity Bill and where any person neglects to pay any charge for electricity due from him to a licensee or the generating company in respect of supply, transmission or distribution or wheeling of electricity to him, the licensee or the generating company may, after giving notice in the manner prescribed in any regulations issued by the Commission to such person and cut off the supply of electricity and for that purpose cut or disconnect any electric supply line or other works being the property of such licensee or the generating company through which electricity may have been supplied, transmitted, distributed or wheeled and may discontinue the supply until such charge or other sum, together with any expenses incurred by the licensee in cutting off and reconnecting the supply, are paid:

Provided that the supply of electricity shall not be cut off if such person deposits, under protest, -

- (a) An amount equal to the sum claimed from him, or
 - (b) The electricity charges due from him for each month calculated on the basis of average charge for electricity paid by him during the preceding six months, whichever is less, pending disposal of any dispute between him and the licensee.
- (2) No provision of this Bill or anything contained in any other law shall prohibit the recovery of arrears of charges for electricity supplied .
- (3) The provisions of this section are also applicable to consumers using pre-paid meters where due to defect in the meter it becomes impossible for such pre-paid consumers to input credit on the meter thus compelling the licensee to use the average charge of electricity paid by the consumer during the preceding months under subsection (1) of this section.
- (4) Nothing in subsection(2) of this section shall entitle a distribution licensee, distribution franchisee or supply licensee to enforce a former landlord's or previous tenant's outstanding electricity bill against a new landlord or new tenant or new occupant of a property except against the former landlord or previous tenant in accordance with this section.

Disconnection
of supply in
default of
payment

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Comment [2]: Please check. This carve out that starts with "other than" seems odd

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Comment [3]: All references to specific NERC regulations in this document should be removed because they can be repealed, amended or substituted at any time which therefore creates a lacuna in the law. Rather generic language should be used

PART X - TARIFFS AND SUBSIDIES

92. (1) The following activities in the Nigerian Electricity Supply Industry are subject to tariff regulation:
- (a) generation and trading, in respect of which licenses are required pursuant to this Bill and where the Commission considers regulation of prices necessary to prevent abuses of market power;
 - (b) transmission, distribution, supply and system operation, in respect of which licenses are required under this Bill; and
 - (c) electricity distribution franchising or other activity that the Commission may determine has been subject to tariff regulation.
- (2) Prices for the activities referred to in subsection (1) of this section shall be regulated according to one or more methodologies adopted by the Commission for regulating electricity prices and such tariff methodologies shall:
- (a) allow a licensee that operates efficiently to recover the full costs of its business activities, including a reasonable return on the capital invested in the business;
 - (b) provide incentives for the continued improvement of the technical and economic efficiency with which the services are provided;
 - (c) provide incentives for the continued improvement of quality of services;
 - (d) give to consumers economically efficient signals regarding the costs that their consumption imposes on the licensee's business;
 - (e) avoid undue discrimination between consumers and consumer categories; and
 - (f) phase out or substantially reduce cross subsidies over a time frame specified by the Commission;
 - (g) promote co-generation, and generation of electricity from renewable sources.
- (3) The Commission shall take into account any subsidy provided by the Power Consumer Assistance Fund under this Act or from any other source, whether direct or by way of favourable financing terms, or in any other manner, in establishing its tariff methodologies.
- (4) Notwithstanding subsection 2 (e) of this section, the Commission shall have the authority to –
- (a) approve any willing-buyer, willing-seller ring-fenced arrangement that allows licensees to enter into bilateral contracts to offer premium service to a class or classes of customer and rely on the provisions of such contracts to offer premium service to a class or classes of customers at different tariff other than the approved tariff methodology; and
 - (b) establish tariff methodologies that reflect the terms and conditions of a contract between licensees or between a licensee and one or more eligible customers:

Activities
subject to tariff
regulation

Provided that in approving such a ring-fenced arrangement under this subsection, the Commission shall make a determination to the effect that not less than 60% of the customers within the ring-fenced area consent to this arrangement and the licensee has met the other requirements under the service -based tariff principles as may be prescribed by the Commission.

- (5) Notwithstanding subsection (2)(e) of this section, in establishing tariff methodologies, the Commission may differentiate among consumers on the basis of differences in total electricity consumption, the time periods on which electricity is consumed, load factors, power factors, voltage levels, location within the country and other such criteria as may affect the cost of providing a service and may allow a lifeline tariff for some consumers.
- (6) Prior to approving a tariff methodology, the Commission shall give notice in the Official Gazette, and in one or more newspapers with wide circulation, of the proposed establishment of a tariff methodology, indicating the period within which objections or representations in connection with the same may be made to the Commission.
- (7) In preparing a tariff methodology, the Commission shall:
 - (a)
 - (i) consider any representations made by license applicants, other licensees, consumers, eligible customers, consumer associations, associations of eligible customers and such other persons as it considers necessary or desirable; and
 - (ii) issue a notice to license applicants, other licensees, consumers, eligible customers, consumer associations, associations of eligible customers and such other persons as it considers necessary to submit their inputs and such notice shall be given not later than thirty days or such a timeframe as the Commission may consider to be reasonable to allow all the necessary parties make representations to the proposed tariff methodology.
 - (b) obtain evidence, information, or advice from any person who, in the Commission's opinion, possesses expert knowledge which is relevant in the preparation of the methodology.
- (8) The Commission shall fix the date on which the tariff methodology shall come into operation and it shall cause notice to be given in the official gazette of that date.
- (9) If it appears to the Commission that a tariff methodology should be changed, the Commission shall give notice in the official gazette, and in one or more newspapers with wide circulation, of the proposal to change the methodology, indicating the period within which representations in connection with the proposal may be made.
- (10) After considering any objections of representations received in response to a notice issued under subsection (9) of this section, the Commission may confirm the proposed changes to the tariff methodology and the provisions of subsection (7) shall apply mutatis mutandis.

- (11) Every person upon whom any function has been conferred or imposed in connection with setting tariffs, shall be bound by a tariff methodology that has come into operation under subsection (8) or subsection (10) of this section.
 - (12) Every licensee shall keep at his office a current copy of the tariff methodology applicable to that licensee and shall make a copy available for inspection on request by any person free of any charge during the licensee's normal working hours.
 - (13) Any fines or penalties levied against a licensee in terms of this Bill or any other law or regulation shall not be rechargeable to the licensee's customers.
 - (14) Any person or licensee who contravenes or condones the contravention of the provision of subsection (13) of this section shall be liable to a fine two times the charge to the licensee's customers or to imprisonment of not more than one year or to both such fine and imprisonment.
- 93.(1) Notwithstanding anything contained in this Bill, if the Federal or State Government, as the case may be, desire to the grant any subsidy to any consumer or class of consumers in the tariff determined by the Commission under this Bill, such subsidy by the Federal or State Government or cross subsidies shall in order to avoid undue exposure of licensees to speculative revenues, be implemented within the Power Consumer Assistance Fund established under this Bill.
- (2) The Commission shall ensure strict implementation of cross -subsidies and facilitate gradual reduction in cross -subsidies with the aim of entirely eliminating cross -subsidies before the declaration of the commencement of a Long Term Market Stage under this Bill.

Provision of electricity subsidy by government.

PART XI – ACQUISITION OF LAND AND ACCESS TO LAND

94. (1) Acquisition of land and access rights for electricity projects in Nigeria, including projects related to generation, transmission, distribution and supply of electricity shall be through voluntary and compulsory land acquisition procedures in compliance with the provisions of this Bill, the Land Use Act and the Commission's Acquisition of Land and Access Rights for Electricity Projects Regulations or any amendment thereto or regulations replacing same.
- (2) A generation licensee, transmission licensee distribution licensee and any other licensee shall be entitled to access rights over lands, buildings and streets for discharging its obligations under its license to the extent and in the manner prescribed in the Commission's Acquisition of Land and Access Rights for Electricity Projects Regulation or any amendment thereto or regulations replacing same.
- (3) Except where acquired through voluntary acquisition procedure, where a licensee, who has been given a right of occupancy over land in accordance with subsection (1) of this section, ceases to require the land for the purposes of the licensed activity, the licensee shall -

Procedure for acquisition of land and land access rights for electricity projects.

- (a) offer the land to the previous holder of the right of occupancy, for repurchase at an amount equivalent to the amount of compensation paid to the previous holder; or
- (b) offer the right of occupancy to any other person on such terms and conditions as the Commission may direct where the previous owner declines interest in the land.

PART XII – CONSUMER PROTECTION AND LICENSEE PERFORMANCE STANDARDS

95. (1) The Commission shall develop, in consultation with the licensees, the following:

- (a) customer service standards;
 - (b) quality of service and supply standards;
 - (c) customer complaint handling standards and procedures;
 - (d) codes of practice for the provision of assistance to special needs customers, such as the blind or disabled, the elderly or severely ill;
 - (e) procedures for dealing with, and assisting where necessary, customers who have difficulty in paying bills;
 - (f) procedures for applying for electricity service;
 - (g) procedures for disconnecting non-paying customers or for those in breach of other terms and conditions of an applicable tariff or contract; and
 - (h) the information to be provided to consumers and the manner of its dissemination.
 - (i) internal procedures for responding to emergency situations.
- (2) Standards and procedures developed by the Commission shall be adhered to by the applicable licensees and all persons to which they apply to and shall be published by the applicable licensees in such manner and by such means as the Commission may direct.
- (3) Without prejudice to the obligations of licensees regarding compliance with service delivery standards under this section, licensees shall publish on a quarterly basis through their official websites or other online mediums, Key Performance Indicators as it affects service delivery including –
- (a) technical data related to load, system and equipment;
 - (b) operational parameters;
 - (c) financial data; and
 - (d) customer service information, etc.

Consumer
protection
standards

Performance
standards and
codes.

96. (1) The Commission shall develop, in consultation with licensees and other interested parties, the following performance standards and codes:
- (a) standards of overall performance in connection with the provision of electricity supply services and in connection with the promotion of the efficient use of electricity by consumers;
 - (b) such technical codes and manuals as maybe required for the safe, reliable, and efficient operation of the system; and
 - (c) such other standards, codes, manuals as the Commission may require.
- (2) Standards, codes and manuals approved by the Commission pursuant to subsection (1) of this section shall be binding on the applicable licensees and shall be published by the applicable licensees in such manner as the Commission may direct.
- (3) Different standards may be determined for different licensees under this section.
- (4) The Commission shall carryout annual review of the overall performance of licensees,
- and in casesof established failure on the part of licensee to meet overall Performance Standards, the Commission shall determine appropriate reliefs including fines and penalties that the Commission may impose in such circumstances in accordance with the provisions of this subsection and the licensee’s Performance Standards and Codes.

PART XIII – COMPETITION AND MARKET POWER..

97. (1) The Commission shall have a continuing responsibility to monitor the Nigerian electricity supply industry in regard to its potential for additional competition and to report on this subject, each year to the Minister , and until such a time as the Commission has made a declaration under section 9(1) of this Bill, the content of these reports shall be as prescribed under the Market Rules, thereafter, the content of these reports shall consider whether any of the regulated services in the Nigerian electricity supply industry ought to be exempted from tariff regulation.
- (2) Upon a finding by the Commission under subsection (1) of this section that it is in the public interestto exempt any of the regulated services from tariffs, the Commission, after consultation with the Minister, shall determine when, and under what conditions, a regulated service may be exempt from tariff regulation, provided that a license from the Commission shall continue to be required in respect of such service so exempted from tariff regulation.

- (3) This section shall not be construed to limit the Commission's authority to determine such matters as whether to restrict the introduction of competition to certain geographical areas or to certain licensees or customers on a temporary or permanent basis:

Provided that the authority of the Commission to restrict the introduction of competition to certain geographical area or to certain licenses or customers on temporary or permanent basis shall cease before the declaration of a Long Term Electricity Market under section 9 (1) of this Bill.

- (4) The Commission shall determine the pre-conditions and any transitional arrangements required for a service to be offered competitively, including, codes of conduct, rules regarding access to information, access to the electric system, and constraints against undue discrimination in the offering of services.
- (5) Subject to section 105 of the Federal Competition and Consumer Protection Act, 2019, the Commission shall have the responsibility to consider, in respect of services in competitive markets, the prevention or mitigation of abuses of market power which includes market concentration, in its decisions and orders regarding matters such as, but not limited to, licence applications and the grant of licences; licence terms and conditions; the setting of prices and tariffs; and whether or not to approve a merger, acquisition or affiliation.
- (6) In discharging its ongoing responsibility to monitor the electricity businesses and markets to determine whether there is, or may be, an abuse of market power, the Commission shall be entitled to:
- (a) require information from licensees;
 - (b) undertake inquiries; and
 - (c) establish or contract with an independent entity to provide monitoring services.
- (7) In the event that the Commission determines that there is an abuse of market power, it may:
- (a) issue cease orders as may be required; and
 - (b) levy fines to such an amount it may consider appropriate.

PART XIV – THE POWER CONSUMER ASSISTANCE FUND

- 98.(1) The Commission shall set up and administer a fund under the name "Power Consumer Assistance Fund" to be used for the purposes specified in subsection (4) of this section.
 - (2) The Commission shall keep and manage the money and assets of the Power Consumer Assistance Fund and shall handle the procedures for disbursement from the Power Consumer Assistance Fund under this Bill.
 - (3) The Power Consumer Assistance Fund shall consist of the following capital and assets:
 - (a) The contributions delivered under section 110; and
 - (b) Any subsidies received from the Federal Government of Nigeria as appropriated by the National Assembly.
 - (4) The Power Consumer Assistance Fund shall be used to subsidize underprivileged power consumers as specified by the Minister in consultation with the Commission
99. (1) The Commission shall determine the contribution rates to be sent by designated consumers and class of consumers and eligible customers to the Power Consumer Assistance Fund and the subsidies to be disbursed from the Power Consumer Assistance Fund, in accordance with policy directions issued by the Minister, and subject to subsection (2) of this section.
- (2) The Commission, while determining the contribution rates shall take into consideration the impact of such rates on eligible customers and consumers who have to assume the burden of such contributions and for this purpose such contributions made by such customers shall be factored into their tariffs.
- 100.(1) All consumers and eligible customers including such class of customers under section 99(3) of this Bill shall make contributions to the Power Consumer Assistance Fund at the rates and for the duration specified by the Commission under section 109(1).
- (2) In making contributions to the Power Consumer Assistance Fund under subsection (1) of this section, eligible customers shall pay their contributions directly to the Power Consumer Assistance Fund set up by the Commission under this part and other consumer or class of customers liable to make contributions under this Bill shall pay their contributions to their distribution licensee and the distribution licensees shall compile such contributions and send them to the Power Consumer Assistance Fund. All collections and payments shall be made in accordance with the guidelines as may be established by the Commission.

Establishment of the Power Consumer Assistance Fund.

Contribution rates for the Power Consumers Assistance Fund.

Contribution payments for the Power Consumer Assistance.

Payments from the Power Consumers Assistance

101. Where the Minister, has determined that subsidy payments from the Power Consumer Assistance Fund should be disbursed to distribution companies for electricity supplied to designated consumers, or classes of consumers, the Commission shall disburse the subsidy to such distribution companies at the rates and for the durations specified by the Commission.
102. Any person who fails to pay to the Commission or a distribution licensee, within the prescribed time period, any amount owing under this Part shall be liable to a fine not exceeding three times the amount owed.

Fine for non-payment of money owed.

PART XIV – RURAL ELECTRIFICATION AND RENEWABLE ENERGY AGENCY.

103. (1) There is established, the Rural Electrification and Renewable Energy Agency (in this Bill, referred to as the “Agency”) which shall replace the extant Rural Electrification Agency.
- (2) The Agency shall be a body corporate -
- (a) with perpetual succession and a common seal.
 - (b) which may sue or be sued in its corporate name; and
 - (c) which may acquire, hold, purchase, mortgage and deal with property, movable or immovable, real or personal.
104. (1) The Agency shall have the following principal objectives, that is to –
- (a) create an enabling channel for entry into markets for rural, unserved and underserved electrification services, and to facilitate corporate bodies wishing to supply such services and facilities;
 - (b) ensure that rural, unserved and underserved electrification services are provided efficiently, economically and at such performance standards which reasonably meet social, industrial and agricultural needs of rural communities;
 - (c) promote the development and ensure the implementation of Government’s general policies on rural electrification, renewable energy, and energy efficiency and execution of all such other functions and responsibilities as are given to the Agency under this Bill or are incidental or related thereto;
 - (d) ensure the Nigerian rural, unserved and underserved populace have unfettered access to electricity facilities;
 - (e) provide for the utilization of renewable energy sources for electricity and heat generation in an efficient and sustainable manner;
 - (f) provide the framework to support –
 - (i) the development and utilization of renewable energy sources and an enabling environment to attract investment in renewable energy sources;
 - (ii) the promotion for the productive use of renewable energy;

Establishment of the Rural Electrification and Renewable Energy Agency.

