



**PETROLEUM INDUSTRY GOVERNANCE &
INSTITUTIONAL FRAMEWORK BILL
2015**

A Bill for:
*An Act to Provide for the Governance and Institutional
Framework for the Petroleum Industry and for Other Related
Matters*



ARRANGEMENT OF SECTIONS

SECTION

PART I - OBJECTIVES

1. Objectives

PART 2 - THE MINISTER

2. Function and powers of the Minister.
3. Rights of pre-emption

PART 3 - NIGERIA PETROLEUM REGULATORY COMMISSION

4. Establishment of the Nigeria Petroleum Regulatory Commission.
5. Objectives of the Commission.
6. Functions of the Commission.
7. Powers of the Commission
8. Regulations.
9. Decisions and orders made by the Commission.
10. Commission to give notice to interested parties.
11. Commission to consult Experts on technical questions.
12. Question of law may be referred to the Federal High Court.
13. Board of the Commission.
14. Function of the Board.
15. General policy directions.
16. Remuneration and allowances of members of the Board.
17. Disqualification and cessation of appointment.
18. Resignation of a member of the Board.
19. Vacancy on the Board.
20. The Executive Vice Chairman and Commissioners
21. Appointment, tenure, remuneration and conditions of service of the Executive Vice-Chairman and the Commissioners.
22. Disqualification from appointment.
23. Other staff, etc.
24. Pensions.
25. Financial provisions.
26. Funding.
27. Power to accept gift.
28. Accounts and audit.
29. Mid-year and annual reports.

- 30. Exemption from income tax.
- 31. Limitation of suits against the Commission, etc.
- 32. Service of court process on the Commission.
- 33. Restriction on execution against the Commission's property.
- 34. Special Investigation Unit.
- 35. Indemnity of Board members and employees.

PART 3 - Establishment of Commercial Entities

- 36. Incorporation of the Nigeria Petroleum Assets Management Company and the Nigeria National Petroleum Company.
- 37. The Nigeria Petroleum Assets Management Company.
- 38. Business or objects of the Management Company.
- 39. Engagement of Technical Support.
- 40. Transfer of assets and liabilities.
- 41. Conclusive evidence.
- 42. Release from liability or obligation.
- 43. Enforcement or continuation of any cause of action or proceedings.
- 44. Transfer not deemed to constitute a breach of contract.
- 45. Guarantee or surety.
- 46. Application of income
- 47. Funding
- 48. Provision of records etc. to the Management Company.
- 49. Further order amending a Transfer Order.
- 50. Directions to NNPC on matters related to transition.
- 51. Transfer of employees to designated successor companies and conditions of service of transferred employees.
- 52. Exemption from stamp duty.
- 53. Certain exemption from rates.
- 54. Composition and appointment of the Board.
- 55. Terms of office of members of the Board.
- 56. Management and governance of the Management Company.
- 57. Matters reserved for the Shareholders.
- 58. Publication of Annual report and annual accounts of the Management Company.
- 59. Protection of land belonging to the Management Company.

PART 4 - NATIONAL PETROLEUM COMPANY

- 60. Shareholding of the National Petroleum Company.
- 61. Exemption from certain laws.
- 62. Initial funding of the National Petroleum Company.
- 63. Assessment and offset of liabilities of the National Petroleum Company
- 64. Retention of revenue and dividend policy
- 65. Divestment of shares of the National Oil Company.
- 66. Transfer of assets and liabilities.
- 67. Conclusive evidence.
- 68. Release from liability or obligation
- 69. Enforcement or continuation of any cause of action or proceedings.

PETROLEUM INDUSTRY GOVERNANCE & INSTITUTIONAL FRAMEWORK BILL 2015

- 70.**Transfer not deemed to constitute a breach of contract.
- 71.**Guarantee or surety.
- 72.**Provision of records etc. to the National Petroleum Company.
- 73.**Further order amending a Transfer Order
- 74.**Directions to NNPC on matters related to transition.
- 75.**Transfer of employees to designated successor companies and conditions of service of transferred employees.
- 76.**Delisting of assets.
- 77.**Exemption from stamp duty
- 78.**Composition and Appointment of the Board
- 79.**Management and governance of the National Petroleum Company
- 80.**Matters reserved for the Shareholders.
- 81.**Publication of annual report and annual account of the National Petroleum Company
- 82.**Certain exemption from rates.
- 83.**Protection of National Petroleum Company's land.
- 84.**Adaptation of laws

PART 5 -REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS

- 85.**Repeals.
- 86.**Saving provisions.
- 87.**Transfer of staff, etc.
- 88.**Cessation of employment.
- 89.**Application of subsisting contracts.
- 90.**Interpretation.
- 91.**Short Title

SCHEDULES

- First Schedule**
- Second Schedule.**
- Third Schedule.**

EXPLANATORY MEMORANDUM

- (1) In the event of a state of national emergency or war, the Minister shall have the right of pre-emption of all petroleum and petroleum products obtained, marketed or otherwise dealt with under any license or lease granted under this Act or any other enactment.
- (2) The provisions of the First Schedule to this Act shall have effect in relation to the rights referred to in subsection (1) of this section.
- (3) Any person, who without reasonable excuse, the burden of proof of which shall lie on the person, fails to comply with a requisition made by or on behalf of the Minister under paragraphs 1, 2 or 7 of the First Schedule to this Act, or fails to conform or to obey a direction issued by the Minister under paragraph 8 of the First Schedule to this Act, commits an offence and is liable on conviction to a fine not exceeding N10,000,000.00 or to imprisonment for a period not exceeding six months or to both.
- (4) Any person who obstructs or interferes with the Minister, his servants or agents in the exercise of the powers conferred on the Minister under paragraph 8 of the First Schedule to this Act, shall be guilty of an offence and on conviction shall be liable to a fine not exceeding N5,000,000.00 or to imprisonment for a period not exceeding six months or to both.

PART 3 - NIGERIA PETROLEUM REGULATORY COMMISSION

4. Establishment of the Nigeria Petroleum Regulatory Commission.

- (1) There is established under this Act the Nigeria Petroleum Regulatory Commission ("the Commission") as a body corporate with perpetual succession and a common seal and which may sue or be sued in its corporate name.
- (2) The Commission shall have power to -
 - (a) enter into contracts and incur obligations;
 - (b) acquire, hold, mortgage, purchase and deal with property, whether movable or immovable, real or personal; and
 - (c) do all such things as are necessary for or incidental to the carrying out of its functions and duties under this Act.
- (3) From the date of the commencement of this Act, without further assurance, the Commission shall be vested with all assets, funds, resources and other movable and immovable properties which immediately before the commencement of this Act were held by the Petroleum Inspectorate, the Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency.
- (4) As from the date of commencement of this Act –
 - (a) the rights, interests, obligations and liabilities of the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency existing immediately before the effective day under any contract or instrument or at law or in equity shall by virtue of this Act be assigned to and vested in the Commission;
 - (b) any such contract or instrument covered by subsection 4(a) of this section shall be of the same force and effect against or in favour of the Commission and shall be

enforceable as fully and effectively as if instead of the Petroleum Inspectorate, Department of Petroleum Resources or the Petroleum Products Pricing Regulatory Agency, the Commission had been named therein or had been a party thereto; and

(c) the Commission shall be subject to all the obligations and liabilities to which the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency were subject immediately before the effective day and all other persons shall as from the effective day have the same rights, powers and remedies against the Commission as they had against the Petroleum Inspectorate, Department of Petroleum Resources and the Petroleum Products Pricing Regulatory Agency immediately before the effective day.

(5) The Commission shall be structured into departments as its Board may, from time to time, deem appropriate for the effective discharge of its functions under this Act.

5. Objectives of the Commission

The Commission shall -

- (a) promote the healthy, safe and efficient conduct of all petroleum operations;
- (b) promote the efficient, safe, effective and sustainable infrastructural development of the petroleum industry;
- (c) ensure compliance with all applicable laws and regulations governing the petroleum industry;
- (d) determine and ensure the implementation and maintenance of technical standards, codes and specifications applicable to the petroleum industry;
- (e) subject to the provisions of this Act, execute Government policies for the petroleum industry assigned to it by the Minister;
- (f) promote an enabling environment for investments in the petroleum industry;
- (g) ensure that regulations are fair and balanced for all classes of lessees, licensees, permit holders, consumers and other stakeholders; and
- (h) implement such other objectives as are consistent with the provisions of this Act.

6. Functions of the Commission

(1) The Commission shall -

- (a) administer and enforce policies, laws and regulations relating to all aspects of petroleum operations which are assigned to it under the provisions of this Act or any regulations made in pursuance of this Act or under any other enactment;
- (b) monitor and enforce compliance with the terms and conditions of all leases, licences, permits and authorisations issued in respect of any petroleum operations;
- (c) define and enforce approved standards for design, procurement, construction, operation and maintenance for all plants, installations and facilities utilized or to be utilized in petroleum operations;
- (d) ensure adherence to applicable national and international environmental and other technical standards by all persons involved in petroleum operations;
- (e) establish, monitor, regulate and enforce health and safety measures relating to all aspects of petroleum operations;
- (f) keep public registers of all leases, licences, permits and other authorizations issued by the Commission or the Minister and any renewals, amendments, extensions, suspensions and revocations thereof;

PETROLEUM INDUSTRY GOVERNANCE & INSTITUTIONAL FRAMEWORK BILL 2015

- (g) monitor the activities of the holders of leases, licences, permits and other authorizations to secure and enforce compliance with the terms and conditions thereof and carry out enquiries, tests, audits, investigations and any other undertakings deemed necessary for performance of this responsibility;
 - (h) publish reports and statistics on the petroleum industry;
 - (i) develop and publish tariffs and pricing methodology relating to third party access to petroleum facilities from time to time as specified in any regulation;
 - (j) establish the framework for the validation and certification of national hydrocarbon reserves; and
 - (k) advise the Minister on fiscal and other issues pertaining to the petroleum industry.
- (2) With reference to the upstream petroleum sector, the functions of the Commission shall include, to:
- (a) undertake evaluation of national reserves and reservoir management studies;
 - (b) conduct regular audits of the activities of operators engaged in upstream petroleum operations and oil service companies in order to ensure compliance with Nigerian laws and requirements for upstream petroleum operations;
 - (c) maintain a petroleum industry data bank comprising all data acquired by or given to the Commission in the exercise of its statutory functions;
 - (d) supervise and ensure accurate calibration and certification of equipment used for fiscal measures for upstream petroleum operations;
 - (e) issue licences or permits and any other authorisations necessary for all activities connected with, but not limited to the following:
 - (i) Seismic,
 - (ii) Drilling, and
 - (iii) design and construction of all facilities for upstream petroleum operations;
 - (f) manage and administer all unallocated acreage of crude oil and natural gas and all upstream petroleum data;
 - (g) conduct bid rounds or other processes for the award of petroleum exploration and production licences and leases;
 - (h) approve all field development programmes;
 - (i) allocate petroleum quotas;
 - (j) develop cost benchmarks and cost management strategies for petroleum operations performance;
 - (k) compute, determine, assess and ensure payment of royalties, rentals, fees, and other charges for upstream petroleum operations;
 - (l) liaise with the Federal Inland Revenue Service on cost deductions.
- (3) With reference to the downstream petroleum industry, the functions of the Commission shall include, to:
- (a) regulate and co-ordinate the activities of the industry in a non-discriminatory and transparent manner;
 - (b) establish the methodology for determining appropriate tariffs for gas processing, gas transportation / transmission and transportation of crude oil and bulk storage of oil and gas;
 - (c) set cost benchmarks for key elements of downstream petroleum operations;