Objectives of the Agency

- (iii) the diversification of supplies to safeguard energy sources
 - (iv) improved access to electricity through the use of various renewable energy technology sources;
 - (v) the building of indigenous capacity in various technologies for renewable energy sources;
 - (vi) public education for renewable energy production and consumption; and
 - (vii) the production and supply of wood fuel and biofuel;
 - (g) promote, develop and implement any special electrification intervention programmes and projects, in both rural and peri-urban communities, as may be approved by the Board or the Federal Ministry of Power in furtherance of government objectives or initiatives by the Federal Government of Nigeria.
105. (1) For the furtherance of its objectives under section 104 (1) of this Bill, the Agency shall perform the following functions, that is to –
- (a) promote universal access to affordable and sustainable electricity thereby improving the quality of life and economic opportunities for rural, unserved and underserved communities;
 - (b) provide access to reliable electric power supply for rural, unserved and underserved dwellers, irrespective of where they live and what they do, in a way that would allow for reasonable return on investment through appropriate tariffs that are economically responsive and supportive of the average rural customer;
 - (c) oversee, manage and execute the funding of the Rural Electrification and Renewable Energy Fund in accordance with the operational guidelines approved by the Board;
 - (d) the Agency shall promote the exploitation, utilization and development of renewable energy sources in accordance with the regulations or other subsidiary legislation issued by the Commission and collaborate with relevant Federal ministries, departments and agencies and State Boards for Rural Electrification responsible for the development, promotion, management, and utilization of renewable energy sources;
 - (e) provide learning opportunities to educate interested communities, students and individuals on the opportunities for rural, unserved, and underserved electrification business ventures;

- (f) mandate the use of low-cost options in rural, unserved and underserved electrification projects that apply for subsidy grants towards start-up cost;
 - (g) advocate for tax incentives, investment capital allowance and low interest loans for local producers of renewable energy products;
 - (h) encourage the economic growth of rural, unserved and underserved communities through rural electrification projects;
 - (i) advocate for carbon tax to disincentivize the sale of fossil fuels, encourage reliance on renewable energy and trigger gradual transition to clean energy;
 - (j) sensitize the rural, unserved, and underserved communities in Nigeria on renewable energy potentials and related matters;
 - (k) protect public interest by ensuring that the provisions of this Bill are carried out diligently; and
 - (l) perform such other ancillary functions which are necessary and incidental to its objectives and functions under this Bill or any other Act of the National Assembly.
- (2) In the discharge of its functions, the Agency shall consult, from time to time, such persons or groups of persons who may or are likely to be affected by its projects or programmes, including, but not limited to investors or renewable energy companies, renewable energy user cooperatives, State Rural Electrification Boards, interested parties and other stakeholders.
- (3) For the furtherance of its objectives and functions under subsection (1) and (2) of this section, the Agency is vested with powers to –
- (a) insure its property against any loss or all forms of risks;
 - (b) acquire, purchase, hold, construct or maintain any property whatsoever whether movable or immovable required for or in connection with the performance of its functions and to sell, dispose of or otherwise deal with such property or any part thereof;
 - (c) produce any document(s) which is likely to assist the Agency, the Board or any of its committees in the discharge of the duties of the Agency under this Act;
 - (d) discuss any matter which the Agency deems necessary for the purpose of effectively discharging the Agency's duties under this Act;

- (e) enter into contract or partnership with companies, firms or persons that in the opinion of the Agency will facilitate the duties specified in this Bill;
 - (f) establish Zonal Offices and maintain Liaison and State Offices for the discharge of such functions as the Agency may determine;
 - (g) establish gender unit to track and collate gender mainstreaming indicators in the implementation of rural electrification projects, support for capacity and manpower development for renewable energy and generally track the impact of rural electrification projects on addressing income inequalities and poverty in the rural areas;
 - (h) in accordance with the provisions of this Bill, receive, manage and disburse funds accruing to the Rural Electrification and Renewable Energy Fund established under section 118 of this Bill for the carrying out of approved projects;
 - (i) collect, collate process and disseminate online and offline, rural electrification data and information within and outside Nigeria and in consultation with the Minister conduct performance evaluation of the rural electrification policies and strategies to ascertain targets and milestones achieved; and
 - (j) do any other thing necessary and instrumental to the execution of its functions under this Act.
- (4) The powers conferred on the Agency under this section may be exercised by it or through any of its employees or agents as may be specifically authorized by a written mandate or policy direction
106. (1) There is established for the Agency a part-time Governing Board (in this Bill referred to as "the Board") which shall be constituted and exercise the powers and perform the functions stipulated under section 110 of this Bill.
- (2) The Board shall consist of seven members as follows -
- (a) six members appointed to represent the six geopolitical zones of the Nigeria out of which one shall be designated as a part-time Chairman, two others designated as non-Executive Directors while the other three shall serve as Executive Directors; and
 - (b) the Managing Director and Chief Executive Officer of the Agency.
- (3) The Managing Director of the Board and the Executive Directors of the Board appointed pursuant to the provisions of this Bill shall possess the qualifications, experience and competence stipulated under section 113 and 117 of this Bill while the Part-time Chairman of the Board and the non-Executive Directors of the Board

Establishment
and
Composition of
the Governing
Board of the
Agency

shall be highly respected persons who have distinguished themselves in public service and all members of the Board shall be appointed by the President on the recommendation of the Minister vested with supervisory power over the Agency.

107. (1) The Chairman and other members of the Board shall each –

- (a) hold office for a period of five years on such terms and conditions as may be specified in their letters of appointment; and
- (b) may be re-appointed for another period of five years and no more

Tenure of members of the Board

108. (1) Notwithstanding the provisions of section 107 of this Bill, a person shall cease to hold office as a member of the Board if –

- (a) he becomes bankrupt, suspends payment or compounds with his creditors; or
- (b) he is convicted of a felony or any offence involving dishonesty or fraud; or
- (c) he become of unsound mind, or incapable of carrying out his duties; or
- (d) he is guilty of a serious misconduct in relation to his duties; or
- (e) in the case of a person possessed of professional qualifications, he is disqualified or suspended from practicing his profession in any part of the world by an order of a competent authority made in respect of that member; or
- (f) he resigns his appointment by a letter addressed to the President.

Cessation of Membership of the Board

(2) If a member of the Board ceases to hold office for any reason whatsoever before the expiration of the term for which he is appointed, another person representing the geopolitical zone and possessing the requisite qualification shall be appointed in his stead as a member of the Board to serve the unexpired term of the person whose membership of the Board has ceased.

109. (1) The Chairman and non-Executive members of the Board shall be paid such emoluments, allowances and benefits as the Federal Government may, from time to time, direct through the National Salaries and Wages Commission.

Allowances of the Chairman and Non-Executive members of the Board

110. (1) The powers of the Board shall include:

- (a) formulate the general policies and guidelines relating to the discharge of the functions and realization of the objectives of the Agency under this Bill;
- (b) generally, supervise the management of the affairs of the Agency;

Powers of the Board

- (c) supervise and ensure accountability of the Rural Electrification and Renewable Fund (in this Bill referred to as "the REREF") established Under this Bill by defining appropriate procedures for management of the for the Fund by the Agency.
 - (d) approve the criteria for disbursement of monies approved for the Fund.
 - (e) approve disbursement of monies from the REREF to pay for the Agency's programmes and projects;
 - (f) receive and examine reports from designated persons or institutions in respect of financial assistance in relation to the realization of the objectives of the Agency;
 - (g) decide on policies and procedures for the allocation and use of funds from the REREF established under this Bill for rural electrification subsidies;
 - (h) approve allocations from the REREF for payment of subsidies for selected rural electrification projects including payment for grid extension projects and renewable mini-grid projects;
 - (i) grant approval for the Agency to support research and developments proposals that would lead to the development of patentable renewable energy technology solutions and energy efficiency;
 - (j) give approval to the Agency for the appointment of technical consultants or committee to advise the Board or the Agency from time to time as the need arise;
 - (k) approve the establishment or reorganization of such units, departments or divisions of the Agency where it considers expedient and necessary for the smooth operations of the Agency;
 - (l) generally, exercise control and supervise the internal policies, finances and property of the Agency;
 - (m) approve the investment of any portion of the funds of the Agency in treasury bills or other securities or other money market products and services in accordance with the provisions of this Bill;
 - (n) approve the appointment of such administrative staff including the terms and conditions of their appointments, and subject to relevant Acts of the National Assembly, determine the remunerations of management staff of the Agency; and
 - (o) perform any other function and do such things as are necessary for the successful performance of the functions of the Agency.
- (2) In the performance of its functions under subsection(1) of this Bill, the Board shall sit on part -time basis and no part -time member of the Board is permitted to interfere with the day to day running of the Agency.

(3) In the exercising its powers under this Bill, the Board shall submit annual report and audited accounts of the Agency to the Minister for transmission to the committees on power in the Senate and House of Representatives of the National Assembly.

111. (1) The Board shall adopt its rules and regulations to guide the summoning and conduct of proceedings at its meetings including –

- (a) the venue and place for its meetings;
- (b) the minimum and maximum number of times in a year to hold a meeting;
- (c) who to preside at such meetings in the absence of the chairman,
- (d) quorum for decision making;
- (e) participation at such meetings including mode of voting and the exercise of casting vote; and
- (f) any other issues that are relevant to the conduct of Board meetings.

112. (1) The Board shall, on the recommendation of the Managing Director and Chief Executive Officer of the Agency, appoint a staff from the Management Cadre of the Agency as the Secretary to the Board and once appointed shall attend Board meetings and discharge the functions assigned to him under this Bill or such other functions as may be assigned to him by the Board but shall not be reckoned as Board member.

(2) The Secretary shall be responsible for –

- (a) convening, on the authority of the Chairman, meetings of the Board;
- (b) recording the minutes of all meetings of the Board and such other meetings as the Board may direct;
- (c) acting as Secretary to any Committee as may be appointed by the Board except technical Committee;
- (d) maintaining and keeping minute books and a register of the members of the Board;
- (e) keeping in safe custody all title documents relating to the Agency's properties;
- (f) keeping in safe custody all agreements entered into by the Agency with any third party;
- (g) arranging, through the Managing Director, payment of fees and allowances of meetings and all other matters affecting members of the Board;
- (h) communicating the decisions of the Board to the Board members.

Meeting and
proceedings
of the Board

Secretary of
the Board

- (i) carrying out such other duties and responsibilities as may be assigned to him, from time to time, by the Managing Director and Chief Executive Officer of the Agency.

113. (1) There shall be for the Agency a Managing Director who shall be appointed by the President on the recommendation of the Minister and on such terms and conditions as may be specified in his letter of appointment.

(2) The Managing Director shall be -

- (a) the Chief Executive and accounting officer of the Agency;
- (b) responsible to the Board for the day-to-day administration of the Agency;
- (c) appointed for a term of five years in the first instance and may, subject to satisfactory

performance, be reappointed for one further term of five years and no more; and

- (d) be a person who possesses adequate professional qualifications and experience in the fields of power, engineering, law, public administration, or other relevant discipline and must have prior senior management experience in the power sector either in public service or private sector for a cumulative period of at least period of not less than 15 years.

114. (1) The Agency shall have powers to employ such persons as it may deem necessary for the discharge of the duties and powers of Agency under this Bill or any regulations made pursuant to it;

(2) The Agency shall have the powers to determine the job description, title, terms, qualifications and salaries of any such person and all such persons shall be subject to the provisions for discipline of staff under this Bill.

(3) The employment of the Agency's staff, including its secretary; shall be subject to such terms and conditions as may from time to time be stipulated by the Agency's Board and contained in the respective staff's employment contract.

115. (1) It is hereby declared that service in the employment of the Agency shall be deemed approved service under the Pensions Reform Act, and accordingly, employees of the Agency shall, in respect of their services shall be entitled to pensions, gratuities, and other retirement benefits as are prescribed hereunder.

Managing
Director and
Chief Executive
Officer of the
Agency

Other Staff
of the
Agency

Pension
and
gratuity.
etc

(2) Notwithstanding the provisions of subsection (1) of this section, nothing in this Bill shall prevent the appointment of a person to any office on terms which preclude the grant of apension and gratuity in respect of that office.

116.(1) The Agency shall have its headquarters located in the Federal Capital Territory and may set up zonal operational offices in the six geopolitical zones or State offices as the Board may approve.

(2) There shall be at the Headquarters of the Agency, three divisions to be headed by three Executive Directors under the direct supervision of the Managing Director as follows –

(a) Rural Electrification and Renewable Energy Fund Division, headed by an Executive Director, with a REREF Management Directorate under his direct supervision;

(b) Engineering and Technical Services Division, headed by an Executive Director, with a Projects Support Directorates under his direct supervision; and

(c) Corporate Services Division, headed by an Executive Director with two Directorates under his direct supervision namely –

(i) Planning Research and Promotion Directorate; and

(ii) Finance and Administration Directorate.

117. (1) The Executive Directors of the Agency appointed pursuant to the provisions of this Bill shall possess academic and professional qualifications in the fields of power, engineering, law, accounting, corporate communication, project management, public administration in addition to cognate experience and competence relevant to the respective divisions they head as described under section 126 of this Bill and shall be appointed on such terms and conditions as may be specified in their appointment letters.

(2) The Executive Director, Rural Electrification and Renewable Energy Fund Division shall perform the following functions in relation to his division and the directorate under his supervision -

(a) oversee the Rural Electrification and Renewable Energy Fund Management Directorate;

(b) head the Rural Electrification Fund Division;

(c) implement the policies of the Agency as they apply to the Rural Electrification and Renewable Energy Fund;

Structure
of the
Agency

Functions of
Executive
Directors and
Directorates
of the Agency

- (d) supervise the work of the Rural Electrification and Renewable Energy Management Directorate under him and render reports to the Managing Director or the Board, from time to time;
 - (e) coordinate draft expenditure estimates and development plans of the Directorate to ensure compliance with the objective of the Agency; and
 - (f) perform such other functions as may be assigned by the managing Director of the Agency or the Board from time to time towards the realization of the objectives of the Agency.
- (3) The Executive Director, Engineering and Technical Services Division shall perform the following services in relation to his division and the directorate under his supervision –
- (a) head the Engineering and Technical Services Division;
 - (b) oversee the Projects Support Directorate;
 - (c) implement the policies of the Agencies as it relates to rural electrification, renewable energy and energy efficiency;
 - (d) supervise the work of the Project Support Directorate under him and render reports to the managing Director or the Board, from time to time.
 - (e) ensure that the expenditure estimates of the Project Support Directorate is in accordance with the objectives of the Agency under this Bill; and
 - (f) perform such other functions as may be assigned to him by the Managing Director of the Agency or the Board from time to time towards the realization of the objectives of the Agency.
- (4) The Executive Director, Corporate Services Division shall perform the following functions in relation to his Division and the directorates under his direct supervision –
- (a) head the Corporate Services Division,
 - (b) oversee the Planning, Research and Promotion Directorate to promote rural electrification and create awareness more generally; and
 - (c) oversee the Finance and Administration Directorate to manage the Agency's internal finance and administration.
- (5) The REREF Management Directorate shall be responsible for –
- (a) establishing and administering the REREF to provide capital subsidies to qualified rural electrification schemes developed by public or private sector entities;

- (b) comply with the policy guidelines and procedures for administering the REREF giving regard to the criteria for subsidy award, transparency, and accountability;
 - (c) coordination of rural electrification projects at local, zonal and federal levels; and
 - (d) perform any other function that may be approved by the Board as being relevant to the realization any of the objectives of the Agency.
- (6) The Engineering and Technical Services Directorate shall be responsible for –
- (a) providing technical support services for the Agency’s projects including planning, survey and analysis, technical design, evaluations, verifications, production of bill of engineering measurement and evaluation, monitoring and supervision, liaising with other agencies and compliance with standards and specifications in line with global best practices;
 - (b) facilitate technical support from public and private sector partnership aimed at promoting rural electrification projects;
 - (c) perform any other function that may be approved by the Board as being relevant to the realization any of the objectives of the Agency.
- (7) The Projects Support Directorate shall be responsible for –
- (a) provide technical support to rural electrification schemes in accordance with policy guidelines designed to protect consumers and service providers on the basis of bilateral agreements signed between the Agency and project developers;
 - (b) monitor project development and supervise project implementation to ensure compliance with standards and specifications used for projects supported by the REREF;
 - (c) through diligent supervision and monitoring, ensure that projects supported by the REREF meets minimum safety standards, quality of materials requirements, appropriate design and proper use of the network equipment, reasonable cost effectiveness and other requirements.
- (8) The Planning, Research and Promotion Directorate shall be responsible for –
- (a) promoting rural electrification through Nigeria;
 - (b) serve as an information clearing house and promote public awareness; and work
 - (c) with the Ministry of Power to collect information on rural electrification, including existing projects, planned projects, renewable energy sources, rural load, equipment

and material suppliers, and technological innovations for cost-effective power supply.

- (9) Finance and Administration Directorate shall be responsible for –
- (a) internal financial and administrative management of the Agency; and
 - (b) liaise with zonal offices Directorate in deciding zonal office staff matters.

118. (1) There is established the Rural Electrification and Renewable Energy Fund (in this Bill referred to as "the REREF") into which monies from the following sources shall be paid and credited with:

- (a) any operating surplus of the Commission determined after annual audited account of the Commission and paid directly into the Fund within 30 days following the audit of the Commission's account in accordance with section 55 of this Bill;
- (b) any fines and penalties imposed and collected by the Commission in the enforcement of the provisions of this Bill or regulations made by the Commission which shall be paid directly to the Fund within 30 days of collection;
- (c) any donations, grants, gifts, assistance or loans made by local or international, bilateral or multilateral agencies or non-governmental organizations, the private sector, Federal or State Governments, local communities, businesses, or any other entity;
- (d) any special intervention fund as may be provided by the Federal, State or Local Government of the Federation;
- (e) endowments, bequests, gifts, whether of money, movable or immovable property from private foundations, trusts or other sources not contrary to the objectives of the Agency and national security;
- (f) funds appropriated by the National Assembly for the realization of the objectives of the Agency and performance of its functions under this Bill;
- (g) 0.05% on assessable profit of licensees operating in the Nigerian electricity value chain;

119. (1) purpose of the REREF established under section 118 of this Bill shall be to:

- (a) promote, support and provide sustainable and renewable rural electrification programmes and projects for underserved and unserved communities through public and private sector participation in order to:

Establishment of
the Rural
Electrification and
Renewable Energy
Fund

Purpose of the
REREF

- (i) achieve more equitable regional access to electricity;
 - (ii) maximise the economic, social and environmental benefits of rural electrification subsidies;
 - (iii) promote expansion of the grid and development of off grid electrification;
 - (iv) stimulate innovative approaches to rural electrification; provided that no part of the REREF shall be used as subsidies for consumption.
 - (v) promote the research and development of new technological advancement in the Nigerian renewable energy space.
 - (vi) research into the establishment of technical and utilization standards of renewable energy
 - (vii) implement programmes to adopt international best practices with respect to renewable energy utilization;
 - (viii) promote the implementation of mini-grid and off-grid renewable energy powersystems for remote areas, unserved, underserved communities, and islands.
 - (ix) promote the execution of renewable energy projects for non-electricity purposes;
 - (x) develop infrastructure for renewable energy, renewable energy projects and capacity building for the energy sector;
 - (xi) provide production- based subsidies for renewable generation; and
 - (xii) procure equity participation in renewable energy projects
120. (1) The REREF shall be managed by the REREF Management Directorate of the Agency under the direct supervision of the Executive Director, REREF Division in accordance with the provisions of this Bill.
- (2) Without prejudice to section 129 of this Bill and for the purpose of growing the REREF, the Board may approve a portion of the Fund to be invested in any government security. or by way of fixed deposit in a reputable commercial bank:
- Provided that the portion of the REREF approved for investment is not committed to an ongoing project or any proposed project or procurement activity of the Agency and such investment shall not undermine the ability of the Agency to meet its payment obligations but only boost its funding sources.
- (3) It is further declared that at the maturation of any approved investment of a portion of the Fund, the principal sum invested together with the interest on investment or return on such investment shall be paid into the Fund directly
- 121.(1) The Commission shall determine any contribution payable by eligible customers and licensees into the REREF at a rate not exceeding 5% of the cost of electricity procured

Management of
the REREF

Contribution rates
for the Rural
Electrification
Fund

by eligible customers from non-renewable generators or any other rate as Commission may determine as contribution to be paid into the RREF by the eligible customers and licensees.