PETROLEUM INDUSTRY GOVERNANCE & INSTITUTIONAL FRAMEWORK BILL 2015

- (d) regulate bulk storage, transportation and transmission of crude oil and gas and set rules for the common carrier systems for crude oil and gas;
- (e) promote the principles of sustainable infrastructural development;
- (f) promote competition and private sector participation;
- (g) ensure that all economic and strategic demands for gas are met;
- (h) monitor and enforce the actual application of tariffs and pricing frameworks;
- (i) monitor market behaviour including the development and maintenance of competitive markets;
- (j) arrest situations of abuse of dominant power and restrictive business practices;
- (k) inspect the metering of pumps and all other facilities and ensure their compliance with safety standards as prescribed by the Commission;
- (l) issue clean certificates of inspection at the oil terminals to exporters of crude oil upon satisfaction that the requirements as to quality and quantity have been complied with;
- (m) grant, issue and renew licences, permits and authorisations including but not limited to licences, permits or authorisations for downstream gas, petroleum products, storage depots, retail outlets, transportation and distribution facilities and the design and construction of all facilities including those for gas and petrochemicals and prescribe requirements to be satisfied by applicants for these purposes.
- (n) modify, amend, extend, suspend, review, cancel and reissue, revoke and / or terminate licences, permits and authorisations;
- (o) establish methodology for calculating the fair market value of petroleum products;
- (p) regulate and set rules for petroleum products distribution, petroleum product pipelines and storage depots;
- (q) ensure security of petroleum products supply, market development and the development of competition;
- (r) develop market rules for trading in wholesale gas supplies to downstream gas distributors;
- (s) establish customer protection measures in accordance with the provisions of this Act or any other enactment;
- (t) undertake consultation with customers, licensees and other industry participants, where necessary, for purpose of:
 - (i) promoting and protecting the interests of consumers; and
 - (ii) promoting the principles of sustainable resource and infrastructural development through the efficient supply and use of downstream gas and other petroleum products;
- (u) regulate and ensure the supply, distribution, marketing and retail of petroleum products;
- (v) administer and monitor the national operating and strategic stocks as set by the Minister;
- (w) monitor and enforce the actual application of petroleum product pricing formulae or framework for petroleum products;
- (y) enforce consumer rights in relation to petroleum products and services;
- (z) establish appropriate dispute settlement mechanisms relating to the commercial rights and obligations of operators and customers pursuant to the provisions of this Act or any other enactment or regulation;

- (aa) inspect the metering of pumps and any other facilities at downstream retail outlets to ensure compliance with safety standards;
 - (bb) establish, monitor and regulate health, environmental and safety measures relating to the management of downstream assets, including but not limited to refineries, petrochemical plants, petroleum depots and pipelines and downstream gas plants;
 - (cc) monitor and ensure the quality and process of conversion or blending of whatever material by whatever method to fuels, bio-fuels or other petroleum derivatives for automotive use in Nigeria.
- (4) In addition to the functions specified above, the Commission shall:
- (a) develop open access rules applicable to the main crude oil and petroleum products and natural gas transportation pipelines, strategic depots, loading facilities, transportation, transmission and bulk storage facilities;
 - (b) notwithstanding the provisions of any other law or regulations, supervise and ensure accurate calibration and certification of equipment used for fiscal measures in the industry;
 - (c) undertake by itself or through qualified expertise such other activities as are necessary or expedient for giving full effect to the provisions of this Act; and
 - (d) do such other things as are necessary and expedient for the effective and full discharge of any of its functions under this Act.
- (5) The Commission shall, in addition to its other functions:
- (a) undertake and promote the exploration of the frontier basins of Nigeria;
 - (b) develop exploration strategies and portfolio management for the exploration of unassigned frontier acreages in Nigeria;
 - (c) identify opportunities and increase information about the petroleum resources base within all frontier acreages in Nigeria; and
 - (d) undertake studies, analyse and evaluate all unassigned frontier acreages in Nigeria;
- (6) In performing its functions as provided in section 6 of this Act, the Commission shall, where applicable, collaborate with other relevant government agencies.
- (7) Notwithstanding the provisions of any other law or regulation, no government agency shall exercise any powers and functions in relation to the petroleum industry in conflict with the powers and functions of the Commission except for environment matters where the Federal Ministry of Environment shall have overriding authority.

7. Powers of the Commission

In carrying out its functions under this Act, the Commission shall have power to -

- (a) modify, extend, renew, suspend and revoke any licence or permit issued by it pursuant to the provisions of this Act;
- (b) in accordance with the provisions of this Act, designate facilities in the petroleum industry as third party access facilities, determine tariff methodology and pricing framework applicable to same, monitor and enforce the application of such tariff and pricing

- framework and mediate disputes in respect of third party access as may be determined by any regulation made pursuant to this Act;
- (c) request and obtain any information or any document concerning licensed activities in the petroleum industry from any licensee, lessee or permit holder;
 - (d) where it considers it to be in the public interest:
 - (i) publish information relating to petroleum operations provided by lessees, licensees and permit holders; and
 - (ii) require lessees, licensees and permit holders to publish particular information relating to petroleum operations;
 - (e) enforce relevant lease, licence or permit conditions and the specific requirements of this Act or any other enactment or regulation;
 - (f) issue penalties and fines in accordance with the provisions of this Act or any other enactment or regulation;
 - (g) enforce the provisions of any enactments or regulations applicable to petroleum operations made prior to the commencement of this Act or any other enactment or regulation;
 - (h) institute legal proceedings against any lessee, licensee or permit holder for failure to comply with lease, licence or permit conditions or other requirements of this Act or any other enactment or regulation;
 - (i) make and enforce regulations and prescribe fees in line with the provisions of this Act or any other enactment or regulation; and
 - (j) issue guidelines in line with the provisions of this Act or any other enactment or regulation.

8. Regulations

- (1) The Commission may subject to the provisions of subsections (2) and (3) of this section, make regulations necessary to give proper effect to the provisions of this Act.
- (2) The Commission shall prior to making any regulation under this Act, conduct a public hearing in the manner specified in subsection (4) of this section on the subject matter of the proposed regulation.
- (3) The Commission shall, in making any regulation, take into consideration the findings of the public hearing conducted in pursuance of subsection (2) of this section.
- (4) Before holding a public hearing in pursuance of subsection (2) of this section, the Commission shall publish in at least two national newspapers and its website, notice of:
 - (a) the fact that it is holding the public hearing;
 - (b) invitation to members of the public to participate in the public hearing;
 - (c) the venue and period during which the public hearing is to be held;
 - (d) the nature of the matter to which the public hearing relates;
 - (e) the matters that the Commission would like the submissions to deal with;
 - (f) the form in which members of the public are to make submissions to the Commission on the subject matter of the public hearing;
 - (g) the period of public notice for the commencement of the public hearing, which shall not be less than twenty-one days; and
 - (h) the address or addresses to which the submissions may be sent.
- (5) Notwithstanding the provision of subsection (2) of this section, the Commission may, due to the exigency of the circumstances, make any regulation without conducting a public hearing, where it deems it necessary to do so.

- (6) Any regulation made pursuant to sub-section (5) of this section shall be valid for not longer than six months with effect from its commencement date, unless it is confirmed after a public hearing.

9. Decisions and orders made by the Commission

- (1) The Executive Vice Chairman shall ensure that any decision or order made by the Commission:
 - (a) contains 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 purporting to be signed by a person describing himself as the Executive Vice-Chairman of the Commission or by a person describing himself as a Commissioner acting in the capacity of the Executive Vice-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.

10. Commission to Give Notice to Interested Parties

- (1) The Commission may hold a hearing on any matter, which under this Act or any other enactment is required or permitted to be conducted or on which it is required or permitted to take any action and the Commission shall hold public hearing on matters which the Commission determines 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 to make representations, if they so wish.
- (3) The Commission shall take into consideration the findings of any public hearing conducted in pursuance of subsection (1) of this section.

11. Commission to consult Experts on technical questions

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.

12. Question of Law may be referred to the Federal High Court

- (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, reserve that question for the decision of the Federal High Court.
- (2) Where a question has been reserved under subsection (1) of this section, the Commission shall state the question in the form of a special case and file it with the Registrar of the Federal High Court.

13. Board of the Commission

- (1) There shall be established for the Commission a governing Board (in this Act referred to as the "Board") which shall, be responsible for the policy and general administration of the Commission.
- (2) The Board shall consist of the following members:
 - (a) a non-executive Chairman;
 - (b) one non-executive Commissioner;
 - (c) the Executive Vice Chairman of the Commission;
 - (d) three Executive Commissioners;
 - (e) a representative of the Ministry of Petroleum Resources who shall not be below the rank of director;
 - (f) a representative of the Ministry of Finance who shall not be below the rank of director;
 - (g) a representative of the Ministry of Environment who shall not be below the rank of director;
- (3) The appointment to the Board in respect of persons appointed pursuant to paragraphs (a) to (d) of this section shall be made by the President subject to confirmation of the Senate.
- (4) The Chairman and non-executive Commissioner shall be persons of high integrity and substantial professional experience;
- (5) In appointing the Chairman and the non-executive Commissioner, the president shall have due regard to a fair representation of the technical, legal and commercial interest.
- (6) The persons appointed in paragraphs (a) and (b) of subsection (2) of this section shall hold office for a term of four years in the first instance, which term may be renewed for another term of four years only on such terms and conditions as may be specified in their letters of appointment.
- (7) Appointment to the Board in respect of persons appointed pursuant to paragraphs (a) and (b) of subsection (2) of this section shall be on a part- time basis.
- (8) The proceedings of the Board and other ancillary matters shall be in accordance with the provisions of the Second Schedule to this Act.

- (9) Subject to subsection (5) of this section, the Board shall have the power to make standing orders for the regulation of its proceedings and meetings and acts of the Board shall be deemed to be acts of the Commission.
- (10) The conflict of interest provisions contained in the Third Schedule to this Act shall apply to all members of the Board.

14. Functions of the Board.

The Board shall:

- (a) be responsible for the general direction and supervision of the Commission;
- (b) oversee the operations of the Commission;
- (c) provide general guidelines for the carrying out of the functions of the Commission;
- (d) review and approve the business, strategic and operating plans of the Commission;
- (e) consider and approve the budget of the Commission and monitor its performance;
- (f) approve the audited and management accounts of the Commission and undertake consideration of the management letter from the external auditors;
- (g) determine the terms and conditions of service of employees of the Commission;
- (h) stipulate remuneration, allowances, benefits and pensions of staff and employees of the Commission in consultation with the National Salaries, Incomes and Wages Commission;
- (i) structure the Commission into such number of departments as it deems fit for the effective discharge of the functions of the Commission; and
- (j) carry out such other functions and undertake such other activities which in the opinion of the Board are necessary to ensure the efficient and effective administration of the Commission in accordance with the provisions of this Act or as may be delegated to the Commission by the Minister.