(2) The Commission, while determining the contribution rates, shall take into consideration the impact of such rates on eligible customers and licensees who have to assume the burden of such contributions.

(3) Any amount determined by the Commission as contribution to be paid by eligible customers or licensees under subsection (1) of this section shall be due and payable as a debt within one month but not later than two months of notice or directive issued by the Commission to that effect.

122. (1) All licensees and eligible customers liable to make contributions under section of this Bill shall make contributions to the RREF at the rates and for the duration specified by the Commission in accordance with section 121(3) of this Bill.

(2) In making contributions to the RREF, licensees and eligible customers shall pay contributions directly to the Agency.

(3) All collections and payments shall be made in accordance with procedures established by the Agency.

123. (1) The Agency shall, in consultation with the Minister:

(a) establish objective and transparent criteria for the geographical allocation of resources from the Rural Electrification Fund and such criteria shall be determined taking into account:

(i) the need for financial support from the RREF;

(ii) progress in increasing rural electrification achieved through previous disbursements from the Fund;

(iii) the existence of local matching funding; and

(b) develop an open, competitive and transparent procedure for making disbursements from the RREF to individual projects, including the establishment of eligibility and selection criteria.

(2) The eligibility criteria for the purposes of subsection (1) (b) of this section shall be determined considering:

(a) the extent to which the proposed activity can demonstrate technical, economic and financial viability for a sustained period;

Contribution
payment for Rural
Electrification

Criteria for
allocation of the
Rural
Electrification and
Renewable Energy
Fund

- (b) the extent to which the proposed activity demonstrates support for rural development taking into account the priorities of the local communities; and
- (c) the level of community and investor commitment to the proposed activity.

(3) The selection criteria for the purposes of subsection (1) (b) of this section, and the quantum of disbursement, shall be determined taking into account:

- (a) the resources available from the Fund;
- (b) the cost of each new connection created under the project; and
- (c) other objective criteria that the Rural Electrification Agency may determine, such as tariff levels and quality of service.

124. In the event of failure by any eligible customer or licensee or any other person liable to make any contributions or payment to the REREF established under section 118 of this Bill, the principal sum owed as contribution or payment howsoever described, together with a penalty of 10 percent annum of the principal amount due plus interest at the prevailing commercial rate shall be recoverable as a debt owed by the eligible customer or licensee with such an outstanding payment obligation under this Bill to the Agency.

Provided that in giving effect to the provisions of this section, the eligible customer or licensee must first be accorded the opportunity and a prescribed time frame to provide reasons for default of payment and raise defences against application of this section and thereafter a decision could be taken by the Agency regarding the recovery of such debt.

125. The Agency shall, from time to time as may be approved by the Board, apply monies from the REREF created under section 118 of this Bill or any other fund at its disposal to pay for:

- (a) such projects, programmes or activities as are connected to the objectives, functions and purposes of the Agency;
- (b) the cost of administration and maintenance of the Agency
- (c) publicity and advocacy activities of the Agency
- (d) allowances, expenses and other benefits of members of the Board, committees or consultants appointed for the Agency;
- (e) overhead allowances, benefits of employees of the Agency;
- (f) salaries, allowance and benefits of employees of the Agency; and
- (g) such other activities as may be approved by the Board

Fine for non-payment for amount owed

Expenditure of the Agency

Exemption from income tax

126. All sources of monies paid into the REREF as specified in section 118 (1) of this Bill shall be exempt from income tax
127. (1) The Minister shall have the supervisory powers and perform the functions as assigned to him under this section and any other part of this Bill as follows –
- (a) the Minister has the responsibility for the formulation, amendment and implementation of National Renewable Energy and Energy Efficiency Policy and shall give directives of general or specific character to the Agency in the performance of its functions or implementation of any policy measure.
 - (b) the Minister may make recommendations to the Agency relating to the performance by the Agency of any or all of its functions under this Bill;
 - (c) the Minister shall upon a proposal made by the Agency , undertake a review of the Rural Electrification Strategy and Implementation Plan approved by the President.
pursuant to the provisions of the Repealed Act, at least every two years from the commencement of this Bill and the Rural Electrification Strategy and Implementation Plan when reviewed shall come into effect only after the approval of the President.
- (2) The supervisory powers of the Minister under this section shall relate to general or specific policy matters but should not be exercised by the Minister in such a manner as to undermine the provisions of this Bill.
128. (1) For the purpose of effective execution, coordination and monitoring of rural electrification projects nationwide and the functions of the Agency, the Agency shall collaborate with State Rural Electrification Boards or related state agency by whatever appellation and the Agency shall encourage such State to establish Local Government Rural Electrification Implementation Committees or such other similar institutions to carry out any component of the Rural Electrification Strategy and Implementation Plans in their respective States.
- (2) State Houses of Assembly shall by law make provision for the structure, operation and functions of the State Electricity Board and Local Government Rural Electrification Committees in their respective States.
129. (1) The Agency shall maintain effective liaison with State Rural Electricity Boards and Local Governments Rural Electrification Implementation Committees where established and shall leverage on such relationship to -
- (a) ascertain the status of the rural electrification access in the States and Local Government Areas concerned;

Supervisory Powers of the Minister

States Rural Electrification Boards and Local Government Rural Electrification Committees

Relationship between the Agency and State Rural Electrification Boards etc

- (b) review, in conjunction with the States or Local Governments, matters connected with or expected to affect the progress of rural electrification projects in States or Local Government areas;
 - (c) leverage on such relationship to implement awareness programs on opportunities that are available to States and Local Governments through the use of renewable energy technologies;
 - (d) build strong alliances with States and local governments that can be used to resolve disputes arising from acquisition of land and access to land for rural electrification projects; and
 - (e) consider and advise the states and local government areas on the adoption of the best strategies for the realization of objectives of the Rural Electrification Strategy and Implementation Plans.
- (2) The Agency, as considered appropriate, may assist a State Electricity Board or a Local Government Implementation Committee in the formulation and preparation of strategic plans for the implementation of rural electrification projects in a State or its Local Government or in their local communities.
 - (3) The Agency may provide information and render advice to States Rural Electrification Boards, Local Government Rural Electrification Committees or to any person or body, where it considers that, to do so will assist in achieving the efficient implementation of the rural electrification nationwide.
 - (4) The Agency shall arrange such technical assistance as may be practicable and also encourage State Governments to provide technical and financial assistance, including training, human capacity envelopment, transfer of any required technology to the local communities in their domains for the attainment of the national targets on rural electrification.
130. (1) For the purpose of monitoring progress in the implementation of the Rural Electrification Strategy and Implementation Plans as may be adopted or reviewed from time to time the Minister in consultation with the Agency shall, on a quarterly basis, submit to the President, progress report indicating activities and milestones achieved in the implementation of the Rural Electrification Strategy and Implementation Plans and such a report shall highlight information relating to:
- (a) the expansion of the national grid to rural areas;
 - (b) the development of off-grid power sources;
 - (c) renewable energy power generation;

- (d) the impact of ongoing rural electrification projects on economic inequalities in the rural and peri urban areas;
- (e) impact of rural electrification on general rural economy and addressing gender inequalities in the rural areas in particular; and
- (f) the extent to which the projects set out in the strategic plan are being achieved;

131. (1) The Agency shall put in place an appropriate machinery for the monitoring of ruralelectrification implementation projects nationwide.

(2) The mechanism for rural electrification monitoring shall include the use of geographic information system and geo mapping technologies to monitor projects effectively, generate and analyze projects data without.

Monitoring of Rural Electrification Projects

132. (1) The Agency may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift.

(2) The Agency shall not accept any gift if the conditions attached by the person or organization making the gift are inconsistent with the functions of the Agency under this Bill.

Power to accept gifts

133. The Agency may, with the approval of the Board, borrow such sums of money as may be required, from time to time, to execute or complete any special project of the Agency.

Power to borrow

134. The Agency shall, not later than 30th September in each financial year, submit to the National Assembly through the Minister, an estimate of income and expenditure of the Agency during the next succeeding year

Estimates of the Agency

135. (1) The Agency shall keep proper and regular accounts and other records of monies received and paid by the Agency and of the several purposes for which the monies have been received or paid, and of its assets, credits and liabilities.

Accounts and Audits

(2) The Agency shall do all things necessary to ensure that all payments out of the REREF and bank accounts are correctly made and properly authorized and that adequate control is maintained over the assets in its custody and over the expenditures incurred by the Agency.

(3) The Council shall cause the accounts of the Agency to be audited quarterly and shall be externally audited once every year.

(4) The Auditor-General of the Federation shall -

- (a) inspect and audit the accounts and records of financial transaction of the Agency.
- (b) inspect records relating to assets of the Agency; and

- (c) draw the attention of the Minister to any irregularity disclosed by the inspection and audit.
- (5) The Auditor-General may dispense with all or any part of the detailed inspection and audit of any account or record referred to him under this section.
- (6) The Auditor-General or an officer authorized by him is entitled at all reasonable time to a full and free access to all accounts, records, documents and papers of the Agency relating directly or indirectly to the receipt or payment of money by the Agency or to the acquisition, receipt, custody or disposal of assets by the Agency.
- (7) The Board shall forward a copy of the audited financial statements of the Agency, upon preparation to the Minister for onward transmission to the National Assembly, together with any report or observation made by the auditors and the Auditor-General on the statement of accounts.
- (8) The audited accounts of the Agency and the Auditor-General's report on those accounts shall form part of the Auditor-General's overall annual report to the National Assembly.
136. The Agency shall submit to the Minister, not later than 30th June of each financial year, a report of its activities during the preceding financial year, and it shall include a copy of the audited accounts of the Agency for that year and a copy of auditor's report thereon.
137. (1) The provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Agency.
- (2) No suit shall be commenced against a member of the Board, officer or employee of the Agency before the expiration of a period of 60 days after a written notice of intention to institute a suit has been served upon the Agency by an aggrieved party or his counsel.
- (3) The notice referred to in subsection (2) of this section shall state -
- (a) cause of action ;
- (b) particulars of the claims.
- (c) particulars of the aggrieved party; and
- (d) relief which he claims.
138. A notice, summons or any other document required or authorized to be served upon the Agency under the provisions of this Bill or any other law or enactment may be served by delivering it to Managing Director at the head office of the Agency.
139. No execution or attachment of process shall be issued against the Agency in any action or suit without the consent of the Attorney-General of the Federation.

Annual Report

Limitation of suits against the Agency

Service of documents

Restriction on execution of suits against the property of the Agency

(140) A member of the Board, officers of the Agency shall be indemnified against any proceeding, whether civil or criminal, in which judgment is given in his favor, or in which he is acquitted, if any such proceeding is brought against him in his capacity as member of the Board, officer, or employee of the Agency.

Indemnity

PART XV – RENEWABLE ENERGY AND ENERGY EFFICIENCY

141. (1) The Commission shall support the development and utilization of renewable energy and for this purpose, take the measures stipulated under this section to increase the contribution of renewable energy to Nigeria’s energy mix –

Communication to promote the development and utilization of renewable energy

- (a) stipulate in its licensing and fees schedule, simplified licensing and fees regime for issuance of licenses to renewable energy service companies for the provision of electricity to consumers and from renewable energy sources specified under this Bill;
- (b) issue commercial and technical regulations for connectivity to the grid and distribution network for sale of electricity generated from renewable energy sources to distribution and trading licensees, eligible customers and other consumers;
- (c) issue technical standards and certification procedures for technical personnel participating in renewable energy projects taking into cognizance the need to promote local skills and local requirements for renewable energy projects;
- (d) provision of standards for Power Purchase Agreements with specific requirements and terms for marketing and trading renewable electricity;
- (e) provide regulations specifying the role of generation licensees, Transmission Service Provider, Independent System Operator distribution licensees in the integration of renewable energy generated capacity into the national grid and distribution network;
- (f) monitor and enforce compliance with Renewable Purchase Obligations and Generation Purchase Obligations as may be prescribed by the Commission;
- (g) provision of embedded renewable electricity generation regulations including review of extant standards for solar PV, wind turbines and regulation for biomass electricity;

- (h) provision of mini-grid regulations on renewable energy to cater for installation, metering, billing and other requirements, etc for renewable energy mini-grid Systems, etc;
- (i) review extant National Content Development Regulations for the power sector to address local content requirements for local skills acquisition, local production and assembly of solar PV components, deep cycle batteries, electro-mechanical components of SHP technology, wind power, boilers and turbines for cogeneration

of less than 30mw or other components as may be specified by the Commission for local contents requirements;

- (j) ensure stable and long -term favorable pricing mechanism for renewable energy and facilitate unhindered access to the national grid and distribution network through the following measures:
 - (k) stipulation of renewable purchase and transmission of all available electricity renewable electricity producers while power plants owners bear the cost of connection.
 - (l) introduction of feed -in tariffs for all small hydro schemes, all biomas co-generation power plants, solar and wind-based plants irrespective of their sizes within the terms of the tariffs to be up to 20 years to guarantee buyers under standard Power Purchase Agreements and provide return on investments.
 - (m) award of license of mini-grid concessions to renewable energy companies to exclusively serve a specific geographical location indicating aggregate electricity to be generated and distributed from a site with obligation to serve customers to request service;
 - (n) provide standards and sitting guidelines for Solar Homes Systems, stand -alone Solar PV, micro hydro and wind power.
 - (o) ensure clarity in the Market Rules and offer incentives and support to Independent Power Producers for investments in generation of electricity from Renewable sources specified under this Bill;
 - (p) provide support to the Rural Electrification Agency and Renewable Energy Agency established under this Bill towards efficient implementation of rural electrification using renewable energy sources specified under this Bill;
 - (q) develop light-handed measures for awarding renewable electricity concessions for generation, distribution of electricity within 10MWs generating electricity exceeding 1MW and distributing electricity above 100KW in aggregate at the site;
 - (r) provide technical specifications and codes for stand -alone solar PV, micro-hydro and wind power;
 - (s) issuance of renewable energy standards on installation, decommissioning and Disposal of renewable energy accessories and monitor compliance in conjunction with other relevant MDAs with mandates on product safety and standards;
 - (t) issue guidelines on net-metering for roof -top solar PV systems, small wind power in line with the provisions of this Bill regarding the procedure for adoption of guidelines or other regulatory documents by the Commission; and
 - (u) in consultation with the relevant MDAs provide regulation on energy storage to promote energy efficiency.
- (2) The Commission shall for the purpose of the implementation of this Bill, approve:
- (a) rates chargeable for the purchase of electricity from renewable energy sources by
 - (b) public utilities;
 - (c) charges for mini-grid and grid connection; and

(d) rates chargeable for wheeling of electricity from renewable energy sources.

142.(1) For the purpose of this part, commercial activities in the renewable energy industry include -

- (a) Generation;
- (b) distribution;
- (c) sales;
- (d) installation

(2) The Commission may by regulatory instrument limit or expand the scope of activities under subsection (2) of this section.

143 (1) From the commencement of this Bill, the Federal Ministry of Finance shall introduce such tax incentives as are necessary to promote and facilitate the generation and consumption of energy from renewable energy sources and in accordance with the provisions of the Nigerian Industrial Development (Income Tax Relief) Act or such other fiscal policy framework foster such tax reliefs that would incentivize implementation of renewable energy projects in Nigeria.

144. (1) In giving effect to the provisions of section 81 of this Bill, the Commission shall take into consideration the:

- (a) technology being used to generate electricity from renewable energy sources;
- (b) assurance of the financial integrity of public utilities; and
- (c) net effect of the cost of renewable energy on the end user tariff, in specifying the percentage level of electricity.

(2) A bulk customer permitted by the Commission, shall:

- (a) purchase a specified percentage of its total purchase of electricity from renewable energy sources; or
- (b) pay to the Commission a premium as determined by the Commission.

(3) The premium payable shall constitute a source of revenue for the Commission under this Bill

(4) For the purposes of this section:

- (a) a **“premium”** means the amount payable by the bulk customer instead of the purchase of electricity required under subsection (2) (a) of this section; and

Commercial activities for renewable energy

Renewable Energy incentives and standards.

Considerations for renewable purchase obligation.

(b) **“bulk customer”** means a customer that purchases or receives electricity from renewable Energy sources in the amount or level specified by the Commission.

145.(1) An electricity distribution utility shall not buy or negotiate a Power Purchase Agreement with a generator of electricity from renewable energy sources unless it is in accordance with guidelines provided by the Commission.

(2) The Commission shall prepare and provide public utilities with guidelines on the level of rates that may be charged by the public utility for electricity generated from renewable energy sources.

(3) The Commission shall take into account the:

(a) technology being used in the renewable energy industry;

(b) location of the generation facility;

(c) operating norms for the specific technology under consideration;

(d) costs associated with construction, commissioning, operation and maintenance of the plant;

(e) the reasonable rate of return; and

(f) the balance between the interest of the consumer and the investor, in preparing the guidelines.

(4) The feed-in-tariff rate fixed for electricity from renewable energy sources shall be guaranteed for a period of 10- 15 years and subsequently be subject to review every two years.

(5) The Commission shall, in determining the mechanism for the regulated electricity market, factor into the tariff, the price differential between the purchase price of electricity generated from renewable energy sources and the price of electricity purchased from other sources.

146. (1) A public utility shall not demand a feed-in-tariff rate for electricity generated from renewable energy sources unless the feed-in-tariff rate chargeable has been approved by the Commission.

(2) A public utility shall not directly or indirectly demand or receive a feed-in-tariff rate higher than the feed-in-tariff rate approved by the Commission in relation to electricity generated from renewable energy sources.

(3) notwithstanding the provisions of section 164 (2), a public utility may demand and receive from a consumer a higher feed-in-tariff rate agreed to by both the public utility and the consumer with the written permission of the Commission.

Feed -in tariffs rates.

Approval of feed-in tariffs rates.

(4) The power to approve a rate under this section shall not apply to the export of electricity generated from renewable energy sources.