15. General policy directions

- (1) The Minister may issue general directions to the Commission on matters concerning the petroleum industry and the Commission shall implement such directions provided that the directions are not in conflict with the provisions of this Act.
- (2) The Minister shall cause a copy of any directions given to the Commission in pursuance of subsection 1 of this section to be published in the Gazette.
- (3) The Commission shall, subject to subsection (1) of this section, be independent in the performance of its functions, duties and the exercise of its powers.

16. Remuneration and allowances of members of the board

- (1) Members of the Board shall be paid from the funds of the Commission such remuneration and allowances as the Commission may from time to time determine, having regard to the recommendation of the National Salaries, Incomes and Wages Commission.
- (2) While making recommendations, the National Salaries, Incomes and Wages Commission shall have due regard to the following principles:
 - (a) the specialised nature of work to be performed by the Commission;
 - (b) the need to ensure the financial self-sufficiency of the Commission; and
 - (c) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills;

17. Disqualification and cessation of appointment

- (1) A member of the Board may be suspended or removed from office by the President if the member:
 - (a) is found to have been unqualified for appointment as a member of the Board pursuant to the provisions of section 22 of this Act or is in a breach of the conflict of interest provision set out in the Second Schedule to this Act [Second Schedule] after his appointment;
 - (b) if he ceases to be an employee of the ministry which he represents on the Board;
 - (c) has demonstrated inability to effectively perform the duties of the office;
 - (d) has been absent from five consecutive meetings of the Board without the consent of the Chairman or when the Chairman is involved without the consent of the President except good reason is shown for such absence;
 - (e) is guilty of serious misconduct;
- (2) Prior to the suspension or removal of a Commissioner under subsection (1) of this section, the President shall inform the Commissioner by written notice, as soon as practicable, of his intention to suspend or remove the Commissioner from office and the reasons therefor.
- (3) The affected Commissioner under subsection (1) of this section shall be given a reasonable opportunity to make written submissions to the President within a time period specified in the notice and such time period shall not be less than 14 days from the date of the notice.
- (4) The affected Commissioner may, within the time period specified in the notice, submit a written submission and the President shall consider the submission in making his final decision on the Commissioner's suspension or removal from office

18. Resignation of a member of the board

A member of the Board may resign his appointment by giving three months' written notice addressed to the President.

19. Vacancy on the board

- (1) A vacancy on the Board shall occur if a member of the Board—
 - (a) dies;
 - (b) is removed from office in accordance with section 17 of this Act;
 - (c) resigns from office; or
 - (d) completes his tenure of office.
- (2) A vacancy on the Board shall be filled by the appointment of another person by the President in accordance with section 13 of this Act.
- (3) if a member of the Board dies, resigns or otherwise vacates his office before the expiry of the term for which he has been appointed, there shall be appointed a fit and proper person in the manner prescribed by section 13 of this Act to take his place on the Board.

20. The Executive Vice Chairman and Commissioners

- (1) There shall be for the Commission an Executive Vice-Chairman who shall be the chief executive and accounting officer of the Commission responsible for the day-to-day running of the affairs of the Commission.
- (2) There shall be for the Commission three Executive Commissioners whose detailed responsibilities shall be determined by the Executive Vice Chairman subject to the approval of the Board.
- (3) The persons to be appointed Executive Vice Chairman and Executive Commissioners shall have extensive technical or professional knowledge of the petroleum industry with a minimum of fifteen years' experience with relevant cognate experience at management level.

21. Appointment, tenure, remuneration and conditions of service of the Executive Vice-Chairman and the Commissioners

- (1) The Executive Vice Chairman and Executive Commissioners shall be appointed by the President subject to confirmation by the Senate on such terms and conditions as may be set out in their respective letters of appointment.
- (2) The Executive Vice Chairman shall be appointed in the first instance for a term of five years and shall be eligible for re-appointment for another term of five years.
- (3) The Executive Commissioners shall be appointed in the first instance for a term of four years and shall be eligible for re-appointment for another term of four years.

22. Disqualification from appointment

A person shall not be appointed as a Commissioner;

- (a) who is neither a citizen of Nigeria nor permanently resident in Nigeria; or
- (b) has a financial interest in any business connected, either directly or indirectly with the Nigerian petroleum industry, or is engaged in any activity (whether for remuneration or otherwise) connected with the petroleum industry, 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 the laws in force in any country:
 - (i) been adjudged or declared bankrupt or insolvent 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;
 - (iii) been declared to be of unsound mind;
 - (iv) been convicted of any criminal offence by a court of competent jurisdiction except for traffic offences or contempt proceedings arising in connection with the execution or intended execution of any power or duty conferred under this Act.
 - (v) been disqualified or suspended from practising his profession by the order of a competent authority made in respect of him personally.

23. Other staff, etc.

- (1) The Board may appoint for the Commission such number of persons as employees of the Commission as it may deem necessary.
- (2) The employment of the Commission's staff shall be subject to such terms and conditions as may from time to time be stipulated by the Board and contained in the respective employment contracts.
- (3) The Board shall determine and review from time to time, the remuneration and allowances payable to the Commission's staff, having regard to the recommendation of the National Salaries, Incomes and Wages Commission.
- (4) While making recommendations, the National Salaries, Incomes and Wages Commission shall have due regard to the following principles:
 - (a) the specialised nature of work to be performed by the Commission;
 - (b) the salaries paid in the private sector to individuals with equivalent responsibilities, expertise and skills;
- (5) The Board shall make staff regulations generally relating to the conditions of service of its employees and, in particular, but without prejudice to the generality of the foregoing, such regulations may provide for -
 - (a) the appointment, promotion, dismissal and discipline of employees;
 - (b) appeals by the employees against dismissal or other disciplinary measures; and
 - (c) the grant of pensions, gratuities and other retirement allowances to the employees;
- (6) Staff of the Commission shall be public officers as defined in the Constitution of the Federal Republic of Nigeria, 1999.
- (7) For the purpose of this section, appointment shall include secondment, transfer and contract appointments.