147. Feed-in-tariff rates approved by the Commission for electricity generated from renewable energy sources shall be published by the Nigerian Electricity Regulatory Commission in the Gazette and the mass media

148. An operator of a transmission or distribution system shall connect a generator of electricity from a renewable energy source within the coverage area of the transmission or distribution system where a generator of electricity from renewable energy sources so requests, such request not to be unreasonably withheld, however, such connection request shall be subject to dispatch procedures as may prescribed by the System Operator in accordance with the Grid Code, In the event of a conflict between this Act and the Grid Code as it relates to dispatch, the provisions of the Grid Code shall prevail. An operator of a transmission or distribution system shall:

(a) upgrade the transmission or distribution system at reasonable economic expense to feed-in the electricity from the generator of electricity from renewable energy sources; and

(b) upgrade the transmission and distribution system as soon as practicable if so, requested by a generator interested in feeding in electricity.

(4) The cost of upgrading the transmission or distribution system shall be shared equally between the operator of the transmission or distribution system and the generator of electricity from renewable energy sources.

(5) The costs associated with connecting installations to the metering point shall be borne by the generator of electricity from renewable energy sources

(6) For the purposes of subsection (1), the operator of a transmission or distribution system shall enter into a connection agreement with a generator of electricity from renewable energy sources within the coverage area of the transmission or distribution system.

A licensee, contractor or its sub-contractor, or any other entity carrying out operations in the renewable energy subsector shall ensure that the local content is a component of their operational renewable energy activities.

PART XVI – NIGERIAN ELECTRICITY MANAGEMENT SERVICES AGENCY

149. (1) There is established the Nigerian Electricity Management Establishment Services Agency, (in this Act referred to as "the Agency").

(2) The Agency

Publication of feed-in tariff rates.

Connection to transmission and distribution systems

Establishment of Nigerian Electricity Management Services Agency

- (a) shall be a body corporate with perpetual succession and a common seal;
- (b) may sue and be sued in its corporate name; and
- (c) subject to this Act, perform all acts that bodies corporate may, by law, perform.

(3) The headquarters of the Agency shall be in Abuja.

(4) The Electricity Management Services Plc. incorporated in 2007 shall be taken over by the Agency for the purposes of this Act.

(5) The personnel thereof shall be deemed to have been appointed under this Act and they shall continue to hold office on the same terms and conditions on which they were appointed in Electricity Management Services Plc.

150. (1) There is established for the Agency a Governing Board (in this Act referred to as "the Board").

(2) The Board shall consist of -

(a) a Chairperson who shall -

(i) be appointed by the President of the Federal Republic of Nigeria on the recommendation of the Minister,

(ii) be a highly respected person of impeccable character and have experience in the electricity industry;

(b) one person from each of the Six (6) geopolitical Zones of the Country appointed by the President of the Federal Republic of Nigeria on the recommendation of the Minister;

(c) the Managing Director and Chief Executive Officer of the Agency;

(d) the representative of Federal Ministry of Power; and

(e) the representative of Federal Ministry of Finance.

(3) The General Manager, Legal of the Agency shall be the Secretary of the Board.

(4) In choosing the appointed 6 members of the Board under subsection (2) (b) of this section, the Minister shall consider each proposed member's character, competence, professional and practical experience in the Nigerian electricity supply industry.

(5) No member of the Board shall have any share or interest, whether in his own name or otherwise, in any company or other body corporate or an association of persons (whether incorporated or not), or a firm engaged in the business of generation,

Establishment
and membership
of the Governing
Board.

transmission and distribution and trading of electricity or fuel for the generation thereof or in the manufacture of electrical equipment.

151. (1) A member of the Board appointed otherwise than by virtue of his office shall hold such office for a period of 3 years and may be eligible for re-appointment for only one further period of 3 years, which shall be on a part time basis.

Tenure of office

(2) The office of a member of the Board shall become vacant if -

(a) he resigns as a member of the Board by notice in writing under his hand addressed to the Minister ; or

(b) the Minister is satisfied that it is not in the interest of the Board for the member to continue in office and, upon the approval of the President, notifies the member in writing to that effect.

(3) The Board adopt rules to guide its summoning of its meetings and proceedings at its meetings.

152. The Board has the power to -

Powers of the Board.

(a) oversee the affairs of the Agency;

(b) provide guidelines for the Agency in the discharge of its functions in line with the policy thrust of government;

(c) approve the payment to the staff of the Agency such remuneration and allowances as are approved by the National Salaries, Incomes and Wages Commission;

(d) approve the appointment, promotion and discipline of management staff from the rank of Assistant General Manager and above other than the management team of the Agency ; and

(e) do such other things as are necessary and expedient for the efficient performance of the functions of the Agency.

153. (1)The Management Team of the Agency shall consist of -

Management team.

(a) the Managing Director and Chief Executive Officer;

(b) the 3 Executive Directors of the Agency; and

(c) the 6 most senior General Managers in the Agency.

(2) The General Manager, Legal of the Agency shall be the Secretary of the Management Team.

154. Subject to this Act, the Agency shall -
- (a) carry out electrical inspectorate services for the Nigerian electricity supply industry;
 - (b) enforce all statutory technical electrical standards and regulations as published by the Commission and all other relevant statutory bodies;
 - (c) collaborate with Standards Organization of Nigeria and other relevant Government Agencies to ensure that all major electrical materials and equipment used in Nigeria are of the right quality and standards;
 - (d) ensure that the power systems and networks put in place have been properly executed before use, to ensure that such systems are capable of delivering safe, reliable and sustainable electricity supply to consumers nationwide;
 - (e) enforce compliance with technical standards for all electrical installations, electrical plants, including power plants and auxiliary systems, electric networks and connectivity to the grid ;
 - (f) enforce compliance with safety requirements for construction, operation and maintenance of electrical powerplants, transmission system, distribution networks and electric installations;
 - (g) enforce the conditions for installation of meters for transmission systems, distribution networks and supply of electricity;
 - (h) carry out the duties of inspecting engineers for inspection, testing and certification of all categories of electrical installation in the Nigerian electricity supply industry:
 - (i) provide comprehensive technical support services that will guarantee the efficient production and delivery of safe and reliable power supply and enhance efficient service delivery industry-wide;
 - (j) provide sustained technical inspection, testing and certification of all electrical materials, (including transformer oil and chemicals) or equipment, power systems, networks (generation, transmission and distribution), or electrical installations to be used in the power sector, to ensure a stable system to deliver safe, reliable, regular power supply, guarantee safety of lives and property, and avert loss of lives and property in the Nigerian electricity supply industry;
 - (k) test, calibrate and certify every brand of electricity meters and instruments whether locally manufactured or imported before use in the Nigerian electricity supply industry; and to periodically carry out sample test of such meters and instruments deployed in the Nigerian electricity supply industry;

- (l) test and certify electrical installations in hazardous locations such as in filling stations, prospecting oil companies, off and onshore flow stations or wells, Floating Production Storage and Offloading vessels ;
- (m) process and issue competency certificates to qualified electrical personnel working in the Nigerian electricity supply industry ;
- (n) regularly carry out periodic inspection, monitoring and assessment of existing power plants or stations, installations, Extra High Voltage (EHV) and High Voltage (HV) transmission lines and associated transmitting or switching stations and distribution networks to ensure that they are in regular fitness to generate, transmit, distribute and deliver reliable and safe power supply to the electricity consumers nationwide ;
- (o) regularly monitor the compliance level of the technical regulations, standards and specifications used in the Nigerian electricity supply industry ;
- (p) carry out or cause to be carried out investigation of electrical accidents and electrocutions (outright deaths) in connection with generation, transmission, distribution, supply or use of electricity with a view to finding out the causes, and enforce remedial measures and proffer or suggest ways of preventing future occurrence;
- (q) promote research on matters affecting the generation, transmission, distribution and utilization of electricity;
- (r) publish from time-to-time information beneficial to the growth of the electricity industry including reports and investigations;
- (s) advise the Minister and other relevant agencies on all technical matters relating to generation, transmission and distribution of electricity;
- (t) take over the functions of statutory electrical inspection, testing and certification of all electrical installation hitherto carried out by the Director of Electrical Inspectorate Services and the Electrical Inspectorate Services Division of the Federal Ministry of Power ;
- (u) provide non-core and ancillary services for commercial opportunities and drive in the Nigerian electricity supply industry ; (including research and development, electricity information management systems, renewable energy services, specialized medical and health care services, project management and consultancy, electricity workshop service, project unit service for specialized projects in the Nigerian electricity supply industry logistics, warehousing and printing technology;
- (v) partner and to be a joint and major player with other related services in the Nigerian Electricity Supply industry; for technical and commercial services and to perform and

provide all other related services in the Nigerian Electricity Supply Industry; as may be approved by the Minister;

- (w) collaborate with other stakeholders in the electricity power sector on standards and specifications of all major electrical equipment and materials manufactured or imported for use in Nigeria, to ensure uniformity and ensure that all electrical equipment and materials comply with approved standards ; and
- (x) discharge such other functions as may be provided under this Act or conferred by the Minister's directives.

155. (1) There is appointed for the Agency by the President on the recommendation of the Minister, a Managing Director and Chief Executive Officer.

- (2) The Chief Executive Officer shall be an electrical engineer, registered with Council for the Regulation of Engineering in Nigeria (COREN) and have not less than 20 years professional and practical experience in the core operational areas of the Agency or the Nigerian electricity supply industry.
- (3) The Chief Executive Officer shall hold office for a term of 4 years, and may be eligible for re-appointment for only one further term of 4 years.
- (4) The Chief Executive officer shall be the head of the management and chief accounting officer of the Agency.
- (5) The Chief Executive Officer shall be the Chief Electrical Inspector of the Federation with powers to carry out the functions of enforcement of technical standards and regulations, through technical inspection, testing and certification of all categories of electrical equipment and installations, electricity meters, instruments and other related matters in the Nigerian electricity supply industry.
- (6) The Chief Executive Officer shall be responsible for the day-to-day administration of the Agency, keep the books and records of the Agency and be subject to the supervision and control of the Board.
- (7) The Minister shall also appoint 3 Executive Directors who shall hold the office for a term of 4 years and may be eligible for re-appointment for only one further term of 4 Years.
- (8) The Executive Directors shall administer under the direction of the Managing Director the following Directorates -
 - (a) Technical Services ;
 - (b) Commercial Services ; and
 - (c) Corporate Services.

Appointment of the Managing Director and Chief Executive and other staff of the Agency.

- (9) The Agency may appoint such other officers and employees as it considers necessary for the performance of its functions under this Act and on such terms as to salary remuneration, fee, allowance, pension, leave and gratuity as the Agency may determine in consultation with the National Salaries, Incomes and Wages Commission.
- (10) The staff of the Agency shall be public officers as defined in the Constitution of the Federal Republic of Nigeria 1999.
- 156 (1) Service in the Agency shall be approved service for the purpose of the Pensions Reform Act, officers and other persons employed in the Agency shall be entitled to pensions, gratuities and other benefits as are prescribed thereunder.
- (2) Notwithstanding subsection (1) of this section, the Agency may appoint a person to any office on terms which preclude the grant of a pension, gratuity or other retirement benefits in respect of that office.
- (3) For the purpose of the application of the provisions of the Pensions Reform Act, any power exercisable thereunder by a Minister or other agency of the Government of the Federation, other than the power to make regulations under section 13 thereof is vested in and shall be exercisable by the agency and not by any other person or agency.
157. (1) The Agency shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Agency and into which shall be paid and credited -
- (a) fees, charges, and any other income accruing to the Agency from certifications and other things done by it under this Act, excluding fines or penalties recovered under this Act ;
- (b) grants of money or other property, upon such terms and conditions as may be specified by the person or organization making the grants, provided that such terms and conditions are consistent with the objectives and functions of the Agency under this Act;
- (c) funds allocated to the Agency by the National Assembly, pursuant to a request by the Agency for additional funds required to meet its reasonable expenditures; and
- (d) such other moneys as may vest in or accrue to the Agency, whether in the course of its operations or otherwise.
- (2) There shall be paid into the Fund established under subsection (1) of this section such payments as may be made to the Agency by the Federal Government for the running expenses of the Agency and all other assets accruing, from time to time, to the Agency.

Service to be subject to the Pension Reform Act, 2014.

Funds of the Agency.

- (3) The Agency may, from time to time, apply the proceeds of the Fund established under this section to -
- (a) the cost of administration of the Agency ;
 - (b) reimburse members of the Board or of any committee set up by the Board for such expenses as may be expressly authorized by the Board in accordance with the rates as provided by extant rules and regulations ;
 - (c) the payment of salaries, fees or other remuneration, allowances, pensions and gratuities payable :
 - (d) the maintenance of any property vested in the Agency ;
 - (e) any other expenditure in connection with the functions of the Agency ; and
 - (f) remuneration and allowances of the Board members in line with existing Government regulations.
- (4) The Chief Executive officer shall perform all duties as may be stipulated by Government Financial Regulations.
- (5) The Agency shall prepare and submit through its Board to the Minister on or before 31st October of each year a budget showing the expenditures which the Agency proposes to incur in respect of the next financial year in order to carry out the functions of the Agency.
158. The Chief Executive Officer shall prepare and submit to the Board for onward transmission to the President through the Minister, not later than 30th June of each year, a report on the activities of the Agency during the immediately preceding year, and shall include in the report a copy of the audited accounts of the Agency for that year and the auditor's report thereon.
- 159 (1) For the purpose of carrying out the functions of the Agency, the Chief Executive Officer or any other officer of the Agency, authorized in that behalf shall -
- (a) have a right of access to all premises and the technical records of any institution or establishment engaged in electricity material supply and installation; and
 - (b) by notice in writing served on a person in charge of any institution or authority mentioned in subsection (1) (a) of this section, require that person or establishment to furnish information on such matters as may be specified by the notice
- (2) A person or establishment required to furnish information under subsection (1) of this section shall comply with the notice within the period of time specified in the notice.

Annual Report

Access to
premises and
other
enforcement
powers .

- (3) The Agency may obtain a court warrant to enter and search any property in the exercise of its functions.
- (4) Where it appears to the Agency that a breach of electrical technical standard, regulation or of any interest the Agency is mandated to protect is taking place, the Agency may publish a notice in such manner as it considers appropriate to draw attention of other person affected or likely to be affected by the contravention or threatened contravention -
 - (a) specifying the actual or potential contravention ;
 - (b) directing the person or establishment concerned to do or not to do such things as they may be specified ;
 - (c) specifying the remedy and the timescale for compliance ; and
 - (d) notifying the person or establishment concerned of its intention to issue an enforcement order.
- (5) A person or establishment affected by the notice specified in subsection (4) of this section is entitled to make representations against or in support of the enforcement notice by a date specified in the notice.
- (6) A person or establishment concerned fails to comply with a notice served pursuant to subsection 4 of this section, the Agency may issue an enforcement order.
- (7) A person who fails to comply with an enforcement order commits an offence and is liable on conviction to a term of 3 months' imprisonment or a fine of ₦500,000.00 or both.
- (8) the Agency shall not issue an enforcement order if -
 - (a) a person or establishment concerned is able to demonstrate to the satisfaction of the Agency that it is not in breach of any standard, or regulation; and
 - (b) the breach was not intentional, and it has been remedied.
- (9) Where a person or establishment concerned fails to comply with an enforcement order, the Agency may institute legal proceedings against them in any court to compel compliance.
160. The Minister may give directives of a general or special character to the Agency relating to the performance by the Agency of any or all of its functions under this Act, and the Agency shall comply and give effect to the directives.

Supervisory
powers of the
Minister.

161. The Agency shall submit its input to the Commission in the making of further technical regulations for the purpose of carrying out its functions under this Act.
162. (1) The Agency's certification of any electrical equipment, material or installation used in the Nigerian electricity supply industry shall not be sufficient defence for negligence or damage suffered from the effect or application of the certified electrical equipment, material, or installation or power plant networks by the manufacturer, installer or user.
- (2) When an electrical material or installation is found defective after it has been brought into use, the licensee shall be required to rectify all anomalies that may be observed by an inspecting engineer.
- (3) In addition to inspecting engineers who are permanent staff of the Agency, the Agency may, from time to time, appoint, on a temporary basis, special inspecting engineers for specified assignments or tasks.
- (4) No inspecting engineer in the service of the Agency or the Agency is liable for acts carried out in the service of the Agency.
- (5) In resolving disputes, including intra-organization conflict and external conflicts involving any person or establishment, the Agency shall, as first line of action, apply amicable settlement processes such as negotiation, mediation and conciliation before resorting to the court.
- (6) No court action shall be instituted against the Agency without a prior notice of 30 days in writing before such action is initiated.
- (7) Any court action against the Agency shall be commenced within 1 year of the occurrence of the cause of action.

PART XVII - DISPUTE RESOLUTION

163. (1) There is established the Electricity Appeal Tribunal (hereinafter referred to as "the Tribunal") to exercise the jurisdiction, powers and authority conferred on it by or under this Bill.
- (2) Without prejudice to any other provision of this Bill, the Minister may by notice in the Federal Gazette specify the number of zones, and places in relation to which the Tribunal may exercise jurisdiction.
164. (1) Each Zone of the Tribunal shall consist of a Chairperson and four members appointed by the Minister with the chairperson and one other member being the judicial members while the other three members being technical members.
- (2) For the purpose of subsection (1) of this section, a –

Regulations.

General provisions.

Establishment of the Electricity Disputes Appeal Tribunal.

Composition of the Tribunal.

“Judicial member” means the Chairperson and one other member of a zone who are respectively legal practitioners and have been so qualified and have practiced for a period of not less than 15 years with cognate experience in Nigerian energy law and electric power sector regulatory compliance matters; and

“Technical member” means a member of a zone who is an electrical/electronic engineer licensed by the Council for the Regulation of Engineering in Nigeria and also member of the Nigerian Society of Engineers or related disciplines as may be determined by the Minister and must have been so qualified to practice for a period of not less than 15 years with cognate experience and adequate knowledge in dealing with matters relating to licensing for electricity business undertaking, electricity generation, transmission, distribution, trading, system operation, etc.

- (3) The chairperson for each zone shall preside at every sitting of the Tribunal and in his absence the members shall appoint one amongst them to preside.
- (4) The quorum at any sitting of the Tribunal shall be three members.

165. A person shall not be qualified for appointment as judicial or technical member of the Tribunal unless he meets the requirements of section 164(2) of this Bill:

Provided that the Minister shall in appropriate circumstances appoint persons who have proven capacity in management of electricity companies and retired public servants versed in energy law administration and compliance as technical members of the Tribunal.

166. A Chairperson or member of the Tribunal shall hold office for a term of three years, renewable for another term of three years only and no more, from the date on which he assumes his office or until he attains the age of 65 years whichever is earlier.

167. (1) A Chairperson or member of the Tribunal may by notice in writing under his hand addressed to the Minister resign his office:

Provided that he shall, unless he is permitted by the Minister to relinquish his office sooner, continue to hold office until the expiry of three months from the date of receipt of such notice or until a person duly appointed as his successor assumes his office or until the expiry of his term of office, whichever is earlier.

(2) A Chairperson or member of the Tribunal may be removed from office by the Minister on the grounds of gross misconduct or incapacity after due inquiry has been made and the Chairperson or member concerned has been informed of the reasons for his removal and given an opportunity of being heard in respect of the reasons adduced in support of his removal.

Qualification for appointment as member of the Tribunal

Term of office

Resignation and removal from office

168. A Chairperson and member of the Tribunal may be entitled to such sitting and night allowances and other terms and conditions of service as may be determined by the Revenue Mobilization Allocation and Fiscal Commission and shall be prescribed in their letters of appointment:

Allowances and
Conditions of
service of the
Tribunal

Provided that the allowances and the other terms and conditions of service of a Chairperson and member of the Tribunal may, due to economic exigencies, be varied by the Revenue Mobilization Allocation and Fiscal Commission after appointment.

169. If for reason other than temporary absence, any vacancy occurs in the office of a Chairperson or member of the Tribunal, then the Minister shall appoint another person in accordance with the provisions section 164 of this Bill to fill the vacancy.

Filling of Vacancies

171. (1) The Minister shall appoint for the Tribunal a Coordinating Secretary and one Secretary in each zone where the Tribunal is to exercise jurisdiction.

Secretary to the
Tribunal

(2) A Secretary appointed for each zone of the Tribunal shall be –

(a) Subject to the general control of the Tribunal in respective zones;

(b) Be the head of the secretariat and responsible for –

(i) Keeping records of the proceedings of the Tribunal;

(ii) The day-to-day administration; and

(iii) The direction and control of all other employees of the Tribunal.

(3) The official addresses of the Coordinating and the Secretaries Appointed for each zone shall be published in the Federal Gazette or the official website of the Tribunal.

(4) The Coordinating Secretary appointed by the Minister under this section shall be responsible for –

(a) Overall coordination of the administrative activities of the secretaries appointed for the respective zones of the Tribunal;

(b) Preparation and submission of annual reports to the Minister on the overall performance of the Tribunal for effective performance evaluation;

(c) Organize annual retreats, capacity building for the Tribunal chairpersons and members; and

(d) Discharge such other functions as may be assigned by the Minister.

171. (1) The Minister shall appoint or deploy such other employees from his ministry or agencies or parastatals under his Ministry as he may deem necessary for the efficient performance of the functions of the Tribunal and the remuneration of persons so employed or deployed shall be determined by the National Salaries and Wages Commission.

Other staff of the Tribunal.

(2) It is declared that employment in the Tribunal under this section shall be subject to the provisions of the Pension Reform Act and, accordingly, employees of Tribunal shall be entitled to pensions and other retirement benefits as are prescribed under the Pension Reform Act.

172. (1) The Tribunal shall have power to hear and determine any question of law or dispute involving –

Jurisdiction of the Tribunal

(a) a decision or determination of the Commission in the operation and application of this Bill or subsidiary legislations made pursuant to this Bill;

(b) disputes and controversies arising from the administration by the Agency and other Agencies, the provisions of this Bill generally including subsidiary legislations made thereunder;

(c) disputes arising under any other Act of the National Assembly relating to any aspect of the Nigerian electricity supply industry;

(d) dispute arising from the appointment or removal by the Commission of a member of the Stakeholder Advisory Panel, Dispute Resolution Counselor, Dispute Resolution Panel, Grid Code Review Panel or members of other Panels and Committees pursuant to the provisions of the Market Rules; and

(e) review of decisions or award on the grounds of misconduct on the part by the Mediator, Conciliator or Arbitrator in the application of the Dispute Resolution Rules provided under the Market Rules.

(2) The Tribunal shall apply such provisions of legislation referred to in subsection (1) of this section as may be applicable in the determination or resolution of any dispute or controversy before it.

173. Where in the course of its adjudication, the Tribunal discovers evidence of possible criminality; the Tribunal shall be obliged to refer such matter to the appropriate criminal prosecuting authorities, such as the office of the Honorable Attorney-General of the Federation or the Honorable Attorney-General of any state of the

Criminal prosecution

Federation or any relevant law enforcement agency as it may deem appropriate for further investigation and prosecution.

174. (1) Any person aggrieved by any action or decision of the licensee or consumer or Commission or any other entity operating in the Nigerian electricity supply industry pursuant to the provisions of the laws referred to in section 172 of this Bill, may appeal against such action or decision within the period stipulated thereunder.
- (2) For the purpose of subsection (1) of this section, the action or decision complained of may:
- (a) where the aggrieved person is a consumer must relate to –
 - (i) the propriety or otherwise of electricity bill demanded of him by a licensee or other non -licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill; and
 - (ii) breach of the provisions of the laws referred to under section 172 as it relates to the rights of the aggrieved party.
 - (b) where the aggrieved party is a licensee or other non -licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill, the matter must relate to –
 - (i) refusal or default to pay electricity Bill or honour any contract pursuant to the provisions of this Bill;
 - (ii) propriety or otherwise of regulatory measures including the legality of subsidiary legislation made by the Commission or the Ministry as it affects the activities of the licensee or other non -licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill;
 - (c) where the aggrieved person is the Ministry or the Commission or any other stakeholder in the electric power sector must relate to -
 - (i) breach of the provisions of the laws referred to under section 172 as it relates to the obligations of licensees or other non -licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill; and
 - (ii) breach or non-compliance with statutory obligations, regulatory measures including subsidiary legislations made by the Commission or the Ministry or other agencies established under this Bill as it affects the activities of the

Appeals from
decisions of the
Commission.

licensee or other non-licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill.

- (3) Nothing in subsection (2) of this section exempts the Tribunal from the determination of any matter of law or both law and fact referred to it for determination by any of the parties with the right of appeal under this Bill.
- (4) An appeal under this Bill shall be filed within a period of 30 days from the date on which the action or decision which is being appealed against is made, or deemed to have been made and it shall be in such form and be accompanied by such fee as may be prescribed:

Provided that the Tribunal may entertain an appeal after the expiry of the said period of 30 days if it is satisfied that there was sufficient cause for the delay.

- (5) Subject to subsection (4) of this section, where a notice of appeal is not given by the appellant as required under subsection (1) of this section within the period specified, the action or decision shall become final, and where money is involved in such decision or action, interests and penalties in addition to recovering the outstanding liabilities which remain unpaid from any person shall be recovered through proceedings at the Tribunal.

175. Where the Ministry, Commission or any agency of government within the Nigerian electricity supply industry is aggrieved by the non-compliance by a person or licensee or other non-licensed entities operating in the Nigerian electricity supply industry pursuant to the provisions of this Bill in respect of any provision of the laws referred to under section 178 of this Bill, it may appeal to the Tribunal within the zone where the licensee or the non-licensed entity is operating or the person is resident, giving notice in writing through the Secretary to the appropriate zone of the Tribunal.

Appeals to the Tribunal.

176.(1) If any question of law arises from an order or decision of the Commission, the Commission may, on its own initiative or at the request of any person directly affected by such order, refer such question to the tribunal for determination.

Ministry, Commission, etc. to refer question of law to the Tribunal.

(2) Where a question of law has been referred to the Tribunal under subsection (1) of this section, the Commission or the appropriate person under this section shall state the question in the form of a special case and file it with the Tribunal Registry.

177. (1) As often as may be necessary the Chairpersons and members of the Tribunal shall meet to hear appeals in the respective jurisdiction or zone assigned to that Tribunal.

Procedure before the tribunal.

- (2) Where a Chairperson or member of the Tribunal has a direct or indirect financial interest in any appeal pending before the Tribunal or where a party or one of the parties before the Tribunal is or was a client of that a Chairperson or member in his professional capacity, he shall declare such interest to the other members of the Tribunal and refrain from participating in any sitting for the hearing of that appeal.
 - (3) The Secretary to the Tribunal shall give seven clear days' notice to the parties of the date and place fixed for the hearing of each Appeal except in respect of any adjourned hearing for which the Tribunal has fixed a date at their previous Sitting.
 - (4) All notices, documents, other than decisions of the Tribunal, may be signified under the hand of the Secretary.
 - (5) All appeals before the Tribunal shall be held in public and for the purpose of this subsection, hearings conducted by the Tribunal remotely via virtual means using technological tools or application as may be directed by the Tribunal shall be deemed to be hearing in public.
 - (6) The Tribunal may, after giving the parties an opportunity of being heard, confirm, set aside or annul the action or decision complained of or make any such order as it deems fit.
 - (7) Every decision of the Tribunal shall be recorded in writing by the Chairperson and subject to the provisions of section 178 of this Bill, a certified copy of such decision shall be supplied to the appellant or any other party, upon a request made within 30 days of such decision.
178. (1) An order of the Tribunal arising from interlocutory applications shall be complied with by all parties before it and the final decision of the Tribunal on a matter before it shall be enforced as if it were a judgment of the Federal High Court upon registration of a copy of such decision judgment with the Chief Registrar of the Federal High Court by the party seeking to enforce the decision.
- (2) Notwithstanding that an appeal is pending, the person appealing against the action or decision of another party pursuant to the provisions of this Bill must comply with such decision or action complained of except where the Tribunal determines through an application before it that it would cause undue hardship to the person appealing, it may direct otherwise.
179. (1) Any person dissatisfied with a decision of the Tribunal constituted under this Bill may appeal against such decision on a point of law to the Federal High Court upon giving notice in writing to the Secretary to the Tribunal within 30 days after the date on which such decision was delivered.

Procedure following the decision of the Tribunal

Appeals to the Federal High Court.

(2) A notice of appeal filed pursuant to subsection (1) of this section shall set out all the grounds of law on which the appellant's case is based.

(3) Upon receipt of a notice of appeal under subsection (1) or (2) of this section, the Secretary to the Tribunal shall cause the notice to be given to the Chief Registrar of the Federal High Court along with records of proceedings and all the exhibits tendered at the hearing before the Tribunal.

(4) The Chief Judge of the Federal High Court may make rules providing for the procedure in respect of appeals made under this Bill and until such rules are made, the Federal High Court rules relating to hearing of appeals shall apply to the hearing of an appeal under this Bill.

180.(1) An appellant, may either appear in person or authorize one or more legal practitioners or any of its officers to represent him in a case before the Tribunal.

(2) Every individual or company in a case before the Tribunal shall be entitled to be represented at the hearing of an appeal by a solicitor or adviser provided that, if the person appointed by the Appellant to be representative in any matter before the Tribunal is unable for good cause to attend hearing thereof, the Tribunal may adjourn the hearing for such reasonable time as it deems fit, or admit the appeal to be made by some other person or by way of a written address.

181.(1) Without prejudice to the powers of the Tribunal to hear and determine appeals filed before it pursuant to section 172 of this Bill, it shall be the responsibility of the Tribunal to encourage parties appearing before it to explore settlement of disputes using negotiation, mediation, conciliation and other alternative dispute resolution mechanisms prescribed under the Market Rules and for this reason the Tribunal shall be guided by the principle of non-intervention or minimal interventions regarding decisions reached pursuant to dispute resolution mechanisms prescribed under Market Rules.

182.(1) The Tribunal may make rules regulating its procedures.

(2) The Tribunal shall, for the purposes of discharging its functions under this Bill, have power to-

(i) summon and enforce the attendance of any person and examine him on oath;

(ii) require the discovery and production of documents;

(iii) receive evidence on affidavits;

(iv) call for the examination of witnesses or documents;

Right to legal representation

Tribunal to encourage Alternative Dispute Resolution.

Powers and procedure of the Tribunal

- (v) review its decisions;
- (vi) dismiss an application for default or deciding matters expert;
- (vii) set aside any order or dismissal of any application for default of appearance or any order passed by *itexparte*; and
- (viii) Do anything which in the opinion of the Tribunal is incidental or ancillary to its functions under this Bill.

(3) Any proceeding before the Tribunal shall be deemed to be a judicial proceeding and the Tribunal shall comply with its rules as to practice and procedure.

(4) “judicial proceedings” within the meaning of subsection (3) of this section refers to proceedings requiring compliance with established rules of procedure and observance of the principle of fair hearing enshrined in the Constitution but does not accord the status of court under section 6 of the Constitution on the Tribunal.

183. The Minister may approve rules prescribing the procedure to be followed in the conduct of appeals before the Tribunal as may be proposed by members of the Tribunal.

Minister to approve rules and regulations.

184. Except where costs are awarded against any of the parties in a suit before the Tribunal, each party to an appeal shall bear its own cost.

Costs

185. An appeal against the decision of the Federal High Court at the instance of either party shall lie to the Court of Appeal.

Further Appeals

PART XVIII - OFFENCES AND PENALTIES

186 (1) any person who dishonestly -

- (a) Taps, makes or causes to be made any connection with overhead, underground or under water lines or cables, or service wires, or service facilities of a licensee ,franchisee or permit holder or supplier as the case may be; or
- (b) tampers or bypasses a meter, installs or uses a tampered meter, current reversing transformer, loop connection or any other device or method which interferes with accurate or proper registration, calibration or metering of electric current or otherwise results in a manner whereby electricity is stolen or wasted; or
- (c) Damages or destroys an electric meter, apparatus, equipment, or wire or causes or allows any of them to be so damaged or destroyed as to interfere with the proper or accurate metering of electricity,

Theft of electricity

- (d) Uses electricity through a tampered meter; or
- (e) Uses electricity for the purpose other than for which the usage of electricity was authorized so as to consume or use electricity, commits an offence and shall on conviction be punishable with imprisonment for a term of more than three years or with a fine as provided under this section or with both imprisonment and fine: Provided that in a case where the load consumed or used or attempted consumption or attempted use -
 - (i) Does not exceed 10 kilowatts, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction the fine imposed shall not be less than six times the financial gain on account of such theft of electricity;
 - (ii) exceeds 10 kilowatts, the fine imposed on first conviction shall not be less than three times the financial gain on account of such theft of electricity and in the event of second or subsequent conviction, the sentence shall be imprisonment for a term not less than six months but which may extend to three years and with a fine not less than six times the financial gain on account of such theft of electricity.

187. (1) Any person who dishonestly –

- (a) cuts or removes or takes away or transfers any electric line, material or meter from a tower, pole, any other installation or place of installation or any other place, or site where it may be rightfully or lawfully stored, deposited, kept, stocked, situated or located including during transportation, without the consent of the licensee or its owner, as the case may be, whether or not the act is done for profit or gain; or
 - (b) stores, possesses or otherwise keeps in his, hers or its premises, custody or control, any electric line, material or meter without the consent of the licensee or its owner, whether or not the act is committed for profit or gain; or
 - (c) loads, carries, or moves from one place to another any electric line, material or meter without the consent of the licensee or its owner, whether or not the act is done for profit or gain, commits an offence of stealing of electric lines and materials and shall be punishable with imprisonment term of not less than three years and not more than five years or with a fine of not less than N500,000 or with both such imprisonment term and fine.
- (2) If a person, having been convicted of an offence punishable under subsection (1) of this section, is again guilty of an offence punishable under that subsection, the person or corporate body shall be punishable for the second or

Theft of electric lines and materials.

subsequent offence for a term of imprisonment of five years or a fine which shall not be less than N1,000,000.

188. Any person who dishonestly receives any stolen electric line or material knowing or having reasons to believe the same to be stolen property, shall be upon conviction be punishable with an imprisonment term of fourteen years or fine of not more than three times the value of the stolen property received with both such term of imprisonment and fine.

Offence of receiving stolen electricity

189. Any person who -

- (a) without authorization connects any meter, indicator or apparatus with any electric line through which electricity is supplied by a licensee, franchisee or permit holder or disconnects the same from any such electric line; or
- (b) without authorization reconnects any meter, indicator or apparatus with any electric line or other works being the property of a licensee, franchisee, or permit holder when the said electric line or other works has or have been cut or disconnected; or
- (c) lays or causes to be laid, or connects up any works for the purpose of communicating with any other works belonging to a licensee, franchisee, or permit holder; or
- (d) maliciously injures any meter, indicator, or apparatus belonging to a licensee, franchisee or permit holder or willfully or fraudulently alters the index of any such meter, indicator or apparatus or prevents any such meter, indicator or apparatus from duly registering, commits an offence and shall upon conviction be punishable with imprisonment for a term of not more than three years, or with a fine not exceeding N500,000, or with both such term of imprisonment and fine, and a fine of N10,000 for every continuing day of the offence.

Interference with meters or works of licensees.

190. Any person who, negligently breaks, injures, throws down or damage any material connected with the supply of electricity, shall upon conviction be punishable with a fine of N300,000 in addition to the restoration of the damaged material or line.

Negligently breaking or damaging

191. Any person who, with intent to cut off the supply of electricity, cuts or injures, or attempts to cut or injure, any electric supply line or works, commits an offence and shall upon conviction be punishable with fine of more than N300,000.

Intentionally disrupting power supply.

192. Any person who, maliciously extinguishes any public streetlights commits an offence and shall upon conviction be punishable with fine which may extend to N200,000

Offence relating to damage to public streetlights.

193. Any person who—

- (a) fails to comply with any order, rules, decisions, licence, permits, codes, standards, direction or any other subsidiary legislation issued pursuant to this Bill, within such time as may be specified in the said subsidiary legislation; or
- (b) contravenes or attempts or abets the contravention of any of the provisions of this Bill or any rules or regulations made thereunder, commits an offence and shall be punishable with imprisonment for a term of not more than three months or with a fine of N500,000, or with both such term of imprisonment and fine, and in the case of a continuing failure or contravention, with an additional penalty of not more than N100,000 for every day of the continuing failure to comply with such subsidiary legislation.

194. Any person who, in any declaration required to be made under this Bill, makes any statement which he knows to be false or does not have reasonable grounds to believe to be true commits an offence and is liable on conviction to a fine not exceeding N100,000 or to imprisonment for a period not exceeding six months or both fine and imprisonment.