24. Pensions

- (1) Employment in the Commission shall be subject to the provisions of the Pensions Reform Act and officers and employees of the Commission shall be entitled to pension and other retirement benefits as prescribed under the Pensions Reform Act.
- (2) Nothing in subsection (1) of this section shall prohibit the Commission from appointing a person to any office on terms that preclude the grant of a pension or other retirement benefits in respect of that office.
- (3) Subject to the Pensions Reform Act, and notwithstanding the provisions of this section, the Commission shall continue to fulfil all obligations in respect of pensions schemes to which the Department of Petroleum Resources and the Petroleum Products Price Regulatory Agency were obliged in respect of its employees, prior to the transfer of assets and liabilities to the Commission.

25. Financial provisions

- (1) The Commission shall not later than 30th September or such other date to be determined by the Ministry of Finance in each financial year, prepare and present for appropriation to the National Assembly through the Federal Ministry of Finance, a statement of estimated income and expenditure for the following financial year.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Commission may also, in any financial year, submit to the National Assembly through the Federal Ministry of Finance, supplementary or adjusted statements of estimated income and expenditure for appropriation.
- (3) The financial year of the Commission shall be a period of twelve calendar months commencing on the 1st of January in each year.

26. Funding

- (1) The Commission shall establish and maintain a fund ('the Fund') from which all expenditures incurred by the Commission shall be defrayed.
- (2) The Fund shall comprise monies derived from the following sources:
 - (a) Such moneys which shall be a percentage of the revenue generated by the Commission for the Government of the Federation as may be determined and appropriated to the Commission from time to time by the National Assembly; and
 - (b) gifts, loans, grants-in-aid.
- (3) The Commission shall apply the proceeds of the Fund established pursuant to subsection (1) of this section:
 - (a) to meet the administrative and operating costs of the Commission;
 - (b) to provide for the payment of salaries, wages, fees or other remuneration or allowances, pensions and other retirement benefits payable to staff or employees of the Commission;
 - (c) for the maintenance of property acquired by or vested in the Commission;
 - (d) for purposes of investment, as prescribed by the Trustee Investments Act, or any other relevant legislation subject to the approval of the Minister; and
 - (e) generally in connection with the carrying out of any of its functions under this Act.
- (4) The Commission shall ensure that all monies accruing from upstream leases, bonuses, lease renewal fees, assignment fees and concession rentals charged under this Act or any subsidiary legislation or regulation made pursuant to this Act are paid into the Federation Account. The Commission shall also ensure that all other monies accruing from its activities including but not limited fines and penalties are paid into the Consolidated Revenue Fund.
- (5) For any particular year, if monies accruing to the Fund from appropriation established pursuant to subsection (2) of this section, have not been fully applied for the purposes provided for in subsection (3) of this section, such monies shall be paid into the Consolidated Revenue Fund.

27. Power to accept gifts

- (1) The Commission may accept gifts of money or other property upon such terms and conditions as may be specified by the person or organisation making the gift provided such gifts are not inconsistent with the objectives and functions of the Commission under this Act.
- (2) Nothing in subsection (1) of this section or in this Act shall be construed to allow any member of the Board or staff of the Commission to accept gifts for their personal use.

28. Accounts and audit

The Commission shall keep proper accounts of its income and expenditure in respect of each financial year and shall cause its accounts to be audited within six months after the end of each year by auditors appointed by the Commission from a list and in accordance with the guidelines supplied by the Auditor-General of the Federation.

29. Mid-year and annual reports

- (1) The Commission shall submit to the Minister, a mid-year report of its operations and finances not later than 31st August of each year and an annual report of its operations, performance and audited financial report of the preceding year not later than 31st May of the following year.
- (2) A summary of the annual report and audited financial report of the Commission shall be published on the website of the Commission for public notice not later than 31st of July of each year.

30. Exemption from income tax

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

31. Limitation of suits against the Commission, etc.

- (1) Subject to the provisions of this Act, the provisions of the Public Officers Protection Act shall apply in relation to any suit instituted against the Commission, Executive Vice Chairman, Executive Commissioner, an officer or employee of the Commission.
- (2) No suit shall lie against the Commission, the Executive Vice Chairman, Executive Commissioner, or any other officer or employee of the Commission for any act done in pursuance or execution of this Act or any other law or enactment, or of any public duty or authority in respect of any alleged neglect or default in the execution of this Act or any other law or enactment, duty or authority, or be instituted in any court unless it is commenced—
 - (a) within three months next after the act, neglect or default complained of; or
 - (b) in the case of a continuation of damage or injury, within 6 months next after the ceasing thereof.
- (3) No suit shall be commenced against the Commission, the Executive Vice Chairman, Executive Commissioner, or any official or employee of the Commission before the expiration of a period of one month after written notice of the intention to commence the suit shall have been served on the Commission by the intending plaintiff or his agent.

- (4) The notice referred to in subsection (3) of this section shall clearly and explicitly state the cause of action, the particulars of the claim, the name and address of the intending plaintiff and the relief which he claims.

32. Service of court process on the Commission

A notice, summons or other document required or authorised to be served on the Commission under the provisions of this Act or any other law or enactment may be served by delivering it to the office of the Executive Vice Chairman of the Commission or any of its Commissioners.