194. (1) Where an offence under this Bill has been committed by a company, every principal officer who at the time the offence was committed was in charge of and was responsible to the company for the conduct of the business of the company, as well as the company shall be deemed to be guilty of having committed the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to any punishment if he proves that the offence was committed without his knowledge or that he had exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (1) of this section, where an offence under this Bill has been committed by a company and it is proved that the offence has been committed with the consent or connivance of or is attributable to any neglect on the part of any director, secretary or other principal officer of the company, such director, secretary or other officer shall also be deemed to be guilty of having committed such offence and shall be liable to be proceeded against and punished accordingly.

(3) For the purposes of this section -

- (a) "company" means a company registered pursuant to the provisions of the Companies and Allied Matters Act;
- (b) "director", in relation to a company has the same meaning as a Director under the Companies and Allied Matters Act;

Contravention
of regulations,
orders, etc.

False declaration

Offences by
companies

(c) "Secretary "means a company secretary to a company and has the same meaning as a Company Secretary under the Companies and Allied Matters Act.

196(1) Any person who aids, counsels or abets an offence punishable under this Bill, shall upon conviction be punishable with the term of imprisonment or fine prescribed for the offence.

Abetment, etc.

(2) Without prejudice to any penalty or fine which may be imposed or prosecution proceeding which may be initiated under this Bill or any other Act for the time being in force, if any staff of the Commission, NEMSA or a licensee enters into or acquiesces in any agreement whether oral or written, abstains from doing, permits, conceals or connives to do any act or thing whereby any theft of electricity is committed, he shall upon conviction be punishable with imprisonment for a term of not less than three years, or with fine of N500,000 or with both term of imprisonment and fine.

197.(1) If an electrical inspector, a police officer, an employee of NEMSA acquires, in the course of his duties, information relating to the financial affairs of any person, or to any commercial secret, or if any other person indirectly acquires such information from an electrical inspector, a police officer, or an employee of NEMSA, he shall not for personal gain make use of such information, nor disclose it to any other person except:

Unlawful use of information by inspector.

(a) Mandatory disclosure required for performance of his position;

(b) For the purpose of legal proceedings under this Bill or any other law; and

(c) To the extent that it may be necessary to do so for the purpose of this Bill or any other law.

(2) any person who uses information obtained in the circumstances described in subsection (1) of this section and uses such information for his personal gain and contrary to the provisions of subsection (1) (a) to (c) of this section commits an offence and shall be liable on conviction to the forfeiture of any proceeds of accruing to him on account of contravention of this section and a fine not exceeding N500,00 or imprisonment for a period not exceeding two years or both fine and imprisonment

198. (1) A person who willfully and intentionally obstructs, restrains, prevents, harasses or injures any person lawfully carrying on duties on behalf of a licensee, franchisee or permit holder commits an offence and on conviction is liable to a fine of not less

Obstruction, impersonation, etc

than Two Million Naira or to a term of imprisonment of not more than six years or both such fine and term of imprisonment.

(2) A person who impersonates or falsely presents or parade as an employee of a licensee, franchisee or permit holder under this Bill commits an offence and on conviction is liable to a fine of Three Hundred Thousand (N300,000.00) or a term of imprisonment of not less than seven months or both such fine and term of imprisonment .

199. Subject to the powers of the Attorney General of the Federation under the Constitution, the Federal Power Task Force shall have power to prosecute offences under this Bill.

Power to prosecute.

200. (1) Notwithstanding provisions of any legislation, the court may, in the case of a first time offender, direct any person who has committed an offence theft of electricity or any other offence to pay a sum of money to the affected licensee, franchisee or permit holder, company or individual.

Power to compound offences.

(2) On payment of the sum of money in accordance with subsection (1) of this section, any person in custody in connection with that offence shall be set free and no proceedings shall be instituted or continued against such person or company in court.

201. (1) The Federal High Court and the State High Courts shall both have concurrent jurisdiction to try offences under this Bill.

Jurisdiction to try offences.

(2) The court shall ensure that all matters brought before it pursuant to the provisions of this Bill against any person, body or authority shall be conducted with dispatch and given accelerated hearing.

202. There is hereby established the Federal Power Task Force (in this Bill referred to as the "Task Force") to perform the functions and powers assigned to it in the Third Schedule to this Bill, relating to the prevention and enforcement of offences under this Bill. [Third Schedule]

Establishment of the Federal Power Task Force.

PART XIX - MISCELLANEOUS AND SUPPLEMENTARY PROVISIONS.

203. Where any electric lines or electrical plant, belonging to a licensee are placed in or upon any premises or land not being in the possession of the licensee, such electric lines or electrical plant shall not be liable to be taken in execution under any process of any civil court or in any proceedings in insolvency against the person in whose possession the same may be.

Exemption of electric lines or electric plants from attachment in certain cases.

204. No suit, prosecution or other proceeding shall lie against a member of the Commission or officer or other employees of the Commission, Agency , NEMSA or

Protection of action done in good faith by members of the Tribunal, etc.

other Agencies established under this Bill for anything done or in good faith purporting to be done under this Bill or the rules or regulations made thereunder.

205. (1) A licensee, franchisee or permit holder or any person duly authorized to act on his behalf in a license may, at any reasonable time, and on informing the occupier of his intention, enter any premises to which electricity is, or has been, supplied by him, of any premises or land, under, over, along, across, in or upon which the electric supply-lines or other works have been lawfully placed by him for the purpose of –
- (a) inspecting, testing, repairing or altering the electric supply-lines, meters, fittings, works and apparatus for the supply of electricity belonging to the licensee, franchisee or permit holder, or
 - (b) ascertaining the amount of electricity supplied or the electrical quantity contained in the supply; or
 - (c) removing where a supply of electricity is no longer required, or where the licensee, franchisee or permit holder, is authorized to take away and cut off such supply, any electric supply-lines, meters, fittings, works or apparatus belonging to the licensee.
- (2) A licensee, franchisee or permit holder or any person authorized as aforesaid may also, in pursuance of a special order in this behalf made by the Tribunal and after giving not less than twenty-four hours' notice in writing to the occupier, –
- (a) Enter any premises or land referred to in sub-section (1) for any of the purposes mentioned therein;
 - (b) Enter any premises to which electricity is to be supplied by him, for the purpose of examining and testing the electric wires, fittings, works and apparatus for the use of electricity belonging to the consumer.
- (3) Where a consumer refuses to allow a licensee, franchisee or permit holder or any person authorized as aforesaid to enter his premises or land in pursuance of the provisions of subsection (1) or, sub-section (2), when such licensee, franchisee or permit holder or person has so entered, refuses to allow him to perform any act which he is authorized by those subsections to perform, or fails to give reasonable facilities for such entry or performance, the licensee may, after the expiry of twenty-four hours from the service of a notice in writing on the consumer, cut off the supply to the consumer for so long as such refusal or failure continues, but for no longer.
206. (1) The Commission may, make regulations prescribing all matters which by this Bill are required or permitted to be prescribed or which, in the opinion of the Commission,

Power of the licensee to enter premises and to remove fittings or other apparatuses of the licensee.

Power of the Commission make regulations.

are necessary or convenient to be prescribed for carrying out or giving effect to this Bill.

- (2) Without derogation from the generality of subsection (1) of this section, regulations made in terms of subsection (1) of this section may provide for any or all of the following:
- (a) The administration of the affairs of the Commission, including, inter alia, the holding of meetings mediation proceedings, the conduct of inquiries and investigations, becoming a party, the handling of information, the rules by which evidence shall be taken, and generally the conduct of its business;
 - (b) The duties, powers, rights, and obligations of a licensee;
 - (c) The procedure for applying for licenses, requirements for information and documentation to be submitted by applicants;
 - (d) The procedure for amending or cancelling licenses;
 - (e) The determination of the standards of performance that will be required from licensees;
 - (f) The information that will be required from licensees and the manner and form by which it shall be provided;
 - (g) The method and manner by which the tariffs that may be charged by licensees for their services will be determined;
 - (h) Fees, levies, and other charges that may be payable by licensees, eligible customers or consumers;
 - (i) The regulation of licensee investments, assets and properties, and the interest in such assets and properties, in connection with the electricity industry;
 - (j) Customer-related matters, such as complaint handling procedures, practices concerning customers with difficulties paying bills, connection and disconnection procedures;
 - (k) The resource procurement policies of, and the associated contracting by, the licensees, including, as may be applicable, the review and approval of same;
 - (l) The regulatory treatment of rural electric schemes and investments;
 - (m) Procedures for addressing licensee mergers, acquisitions, affiliate relationships and transactions;
 - (n) Procedures for market power monitoring, mitigation and enforcement;
 - (o) The terms and conditions for the provision of system access by transmission and distribution licensees to other entities;
 - (p) Fines and penalties that may be payable by licensees or consumers for violations of those things for which they may be levied under this Bill; and
 - (q) Such other regulations as may be required.

(3) Regulations made under this section shall be published in the official Gazette by the Commission.

207.(1) The Commission shall monitor and ensure compliance with local content requirements as provided under the Commission’s Regulations on National Content Development for the Power Sector,2014 or any other amendment thereto with such modification or amendment as to bring it into conformity with the provisions of this Bill.

Local content in the power sector.

(2) In coordinating and monitoring compliance with local content requirements for the power sector, the Commission shall consult with any principal local content regulatory and enforcement body as may be established by an Act of the National Assembly.

208. Without prejudice to provisions of the Nigerian Investment Promotion Act and the terms and conditions of licenses or contracts entered into by investors in the Nigerian power sector, this Bill guarantees asset protection, right to sale or transfer licensee undertaking in the event of revocation of licenses or compensation in the event of any forceful takeover in the interest of national security.

Protection of investments in the power sector.

209.(1)The Commission shall ensure gender mainstreaming in the power sector in accordance with the guidelines for gender mainstreaming in the power sector as may be provided by the Minister pursuant to the provisions of this Bill and the policy guidelines on gender issues in the energy sector as contained in the National Energy Policy and the National Energy Master Plan adopted by the Energy Commission of Nigeria.

Gender mainstreaming

(2)For the purpose of subsection (1) of this section,all licensee, market participants, market operator, franchisee or permit holder as well as other stakeholders as may be determined by the Minister, establish gender units for the purpose of tracking and conducting performance evaluation on the efficacy of programmes in the power sector in achieving gender equity and alleviation of poverty amongst women.

PART XX – FINAL PROVISIONS

210. (1) Notwithstanding anything to the contrary contained in this Bill-

Consequential and transitional provisions.

(a) The Commission, the Rural Electrification and Renewable Energy Agency, and other Agencies established under this Bill including any other entity established and constituted under the repealed Act or under the Acts repealed and re-enacted under this Bill before the commencement of this Act, shall be deemed established and constituted under the relevant provisions of this Bill and the Commission, the Agency and other Agencies established under this Bill shall continue to operate and perform their respective functions as if the repealed Act or the Acts repealed and re-enacted were in force and all provisions of this Bill shall apply accordingly with respect to their functions, legal personality and all their activities.

- (b) Any license, licensee, certificate, authority, permit, tariff, market rules, regulations, orders, directives, codes and standards or other subsidiary legislation whatsoever which was issued or recognized by the Commission pursuant to the repealed Act and other Acts repealed and re-enacted under this Bill and which had effect immediately before the commencement of this Bill shall continue to have effect to the extent that they have not been amended by this Bill or where necessary an amendment is carried out to bring them into conformity with the provisions of this Bill.
- (c) Any tariff, price, levy or surcharge which was in force and chargeable within any area in respect of the provision of electricity to consumers or to any particular consumer or undertaker(if any),before the commencement of this Bill shall continue to be in force and chargeable in respect of provision of electricity to those or similar consumers by a licensee who provides electricity within the area concerned until alternative provision is made in respect of such tariff, price, surcharge, pursuant to the provisions of this Bill.
- (d) Subject to the provisions of this Bill, any permission granted, direction given or anything whatsoever made, done or commenced which, before the commencement of this Bill had or was capable of acquiring force and effect pursuant to the repealed Act and other Acts repealed and re-enacted under this Bill, shall, on and after the commencement of this Bill, continue to have, or as the case may be, to be capable of acquiring force and effect as it had been granted, given, made, done, or commenced as the case may be , pursuant to the equivalent provisions of this Bill.
- (e) subject to the provisions of this Bill, any permission granted, direction given or anything whatsoever made, done or commenced which, before the commencement of this Bill had or was capable of acquiring force and effect pursuant to the repealed Act, shall, on and after the commencement of this Bill, continue to have, or as the case may be, to be capable of acquiring force and effect as it had been granted, given, made, done, or commenced as the case may be, pursuant to the equivalent provisions of this Bill.
- (f) Any cause of action or proceeding which existed or was pending or enforced by or against a licensee, permit holder, the Commission, the Agency, Ministry, NEMSA, or other Agencies pursuant to the provisions of the repealed Act before the commencement of this Bill, shall be enforced or continued, as the case may be, on or after the commencement of this Bill by or against the a licensee, permit holder, the Commission, the Agency, Ministry, NEMSA, or other Agencies same way that it might have been enforced or continued against the a licensee, permit holder, the Commission, the Agency, Ministry, NEMSA, or other Agencies under the repealed Act or other Acts repealed under this Bill.
211. (1) Except as otherwise provided in this Bill, the Electric Power Sector Reform Act, 2005 is repealed.

(2) The enactments set out in the Fourth Schedule to this Bill are repealed.

[Fourth Schedule]

(3) Notwithstanding the provisions of subsection(1) of this section, anything done or any action taken or purported to have been done or taken including any rule, notification, inspection, order or notice made or issued or any appointment, confirmation or declaration made or any license, permission, authorization or exemption granted or any document or instrument executed or any direction given under the repealed Act shall, in so far as it is not inconsistent with the provisions of this Bill, be deemed to have been done or taken under the corresponding provisions of this Bill.

212. In this Bill except the context otherwise admits –

“Act” means the Electricity Act

“affiliates” in relation to a licensee means any holding company or subsidiary of the licensee or any subsidiary of a holding company of a licensee, and unless the Commission decides to the contrary, subsidiary status shall be presumed to arise from the ownership of or the power to vote, directly or indirectly ten percent or more of the voting securities of such entity and holding status shall be determined accordingly;

“Agency” means Rural Electrification and Renewable Energy Agency established under Part XV of this Bill;

"Ancillary services" means those functions necessary for reliable operation of a power system, which may include, but are not limited to, services that would provide or permit the following -

- (a) facilities scheduling, control and dispatch;
- (b) reactive power and voltage: control;
- (c) frequency regulation;
- (d) operating reserves; and
- (e) black start;

Interpretation.

“animal waste” means manure or any other material like bedding, milk house waste, soil, hair, feather or debris normally included in animal waste handling operations;

“Auditor-General” means the Auditor-General of the Federation.

“Authority” means the National Electric Power Authority unbundled into successor companies as recognized under section 7 of this Bill;

“bio-degradable” means material that has the:

- (a) ability to break down safely and relatively quickly by biological means, into the raw materials of nature; or
- (b) proven capability to decompose into non-toxic soil, water, carbon dioxide or methane;

“biogas” means gas that comprises primarily of methane and carbon dioxide produced by the biological breakdown of organic matter in the absence of oxygen and produced by anaerobic digestion or fermentation of biodegradable materials like biomass manure sewage, municipal waste, green waste and energy crops;

“biogas digester” means an equipment that has the capacity to degrade organic matter to produce biogas;

“biomass” means organic matter like agricultural crops and residue, wood and wood waste, animal waste, aquatic plants and organic components of municipal and industrial waste;

"captive generation" means generation of electricity for the purpose of consumption by the generator and which is consumed by the generator itself and not sold to a third party;

"Code of Conduct" means any rules established by the Commission governing behavior, relationships, and practices between licensees and their affiliates;

“Cogeneration” means a process which simultaneously produces two or more forms of useful energy (including electricity);

"Commission" means the Nigerian Electricity Regulatory Commission established under Part III of this Bill;

"Companies and Allied Matters Act" means the Companies and Allied Matters Act 2020 as amended or replaced from time to time;

"Competition Transition Charge" means any charge recognized under section 13 of this Bill;

"Consumer" means any end-user of electricity who is a customer of a distribution licensee, franchisee, mini-grid operator or other permit holders that is not an eligible customer and, for purposes of filing a complaint with the Commission and for any other reason that the Commission may determine, a person who is temporarily disconnected or otherwise without service, provided that a person who has applied for, but has yet to receive, service shall also be deemed to be a consumer;

"Control area" means a transmission system or interconnected transmission systems, and interconnected generating units, bounded by metering and telemetry equipment that permits a system operator to apply a generation control scheme in order to -

- (a) match the electrical output of the generating stations within the control area and energy purchased from entities outside the control area, less energy sold to entities outside the control area, with the load within the control area;
- (b) maintain scheduled interchange with other control areas, within the limits of good utility practice;
- (c) maintain the frequency of the control area's electric power systems within reasonable limits in accordance with good utility practice;
- (d) maintain power flows on transmission facilities within appropriate limits to preserve reliability; and
- (e) provide sufficient generating capacity to maintain operating reserves in accordance with good utility practice;

"cross subsidies" means the subsidization of the tariffs by one class or group of consumers by another class or group of consumers;

"distribution" means the delivery of electricity over a distribution system;
"distribution license" means a license granted pursuant to section 79;

"distribution licensee" means a licensee authorized under this Bill to operate and maintain a distribution system for supplying electricity to the consumers in his area of supply of operation;

"distributing main" means the portion of any main with which a service line is, or is intended to be, immediately connected;

"distribution system" means the system of facilities, as defined by the Commission, consisting wholly or mainly of low voltage (less than 132kV) electric lines used for the distribution of electricity from grid supply points to the point of delivery to consumers or eligible customers, and includes any electrical plant and meters operated in connection with the distribution of electricity, but shall not include any part of a transmission system;

"electric line" means any line which is used for carrying electricity for any purpose and includes

(a) Any support for any such line, that is to say, any structure, tower, pole or other thing in, on, by or from which any such line is, or may be, supported, carried or suspended; and

(b) Any apparatus connected to any such line for the purpose of carrying electricity;

"electrical plant" means any plant, equipment, apparatus or appliance or any part thereof used for, or connected with, the generation, transmission, distribution or supply of electricity but does not include-

(a) An electric line; or

(b) A meter used for ascertaining the quantity of electricity supplied to any premises; or

(c) An electrical equipment, apparatus or appliance under the control of a consumer;

"Electricity" means electrical energy-

(a) generated, transmitted, distributed and supplied or traded for any purpose; or

(b) used for any purpose except the transmission of a message;

"Electricity Supply Code" means the Electricity Supply Code pursuant to the provisions of this Bill;

"electricity system" means a system under the control of a generating company or licensee, as the case may be, having one or more -

(c) generating stations; or

(d) transmission lines; or

(e) electric lines and sub-stations;

And when used in the context of a State the entire electricity system within the territories thereof;

"electricity trader" means a person who has been granted a license to undertake trading in electricity under section 74 of this Bill ;

"eligible customer" means and include a customer that is eligible, pursuant to the directives issued by the Minister under repealed Act and pursuant to the declaration made by the Commission pursuant to the provisions of section 12 of this Bill, to purchase power from a licensee other than a distribution licensee;

"generating station" or **"station"** means any station for generating electricity, including any building and plant with step-up transformer, switchgear, switch yard, cables or other appurtenant equipment, if any, used for that purpose and the site thereof; a site intended to be used for a generating station, and any building used for housing the operating staff of a generating station, and where electricity is generated by water-power, includes penstocks, head and tail works, main and regulating reservoirs, dams and other hydraulic works, but does not in any case include any sub-station;

"franchisee" means a persons authorized by a distribution licensee to distribute electricity on its behalf in a particular area within his area of supply;

"functions" includes duties, roles, responsibilities and powers

"generation" means the production at a generating station of electric power and other generation products such as, but not limited to, reactive power;

"generation license" means a license issued under section 68;

"generating station" means a station for generating electricity, including buildings, plant and machinery and all accessories used for that purpose and the site to be used for the station or accessories;

"grid" means the high voltage backbone system of inter-connected Transmission lines, sub-stations and generating plants;

"Grid Code" means instructions, rules, procedures, guidelines, etc. for the operation and planning of an interconnected power system and accounting requirements relating thereto;

"Grid Standards" means the Grid Standards issued by the Commission pursuant to the provisions of this Bill;

"HYPPADEC" means the Hydroelectric Power Producing Areas Development Commission established under section 83 of this Bill;

"interim market" means the stage of the Nigerian electricity market between the completion of privatization and start of pre-transitional and transitional electricity market stages as regulated under the interim market rules and the Grid Code;

"Independent power producer" means an entity that is granted a generation license by the Commission pursuant to the reform of the Nigerian Electric Power Sector under repealed Act and include those licensed under this Bill;

"IEDN and IEDNOs" means independent electricity distribution network and independent electricity distribution network operators respectively, recognized under section 69 (9) of this Bill;

"IETN and IETNOs" means independent electricity transmission network and independent electricity transmission network operators respectively, recognized under section 85 of this Bill;

"Independent system operator" means a system operator that is licensed by the Commission under Part IV of this Bill;

"Inspecting Engineer" means a qualified person holding office under NEMSA as specified under Part XVII of this Bill, including his deputy and his assistants.

"Inspectorate Service" technical services provided in the electricity supply industry to ensure safety of use and reliability of supply and ensuring compliance with technical standards and regulations.

"land" means land, tenements, hereditaments and appurtenances, or any estate or interest therein;

"license" means a license issued by the Commission in accordance with the provisions of this Bill;

"licensee" means and includes any person who holds a license or is deemed to hold a license issued under Part VI of this Bill or under any other relevant provision of this Bill;

"lifeline tariff" means a tariff set by the Commission with prices that incorporate cross subsidies by other customers and which may be enjoyed by such group of consumers as the Commission may designated underthis Bill;

"local authority" means a local government, municipal council, town council, rural district council or local board;

"line" means any wire, cable, tube, pipe, insulator, conductor or other similar thing (including its casing or coating) which is designed or adapted for use in carrying electricity and includes any line which surrounds or supports, or is surrounded or supported by or is installed in close proximity to, or is supported, carried or suspended in association with, any such line;

"Land Use Act" means the Land Use Act Cap. 202 LFN 1990, as amended as amended or replaced from time to time;

"Medium Term Market" refers to the market stage between the end of the Transitional electricity market and before declaration long term electricity market by the Commission under section 9 of this Bill.

"market power" means the ability of a seller or group of sellers to maintain prices above competitive levels, or maintain stable prices while reducing the quality of product and services provided, for a significant period of time;

"market rules" means rules issued by the Commission pursuant to the provisions of this Bill;

"Managing Director "in relation toNEMSA means the Managing Director of NEMSA under Part XVII of this Bill;

"Managing Director" in relation to the Agency means the Managing Director of the Rural Electrification and Renewable Energy Agency established under Part XV of this Bill;

"Commission" means the Nigerian Electricity Regulatory Commission established under Part V of this Bill;

"distribution system" means the portion of the equipment used to deliver electricity between the distribution utility and the customer or consumer;

“distribution utility” means a company that owns or operates the equipment or facilities that transmit or distribute electricity to the end-use customer and is the company indicated on the electricity bill;

“distribution licensee” means a licensee authorized by the Commission to, construct , operate and maintain a distribution system for supply electricity to the consumers in his area of supply

“energy crop” includes a plant:

- (a) that can be directly exploited for its energy content,
- (b) that is grown for the sole purpose of energy production but not for food production, or
- (c) that is grown specifically for its fuel value;

“energysecurity” means the availability, adequacy, reliability and environmental sustainability of energy supply;

“energysources” includes coal, wind, oil, gas or wood consumed in the generation of power;

“feedstock” means a material that can be used to produce bio-fuel;

“generator of electricity” means the person that generates electricity from renewable energy sources and supplies it to the general public;

“generation licensee” means a person licensed to generate electricity pursuant to the provisions of this Bill;

“geothermal energy” means energy extracted from heat stored in the earth;

“grid connection” means the linkage between a renewable energy system and the utility grid;

“grid interactive renewable electricity” means a system which has the capacity to feed electricity from renewable energy source into the utility grid;

“hydro” means a project that has a generating capacity not exceeding 100 megawatts;

“landfill gas” means the gas produced in landfills due to the anaerobic digestion by microbes on any organic matter which can be collected and flared off or used to generate electricity in a thermal power plant;

“licensed facility” means a part of or the whole portion of a building, structure, equipment or plant that is licensed for the purpose of activities in the renewable energy industry;

“mini grid renewable power system” means a network of electricity supply from renewable energy technologies which is not connected to the grid;

“Minister” means the Minister responsible for power and include any other Minister to whom the President may from time to time assign administrative functions in respect of this Bill;

“NEMSA” means the Nigerian Electricity Management Services Agency established under part XVII of this Bill;

“NBET Plc” means the Nigerian Electricity Bulk Trading Company Plc to which sections 7 (1) (f) and 8 (2) (d) of this Bill applies;

“solid waste” includes waste that arises from domestic activity and is predominantly household and commercial waste collected by a municipality within a given area in a solid or semi-solid form but excludes industrial hazardous waste and toxic waste;

“non-depleting resources” means resources that replenish themselves or reproduce easily;

“ocean energy” means energy created by the power of ocean currents, waves and tides with the use of technology;

“off grid renewable power system” means electricity supply from renewable energy technologies which is not connected to the grid;

“Power Purchase Agreement” means an agreement that sets out the rights and liabilities between the generator of electricity and the distribution utility;

“production-based subsidy” means financial assistance given for the generation of electricity;

“public utility” means an institution which provides a basic service to the public, including water, electricity, transportation, or telecommunications;

“renewable energy certificates” means a tradable environmental commodity that represents proof that electricity was generated from an acceptable source and

which can be sold, traded or bartered by the owner of the certificate claiming to have purchased renewable energy;

“renewable energy companies” means a company licensed by the Commission to generate electricity from renewable energy sources and include a company issued a permit for mini-grid or to deal in renewable energy products and services by whatever description;

“renewable energy product” means goods and service produced from renewable energy;

“renewable energy resources” means natural resources such as sunlight, wind, rain, tides and geothermal heat, which are renewable and naturally replenished;

“renewable energy sources” means renewable non-fossil energy sources like wind, solar, geothermal, wave, tidal, hydropower, biomass, landfill gas;

“renewable energy system” means equipment that transforms renewable energy sources into electrical or heat energy;

“REREF” means the Rural Electrification and Renewable Energy Fund established under section 118 of this Bill;

“RESIP” means the Rural Electrification Strategy and Implementation Plan to be prepared pursuant to section 128 of this Bill;

“sewage gas” means biogas produced by the digestion and incineration of sewage sludge which can be used to generate energy;

“TCN” means the Transmission Company of Nigeria Plc, the transmission licensee to which part IV of this Bill applies;

“other agencies” means NEMSA and HYPPADEC established under this Bill;

“open access” means the non-discriminatory provision for use of transmission lines or distribution system or associated facilities with such lines or system by any licensee or consumer or a person engaged in generation in accordance with the regulations specified the Commission or in a license;

“overhead lines” means electric line which is placed above the ground and in the open air but does not include live rails of a traction system;

“power system” means all aspects of generation, transmission, distribution and supply of electricity and includes one or more of the following –

- (a) generating stations;
- (b) transmission or main transmission lines;
- (c) sub-stations;
- (d) tie -lines;
- (e) load dispatch activities;
- (f) main or distribution mains;
- (g) electric supply lines;
- (h) overhead lines;
- (i) service lines; and
- (j) works.

"**person**" includes an individual, company, partnership or any other association of individuals, whether incorporated or not;

" **pre-transitional market**" refers to the stage of the Nigerian electricity market between the end of the interim market and before the declaration of a transitional electricity market by the Minister as regulated under the Pre-transitional Market Rules and the Grid Code;

"**Power Consumer Assistance Fund**" means the fund established under section 98 of this Bill;

"**regulations**" means regulations made by the Commission pursuant to the provisions of this Bill;

"**repealed Act**" means the Electric Power Sector Reform Act, 2005 and includes Acts repealed under section 211 of this Bill;

"**relative**" means spouse, child, parent, brother, sister, uncle, aunt, in-laws, cousins, and, where applicable, their spouses;

"**rules**" means market rules approved by the Commission and include other rules made pursuant to the provisions of this Bill;

"**security**" means shares, debentures, bonds and other securities of a company recognized under the Companies and Allied Matters Act;

"**schedules**" means the schedules to this Bill;

"**Service-line**" means any electric supply-line through which electricity is, or is intended to be, supplied -

- (a) to a single consumer either from a distributing main or Immediately from the distribution Licensee's premises; or
- (b) from a distributing main to a group of consumers on the same premises or on contiguous premises supplied from the same point of the distributing main;

"Six geo-political zones" for the time being means –

- (a) North Central (consisting of Benue State, Nassarawa State, Niger State, Kogi State, Plateau State, Kwara State, Federal Capital Territory);
- (b) North East (consisting of Bauchi State, Borno State, Gombe State, Yobe State, Adamawa State and Taraba State);
- (c) North West (consisting of Kano state, Kaduna State, Katsina State, Jigawa State, Kebbi State, Sokoto State, Zamfara State);
- (d) South-South (consisting of Delta State, Edo State, Rivers State, Akwa Ibom State, Cross River State, Bayelsa State);
- (e) South East (consisting of Anambra State, Abia State, Enugu State, Ebonyi State, Imo State); and
- (f) South West (consisting of Lagos State, Oyo State, Ogun State, Osun State, Ondo State, Ekiti State)

"Stamp Duties Act" means the Stamp Duties Act CAP S8, LFN 2004, as amended or replaced from time to time;

"State Electricity Board" means anybody enacted by a Law of the House of Assembly of a State to be responsible for electricity matters within that State.

"Street" means any street, highway, or road, or any part of a street, highway or road, and includes –

- (a) any bridge, ferry or pontoon over which such street, highway or road passes;
- (b) any drift in the line of such street, highway or road;
- (c) any approach, culvert, cutting, dam, ditch, drain, embankment, fence, grid, guard, kerb, parapet, subway or other work or thing belonging to or connected with or forming part of such street, highway or road; and
- (d) any sanitary lane or private street;

"Successor companies" means the eighteen companies listed in part I, First Schedule to this Bill which were created following the restructuring of the Authority pursuant to the repealed Act;

"sub-station" means a station for transforming or converting electricity for the transmission or distribution thereof and includes transformers converters, switchgears,

capacitors, synchronous condensers, structures, cable and other appurtenant equipment and any buildings used for that purpose and the site thereof;

"Supply", in relation to electricity, means the sale of electricity to a licensee or consumer;

"Supply license" means license granted under section 69 of this Bill;

"system operation" means the operation of one or more transmission systems and "system operator" shall be construed accordingly;

"System operation license" means a license granted under section 68 of this Bill;

"tariff" means a tariff approved by the Commission pursuant to the provisions of this Bill that specifies the prices, terms and conditions under which electricity service is to be provided;

"technical support services in relation to NEMSA established under Part XVII of this Bill" means specialized technical services provided in the NESI by the NEMSA;

"Task Force" means Federal Power Task established under section 198 of this Bill;

"Technical Support Service" means specialized technical services provided in the Nigerian electricity supply industry by Agency specified in Part XVI of this Bill.

"trading" means any form of marketing, brokering or intermediation in the sale of electricity, whether or not it entails the purchase of electricity for resale, or whether or not title is taken to the electricity sold;

"trading license" means a license issued pursuant to section 70 of this Bill;

"transmission" means the conveyance of electric power and energy over a transmission system;

"transmission licensee" means a person licensed to transmit electricity pursuant the provisions of this Bill;

"transmit" means conveyance of electricity by means of transmission lines and the expression "transmission" shall be construed accordingly;

"transmission system" means a system, as defined by the Commission, consisting wholly or mainly of high voltage (greater than or equal to 132kV) electric lines for the conveyance of electricity within an undertaking or from one undertaking to another, including any transmission lines, transformers, switchgear and other works necessary for

and used in connection with such electrical equipment, and the buildings as may be required to accommodate the transformers, switchgear and other works;

“transmission lines” means all high pressure cables and overhead lines (not being an essential part of the distribution system of a licensee) transmitting electricity from a generating station to another generating station or a substation, together with any step-up and step-down transformers, switch-gear and other works necessary to and used for the control of such cables or overhead lines, and such buildings or part thereof as may be required to accommodate such transformers, switch-gear and other works;

“transitional electricity market” means to the stage of the Nigerian electricity market commenced between the end of the pre-transitional electricity and before the declaration of the Medium Term electricity market, and for the purpose of this Bill;

"undertaking" means the electric lines or electrical plant, and includes all lands, buildings, works and materials attached thereto belonging to any person acting as a generating company or licensee under the provisions of this Bill;

"wheeling" means the operation whereby the distribution system and associated facilities of a transmission licensee or distribution licensee, as the case may be, are used by another person for the conveyance of electricity on payment of charges to be determined pursuant to the provisions of this Bill; and

"works" includes electric line, and any building, plant, machinery, apparatus, and any other thing of whatever description required to transmit, distribute or supply electricity to the public and to carry into effect the objects of a license or sanction granted under this Act or any other law for the time being in force.

213. This Bill may be cited as the Electricity Bill, 2021.

Short title.

FIRST SCHEDULE

Part I

SUCCESSOR COMPANIES

[7 (1)]

A. *Transmission*

1. Transmission Company of Nigeria

B. *Generation*

2. Egbin Power Plc
3. Afam Power Plc
4. Kainji Hydro Electric Plc
5. Shiroro Hydro Electric Plc
6. Ughelli Power Plc
7. Sapele Power Plc

C. *Distribution*

8. Kano Electricity Distribution Company
9. Yola Electricity Distribution Company
10. Enugu Electricity Distribution Company Plc
11. Abuja Electricity Distribution Company Plc
12. Ibadan Electricity Distribution Company Plc
13. Jos Electricity Distribution Company Plc
14. Eko Electricity Distribution Company Plc
15. Ikeja Electricity Distribution Company Plc
16. Port Harcourt Electricity Distribution Company Plc
17. Benin Electricity Distribution Company Plc.
18. Kaduna Electricity Distribution Company Plc.

Part II

NIPP POWER GENERATING PLANTS

1. Calabar Power Station, Cross River State
2. Ihovbor Power Station, Edo State
3. Egbema Power Station, Imo State
4. Eyaen Power Station, Edo State
5. Gbarain Power Station, Bayelsa State
6. Ikot – Abasi Power Station, Akwa -Ibom State
7. Sapele Power Station, Delta State

8. Omoku Power Station, Rivers State
9. Ibom Power Station, Akwa-Ibom State
10. Papalanto Power Station, Ogun State
11. Omotosho Power Station, Ondo State
12. Geregu Power Station, Kogi State
13. Alaoji Power Station, Abia State

Part III

LICENSED INDEPENDENT POWER PRODUCERS

1. Farm Electric Supply Ltd
2. Ethiopie Energy Ltd
3. ICS Power Ltd
4. Supertek Nigeria Ltd
5. Mabon Ltd
6. Geometric Power Ltd
7. Westcom Technologies & Energy Services Ltd
8. Anita Energy Ltd
9. Bresson Nigeria Ltd
10. First Independent Power Co. Ltd, Magboro, Ogun State.
11. First Independent Power Co. Ltd ,Omoku,Rivers State
12. First Independent Power Co. Ltd, Trans -Amadi, Rivers State.
13. Ibafo Power Station Ltd
14. Hudson Power Station Ltd
15. Shell & Petroleum Devt. Ltd
16. Agbara Shoreline Power Ltd
17. Index Thermal
18. Nigerian Agip Oil Co.Ltd
19. Nigerian Electricity Supply Corporation (Nigeria) Ltd
20. AES Nigeria Barge Limited
21. Energy Company of Nigeria(NEGRIS)
22. Minaj Holdings Ltd
23. Ibom Power Ltd
24. Notore Services Ltd
25. Ewokoro Power Ltd off – grid
26. Ikorodu Industrial Power Ltd off – grid
27. Westcom Technologies & Energy Services Ltd off – grid
28. CET Power Projects Ltd, Tinapa, Cross River State off – grid
29. CET Power Projects Ltd, Igamu , Lagos State, off – grid
30. Tower Power Utility Ltd,off – grid
31. Ikorodu Industrial Power Ltd, *Distribution*
32. Aba Power Ltd – *Distribution*.

SECOND SCHEDULE

[Section 83]

ESTABLISHMENT OF THE HYDROELECTRIC POWER PRODUCING AREAS DEVELOPMENT COMMISSION

1. (1) There is established the Hydroelectric Power Producing Area Development Commission (in this Act referred to as “the Commission” which –
 - (a) shall be a body corporate with perpetual succession and a common seal;
 - (b) and sue and be used in its corporate name.
2. The Headquarters of the Commission shall be in, Minna, Niger State.
3. (1) There is established for the Commission a Governing Council (in this Act referred to as “the Council”), which consists of-
 - (a) a Chairman who shall be appointed on part time basis and shall presided over Council meetings;
 - (b) one person each who shall be from the affected communities to represent – (i) Benue (ii) Kebbi, (iii) Kwara, (iv) Kogi, (v) Niger (vi) Plateau, (vii) Taraba and (viii) any other State where hydroelectric power is generated;
 - (c) two persons to represent other Non-Hydroelectric Power Producing Areas or States.
 - (d) one person each to represent Federal Ministry of (i) Power, (ii) Environment, (iii) Water Resources, and (iv) Finance; and
 - (e) The Managing Director of the Commission.
 - (2) The Chairman and other members of the Council shall be appointed by the President, subject to confirmation by the Senate, except the persons mentioned in section 2 (1) (d) whose appointments shall not be subject to confirmation by the Senate.
 - (3) The office of the Chairman shall rotate among the member States of the Commission in the following alphabetical order- (i) Benue (ii)Kebbi, (iii) Kwara, (iv) Kogi, (v) Niger (vi) Plateau,(vii) Taraba and (vi) any other State where hydroelectric power is generated.
 - (4) The Commission shall have powers to make its rules as to the summoning of meetings and proceedings at such meetings.
 - (5) The Council shall have the power to–
 - (a) make internal policy direction and oversee the affairs of the Commission;

Establishment of the Commission

Headquarters of the Commission

Establishment, membership and powers of the Governing Council

Rules as to meetings.

Power of the Council.

- (b) Provide internal policy guidelines for carrying out the functions of the Commissions;
 - (c) Center and inspect premises, project and such place as may be necessary for the purpose of carrying out its function under this Act;
 - (d) approve the payment to the staff of the Commission such remunerations and allowances as are payable to persons with equivalent grade in the Civil Service of the Federation;
 - (e) enter into such contract as may be necessary or expedient for the discharge of its functions and ensure the efficient performance of the functions of the Commission.
 - (f) approve the appointment, promotion and discipline of senior staff of the Commission: and
 - (g) do such other things as are necessary and expedient for the efficient performance of the function of the Commission.
6. (1) The Chairman and members of the Council other than ex-officio members shall hold office for 4 years, renewable for one further period of 4 years only.
- (2) Members of the Council shall be paid such remuneration and allowances as the Federal Government may determine.
7. (1) A person ceases to hold office as a member of the Council if-
- (a) he becomes bankrupt;
 - (b) he is convicted of a felony or an offence involving dishonesty or fraud;
- (c) he becomes of unsound mind or incapable of carrying out his duties;
- (d) he is guilty of a serious misconduct in relation to his duties;
- (e) in the case of a person possessing professional qualification, he is disqualified or suspended, other than his own request, from practicing his profession in any part of the world by an order of a competent authority made in respect of that matter; or
- (f) he resigns his appointment by a letter addressed to the President.
- (2) A member of the Council may be removed by the President if it is not in the interest of the Commission or of the public that the member should continue in office.
- (3) Where a vacancy occurs in the membership of the Council, it shall be filled by the appointment of a successor to hold office for the remainder of the term of office of his predecessor, and the successor shall-

Tenure of office of members of the Council

Cessation of Office.

- (a) represent the same interest; and
 - (b) be appointed by the President as provided in this Act.
8. (1) The Commission shall-
- (a) formulate policies and guidelines for the development of hydroelectric power producing areas without prejudice to the powers of the Minister to issue policy directives and the Nigerian Electricity Regulatory Commission's power to regulate the electricity supply industry under this Bill;
 - (b) conceive, plan and implement, in accordance with set rules, projects and programmes for the development of hydroelectric power producing areas;
 - (c) carry out a survey of hydroelectric power producing areas in order to ascertain measures which are necessary to promote its physical development;
 - (d) prepare schemes designed to promote the physical developments of the hydroelectric power producing areas and estimate the cost of implementing such schemes;
 - (e) implement all measures approved for development of hydroelectric power producing areas by the Federal Government;
 - (f) identify factor inhibiting the development of the hydroelectric power producing areas and assist States in the formulation and implementation of policies to ensure sound and efficient management of the resources of the hydroelectric power producing areas;
 - (g) assess and report on any project being Funded or carried out in the hydroelectric power producing areas and ensure that Funds released for such project are properly utilized;
 - (h) tackle ecological problems that arise from overloading of dams in the hydroelectric power producing areas and advise Federal and State Governments on the prevention and control of floods and environmental hazards;
 - (i) execute such other work and perform such other functions which, in the opinion of the Commission, are required for the development of the hydroelectric power producing areas and their people; and
 - (j) carry out such other functions as the President may direct.
- (2) In exercising its functions under this section, the Commission shall have regard to the varied and specific contributions of each Member State of the Commission.

9. There shall be established in the Commission the following Directorates –

- (a) Directorates of Finance and Administration;
- (b) Directorates of Operations;
- (c) Directorates of Engineering and Technical Services;
- (d) Directorates of Community and Rural Development;
- (e) Directorates of Legal Service; and
- (f) Directorates of Planning, Research and Statistics

10 (1) There shall be for the Commission a Management Committee which shall consist of-

- (a) the Managing Director who shall be the Chief Executive Officer and Head of the Management Committee; and
- (b) Directors responsible for the Directorates established under section 9 of this Act.

(2) The Management Committee shall be responsible for the general operations and administration of the Commission.

11. (1) There shall be established for the Commission an Advisory Committee which shall consist of-

- (a) all Governors of member State of the Commission; and
 - (b) one person from each of the member States and five other persons from the remaining five geo-political zones of the Federation excluding the North Central Zone.
- (2) The Advisory Committee shall appraise and advise the President on the general activities and functions of the Commission at least once every year.
- (3) The Advisory Committee shall regulate its own, proceedings.

12. (1) There shall be a Managing Director for the Commission who shall be-

- (a) appointed-by the President subject to confirmation by the Senate;
- (b) be a competent Nigerian; and
- (c) hold office on such terms and conditions as may be specified in his letter of employment.

Establishment of
Directorates of the
Commission.

Management
Committee.

Advisory
Committee.

Appointment
of the
Managing
Director.

- (2) The Managing Director shall
- (a) be an indigene from among the member States of the Commission whose appointment and tenure shall rotate among member States in alphabetical order provided that the Chairman and Managing Director shall not be indigenes of the same State;
 - (b) be responsible for the general supervision of the employees of the Commission;
 - (c) be the Chief Accounting officer of the Commission; and
 - (d) hold office for a term of 4 years and renewable for another term of 4 years and no more.
- (3) The Director of the Directorate of Legal Services shall be the Secretary of the Commission and shall, subject to the general direction of the Council, be responsible for-
- (a) the administration of the Secretariat of the Council; and
 - (b) keeping the books and proper records of the proceedings of the Council.
13. (1) Service in the Commission shall be permanent and pensionable for the purpose or the Pension Reform Act and persons employed in the Commission shall be entitled to such pensions, gratuities and other retirement benefits as are prescribed in the Act.
- (2) Nothing in this Act shall prevent the appointment of a person to any office on terms which preclude the grant of pension and gratuity as in respect of that office.
 - (3) For the purpose of the application or the provision for the Pensions Reform Act, any power exercised by the Minister or other authority of the Government of the Federation other than the power to make regulations is hereby vested in and shall be exercisable by the Commission and not by any other person or authority.
14. (1) The Commission shall establish and maintain a Fund from which shall be defrayed all expenditure incurred by the Commission.
- (2) There shall be paid and credited to the Fund established pursuant to subsection (1) or this section-
 - (a) 10 percent of the total revenue generated by any company or authority from the operation of any hydroelectric dams in any member State of the Commission;
 - (b) 50 per cent of money due to member States of the Commission from the Ecological Funds;

Pension matters.

Fund of the
Commission.

- (c) all money raised for the purpose of the functions of the Commission by way or gifts loans, grants-in-aid, testamentary disposition or otherwise; and
 - (d) proceeds from all other assets that may, from time to time, accrue to the Commission.
- (3) The Federal Government shall contribute to the Fund by way of appropriations, through the National Assembly, a sum not less than 40 per cent of the Commission's annual budget.
 - (4) The Fund shall be managed in accordance with the rules made by the Council, and without prejudice to the generality of the power to make rules under this subsection, the rules shall in particular contain provisions-
 - (a) specifying the manner in which the assets of the Funds of the Commission are to be held and regulating the making of payments into and out of the Fund; and
 - (b) requiring the keeping of proper accounts and records of the purpose of the Funds in such form as may be specified in the rules.
15. The Commission shall apply the proceeds of the Fund established pursuant to section 11 of this Act to-
 - (a) the cost of administration of the Commission;
 - (b) the payment or salaries, fees, remuneration, allowances, pensions and gratuities payable under this Act;
 - (c) the payment for all contracts, including mobilization, fluctuations, variations, legal fees and cost on contract administration;
 - (d) the payment for all purchases; and
 - (e) undertake such other activities as are connected with all or any of the functions or the Commission under this Act.
 16. The Commission may accept gifts of land, money or other property on such terms and conditions, if any, as may be specified by the person or organization making the gift provided that such condition is in accordance with the laws or Nigeria
 17. The Commission may, with the consent of the President, borrow, on such terms and conditions as the Commission may determine, such sum of money as the Commission may require in the exercise of its functions under this Act.
 18. (1) The Council shall, not later than 31st October in each year, submit to the President an estimate of the expenditure and income of the Commission during the next succeeding year.

Fund of the Commission.

Powers to accept gifts.

Borrowing Powers.

Annual estimates and expenditure.

- (2) The Council shall cause to be kept proper accounts of the Commission in respect of each year and proper records in relation to the Fund and shall cause the accounts to be audited not later than 6 months after the end of each year by Auditors appointed from the list and in accordance with the guidelines supplied by the Auditor-General for the Federation.
19. The Commission shall, at the end of every quarter in each year, submit to the President a report on the activities and administration of the Commission.
20. (1) The Council shall prepare and submit to the President, not later than 30th June in each year, a report in such form as the President may direct on the activities of the Commission during the immediately preceding year and shall be included in the report a copy of the audited accounts of the Commission for that year and the Auditors report.
- (2) The President shall, upon receipt of the report referred to in subsection (1) of this section, cause a copy of the report and the audited accounts of the Commission and the Auditors report to be submitted to each House of the National Assembly.
21. (1) There is established for the Commission a Monitoring Committee which shall consist or such number of persons as the President may deem fit to appoint from the Public of Civil Service of the Federation
- (2) The Monitoring Committee shall-
- (a) monitor the management of the Funds of the Commission and the implementation of the projects of the Commission; and
- (b) have access to the books of accounts and other records of the Commission at all times and submit periodical reports to the President.
22. (1) For the purpose of providing offices and premises necessary for the performance of its functions under this Act, the Commission may, subject to the Land Use Act-
- (a) purchase or take on lease any interest in land, or other property; and
- (b) construct offices and premises and equip and maintain same.
- (2) The Commission may, subject to the Land Use Act, sell or lease out any office or premises which is no longer required for the performance of its functions under this Act subject to the approval by the President. [Cap. L5 LFN. 2004.]
23. (1) Subject to the provisions of this Act, the President may give to the Commission directives of a general nature or relating generally to matters or policy with regards to the performance of its functions and the Commission shall comply with the directives.

Annual Report.

Establishment of the Monitoring Committee.

Office premises of the Commission.

Directives by the President

- (2) The Commission shall, with the approval of the President make regulations generally for the purpose of giving effect to this Act.
24. (1) Subject to the provisions of this Act, the provisions of Public Officers Protection Act shall apply in relation to any suit instituted against any officer or employee of the Commission.
- (2) Notwithstanding anything contained in any other law or enactment, a suit shall not
- (a) lie against any member of the Council of the Managing Director for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duty or authority or in respect of any alleged neglect or default in execution of this Act or such law or enactment, duty or authority; and
- (b) be instituted in any court unless- (i) it is commenced within three months next after the act, neglect or default complained of, or (ii) in the case of a continuation of damage or injury, within six months next after the ceasing of such damage or injury.
- (3) A suit shall not be commenced against a member of the Council, the Managing Director, officer or employee of the Commission before the expiration or a period of one month after written notice or intention to commence the suit shall have been served upon the Commission by the intending plaintiff and the relief which he claims.
- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state-
- (a) the cause of action;
- (b) the particulars of the claim;
- (c) the name and place of abode or the intending plaintiff; and
- (d) the relief which he claims
25. A notice, summons or other documents required or authorised to be served upon the Commission under the provisions of this act or any other law or enactment may be served by delivering it to the Managing Director or by sending it by registered post and addressed to the Managing Director at the principal office of the Commission.
26. A member of the Council, the Managing Director, any officer or employee of the Commission shall be indemnified out of the assets of the Commission against any proceeding, whether civil or criminal in which judgment is given in his favour or in which he is acquitted, if any such proceeding is brought against him in his capacity as

a member of the Council, the Managing Director, officer or employee of the Commission.

THIRD SCHEDULE

[Section 202]

ESTABLISHMENT OF THE FEDERAL POWER TASK FORCE.

1. There is established the Federal Power Task Force (in this Bill referred to as the “ the Task Force”) to ensure monitoring and enforcement of offences under this Bill, ensure apprehension and prosecution of persons suspected of electricity theft, vandalism of power infrastructure, interruption of power supply and to generally perform the functions assigned to it under this Bill.
 2. The Task Force is composed of the following persons as may be appointed by the Minister on the recommendation of the various interest they represent under this part -
 - (a) representatives of licensees , operators and other stakeholders with investment interest in the Nigerian electricity supply industry;
 - (b) representatives of State Power Task Force or vigilante or private guards nominated by consumer groups;
 - (c) Police Officers or other law enforcement agents as may be deployed or assigned to the Task Force on the request of the National Coordinator;
 - (d) any other person as may be appointed by the Minister to represent other interests not covered under this part.
 - (3) The Committee shall be coordinated by National, Zonal and State Coordinators as may be appointed by the Minister.
 - (4) The Task shall be funded by funds made available by licensee, government grants donations made by consumer groups and such contributions as may be required consumers.
 - (5) The functions of the Task Force shall include:
 - (a) arrest and persons suspected of crimes under this Bill;
 - (b) surveillance and monitoring of electricity infrastructure and preparing reports to the Commission, the Minister and National Assembly on its activities.
- (c) subject to the provisions of the Constitution, prosecute suspects under this Bill;

Establishment of the Federal Power Task Force.

Composition of the Task Force.

Coordination of the Task Force.

Funding of the Task Force.

Functions and powers of the Task Force.

(d) carrying out such other activities as are ancillary to the prevention of damage to electricity infrastructure or prevention commission of offences under this Bill.

6. Notwithstanding the provisions of section 234 of this Bill, the Chief Judge of a State or the Chief Judge of Federal Capital Territory, Abuja as the case may beshall, have the power to establish mobile courts for the purpose of speedy trial of offences under this Bill which attracts a fine or imprisonment term below N200,000 or six months respectively upon conviction.
7. The Commission shall be guided in its activities by regulations and guidelines as may be approved by the Minister.
8. The Task Force shall in carrying out its activities under this Bill collaborate with similar Power Task Force established by law passed by any House of Assembly of a State.

Mobile Courts and
their jurisdiction

FOURTH SCHEDULE

ACTS REPEALED

[Section 211]

1. Hydroelectric Power Producing Areas Development Commission (Establishment Act, Etc) Act, No.7, 2010.
2. Hydroelectric Power Producing Areas Development Commission (Establishment, Etc) Act , 2010 (Amendment) Act, 2013
3. Hydroelectric Power Producing Areas Development Commission (Establishment, Etc,) Act, 2010(Amendment) Act, 2018
4. the Nigerian Electricity Management Services Agency (Establishment, Etc) Act, 2015.

FIFTH SCHEDULE
SUPPLEMENTARY PROVISIONS RELATING TO THE NIGERIAN ELECTRICITY
MANAGEMENT SERVICES AGENCY BOARD UNDER PART XVII

Procedure of the Board

- (1) Subject to the Bill and Section 27 of the Interpretation Act, the Board may make standing orders regulating its proceedings or those of any of its Committees. Every meeting shall be presided over by the Chairperson and if the Chairperson is unable to attend a particular meeting the members present at the meeting shall elect one of the members to preside at the meeting,
- (3) The quorum of the Board shall be the Chairperson or the Person presiding at the meeting and 6 other members of the Board.
- (4) Upon any special occasion, the Board may co-opt any person to be a member for as many meetings as may be necessary, and that person so co-opted shall have all the rights and privileges of a member, except that he shall not be entitled to vote or count towards a quorum
- (5) Subject to its standing orders, the Board may appoint such number of standing and ad-hoc committee, as it thinks fit, to consider and report on any matter with which the Agency is not concerned.
- (6) Every Committee appointed under the provisions of sub paragraph (5) of this paragraph shall be presided over by a member of the Board and shall be made up of such number of persons, not necessarily members of the Board, as the Board may determine in each case.
- (7) The decision of the Committee shall be of no effect until it is confirmed by the Board.

EXPLANATORY MEMORANDUM

This Bill seeks to repeal the Electric Power Sector Reform Act, 2005, consolidate the laws relating to the Nigerian Electricity Supply Industry and enact the Electricity Act, 2021 to provide a comprehensive legal and institutional framework for the post privatization phase of the power sector in Nigeria in the areas of generation, transmission, distribution, supply, trading and use of electricity generally and regulatory measures conducive to a phase-wide development of the Nigerian electricity supply industry across the Transitional and Medium and Long Term Market stages protect interest of consumers, ensure stable supply of electricity to all areas of Nigeria by promoting cost reflective and service reflective tariffs and ensure gradual elimination of cross of subsidies within a specified timeframe, increasing the contribution of renewable energy to Nigeria's energy mix and establish the Nigerian Electricity Regulatory Commission, the Rural Electrification and Renewable Energy Agency, Nigerian Electricity Management Services Agency and the Electricity Disputes Appeal Tribunal to enhance quick resolution of disputes in the electricity industry.