33. Restriction on execution against the Commission's property

(1) In any action or suit against the Commission, no execution or attachment of its physical property shall be issued. Any judgment against the Commission may be enforced through garnishee proceedings provided that not less than three months' notice of the intention to commence the garnishee proceedings shall have been given to the Commission.

(2) Any sum of money which may by the judgment of any court be awarded against the Commission shall, subject to any direction given by the court where no notice of appeal against the judgment has been given, be paid from the Fund of the Commission.

34. Special Investigation Unit

(1) For the effective conduct of its functions, the Commission shall have a Special Investigation Unit.

(2) The Special Investigation Unit or an officer authorized on its behalf shall have powers, with respect to matters under the authority of the Commission in this Act, to:

- (a) investigate acts which may constitute offences under this Act or any other law relating to petroleum operations.
- (b) collaborate with other government agencies and persons in relation to the detection or prosecution of offences under this Act or any other law relating to petroleum operations.
- (c) keep surveillance on oil and gas installations, premises and vessels where it has reason to believe that illegal petroleum operations are going on;
- (d) enter and search any premises or carrier including vehicles or any other instrumentalities whatsoever which is reasonably believed to be connected with the Commission of an offence;
- (e) seize any item or substance which is reasonably believed to have been used in the Commission of an offence under this Act or any other law relating to petroleum operations.
- (f) arrest without warrant any person who is found committing any offence under this Act or any regulations made under this Act and hand over any person so arrested to a police officer immediately; and
- (g) In conjunction with the Nigerian Police and other relevant law enforcement agencies arrest with a warrant obtained from a judicial officer, any person reasonably believed to have committed an offence under this Act;

35. Indemnity of board members and employees

- (1) Every member of the Board and every employee of the Commission shall be indemnified out of the assets of the Inspectorate against any liability incurred in defending any proceeding against the Commission, whether civil or criminal, if such proceedings are brought against the person in the person's capacity as a member of the Board or employee.
- (2) Notwithstanding the provisions of subsection (1) of this section, the Commission shall not indemnify any member of the Board or employee of the Commission for any liability incurred as a result of the wilful negligence of the member or employee, as the case may be, or conduct or acts which such person knew or ought to have known to be unlawful.

PART 3 - ESTABLISHMENT OF COMMERCIAL ENTITIES

36. Incorporation of the Nigeria Petroleum Assets Management Company and the National Petroleum Company.

- (1) The Minister shall, within three months after the effective date, take such steps as are necessary under the Companies and Allied Matters Act to incorporate two entities – the first may be called the Nigeria Petroleum Assets Management Company, or such other name as may be available and the other may be called the National Petroleum Company, or such other name as may be available, as companies limited by shares, which shall be vested with certain assets and liabilities of the National Petroleum Corporation (“NNPC”).
- (2) Upon incorporation:
 - (a) the Nigeria Petroleum Assets Management Company (hereinafter called the “Management Company” in this Act) shall be responsible for the management of the NNPC's oil and gas investments in assets where government is not obligated to provide any upfront funding;
 - (b) the National Petroleum Company (hereinafter called the “National Oil Company” in this Act) shall be an integrated oil and gas company operating as a fully commercial entity across the value chain.
- (3) The Minister may, in addition to the incorporation of the entities above, incorporate other entities to assume and manage some of the liabilities of the NNPC.

37. The Nigeria Petroleum Assets Management Company

- (1) At the time of its incorporation, the initial shares of the Management Company shall be held in the ratio of 99% by the Ministry of Finance Incorporated and 1% by the Bureau for Public Enterprises on behalf of the Government of the Federation of Nigeria.
- (2) The Minister shall cause an order to be published in the Gazette stating the date on which the assets of the Management Company are transferred.

38. Business or objects of the Management Company

The Minister shall ensure that the Memorandum of Association of the Management Company includes the following objects:

- (a) to own and manage certain petroleum assets on behalf of the government of the Federation.
- (b) to ensure maximum value (in terms of return on investments) for the Government of the Federation through prudent management of the assets.
- (c) to negotiate and enter into new exploration and production agreements with other petroleum companies as may be required by the Government of the Federation.
- (d) to monitor the revenue and cost elements of the operation and the production output of its petroleum contracts and undertake the sale of crude oil or other petroleum derivatives produced from the assets.

39. Engagement of Technical Support

In carrying out its business or objects, the Management Company shall have the power to enter into any arms-length arrangement with the National Oil Company or any other reputable petroleum company or service company to provide the Management Company with technical support and expertise in relation to the performance of its functions including the marketing and sale of the Management Company's share of petroleum received in kind, pursuant to the provisions of its petroleum contracts.

40. Transfer of Assets and Liabilities

- (1) The Minister shall, within three months of incorporation of the Management Company, by an order as provided in subsection (2) of section 37, require the NNPC to transfer employees, assets, liabilities, rights and obligations of the NNPC to the Management Company, as specified in the order.
- (2) A transfer order shall be binding on the NNPC, the Management Company and all other persons.
- (3) Subsection (2) of this section applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers.
- (4) A transfer order may specify and describe employees, assets, liabilities, rights or obligations to be transferred:
 - (a) by reference to specific employees, assets, liabilities, rights or obligations;
 - (b) by reference to any class of employees, assets, liabilities, rights or obligations; or
 - (c) partly in accordance with 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, joint operating agreements, Production Sharing Contracts, participation agreements, hypothecations, securities, deeds, contracts, instruments, documents and working arrangements subsisting prior to the transfer date and relating to the assets to be transferred pursuant to this section and to which NNPC was a party shall, on and after the initial date, be as fully effective and enforceable against or in favour of the Management Company as if, instead of NNPC, the Management Company had been named therein.
- (6) A transfer order may:

- (a) specify the date that the transfer takes effect and any interest in property that is transferred by the order shall vest in the Management Company 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 effective date shall not be earlier than the day on which the Management Company was incorporated;
 - (c) provide that the transfer specified in the order and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the order;
 - (d) require NNPC or the Management Company:
 - (i) to enter into any written agreement or execute any instrument specified in the order; and
 - (ii) to 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 NNPC or its relevant successor, the Management Company, or both of them; and that any right that is transferred by the order may be enforced against the NNPC, the Management Company or both of them; or
 - (f) impose conditions on the exercise of powers by the Management Company 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 Minister considers necessary or advisable in connection with a transfer.
- (8) The Government may thereafter vest in the Management Company any further assets as the Government may from time to time deem fit.
- (9) The Minister may by order require NNPC to transfer certain employees, assets, liabilities, rights and obligations to any other successor entity incorporated by the Minister pursuant to subsection (3) of Section 36 of this Act. Such transfer order shall be binding on the NNPC, such successor entities and all other persons.

41. Conclusive Evidence

- (1) A statement, in a registered document to which the Management Company is a party, that land described in the document was transferred to it from the NNPC by or pursuant to a 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 NNPC did not have.

42. Release from liability or obligation

Subject to subsection (6) (e) of section 40 this Act, the transfer of liability or obligation under this section without any further assurance other than this section releases NNPC from any further liability or obligation in respect of the assets or liabilities.

43. Enforcement or continuation of any cause of action or proceedings

- (1) Subject to subsection (6) (e) of Section 40 of this Act, the Management Company shall without further assurance be entitled to enforce or defend all obligations for or against NNPC in respect of the portion of interests transferred pursuant to section 40(1) as if the Management Company were the original party to such obligations.
- (2) Any pending action or proceedings in relation to the transferred assets, brought by or against NNPC 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 Management Company in the same way as if this Act had not been enacted.

44. Transfer not deemed to constitute a breach of contract

- (1) Notwithstanding the provisions of Section 42:
 - (a) no action or other proceeding shall be commenced against the Management Company in respect of any employee, asset, liability, right or obligation if, had there been no transfer, the time for commencing the action or other proceeding would have expired; and
 - (b) the transfer of assets and liabilities to the Management Company by or pursuant to a transfer order 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, regulation or by-law;
 - (iii) constitute an event of default or force majeure;
 - (iv) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;
 - (v) give rise to any right to terminate or repudiate a contract, licence, permit or other right; or
 - (vi) give rise to any estoppel.
- (2) Subsection (1) (b) of this section shall not apply to such contracts as may be prescribed by any regulation made for that purpose.
- (3) Subject to subsection (2) of this section, nothing in this Act and nothing done as a result of a transfer by or pursuant to a transfer order, shall create any new cause of action in favour of:
 - (i) a holder of a debt instrument issued by NNPC before the transfer date; or
 - (ii) a party to a contract with NNPC that was entered into before the transfer date.

45. Guarantee or surety

Any guarantee or surety which was given or made by the Government or any other person in respect of any debt or obligation of NNPC and which was effective immediately before the transfer of the principal debt or obligation to the Management Company, 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 Management Company.

46. Application of Income

- (1) Subject to the provisions of subsection (2) of this section, all income and proceeds received by the Management Company and arising from or in connection with its management of the assets transferred to it pursuant to sections 40 and 49 of this Act shall be remitted upon receipt to the Federation Account.
- (2) The provision of subsection (1) of this section shall not apply to any funds provided to the Management Company by its Shareholders for its operations or any fees earned by the Management Company from the Federal Government of Nigeria in connection with the management of the assets or any gifts or donations.

47. Funding

The Management Company shall be entitled to charge the Federal Government of Nigeria fees for the management of the oil and gas assets of the Government of the Federation. Such fees which shall be a percentage of the revenue generated by the Management Company for the Government of the Federation as determined and appropriated by the National Assembly.

48. Provision of Records etc. to the Management Company

The NNPC shall provide the Management Company 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.

49 Further Order Amending a Transfer Order

The Minister 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 Minister 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 Management Company as at the date of the relevant transfer order, and this Part applies with necessary modifications to the amendment.

50. Directions to NNPC on matters related to transition

Prior to the vesting of assets and liabilities of NNPC in the Management Company, the Minister may give the Board of Directors of NNPC directions in writing to ensure the proper transfer of the assets and liabilities of NNPC to the Management Company, and the Board of Directors shall, without delay, comply with such directions.

51. Transfer of Employees to Designated Successor Companies and Conditions of Service of Transferred Employees.

- (1) Any employee of NNPC transferred to the Management Company pursuant to section 40 or 49 of this Act shall be transferred to the service of Management Company on terms not less favourable than those enjoyed by him immediately prior to the transfer.
- (2) The service rendered by an employee transferred pursuant to section 40 or 49 of this Act to the NNPC shall be deemed to be service with the Management Company 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 Management Company-
 - (a) the terms and conditions of service applicable to employees of the NNPC shall continue to apply to every person transferred to the Management Company as if every such person were still in the service of the NNPC;
 - (b) an employee may be permitted to continue to contribute towards a pension he was contributing to when he was in the employment of the NNPC; and
 - (c) the Management Company shall continue to contribute towards a pension scheme to which the NNPC was contributing in respect of employees in the employ of the NNPC prior to the date of transfer.

52. Exemption from Stamp Duty

Stamp duty shall not be chargeable under the Stamp Duties 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, stamp duty would have been payable.

53. Certain exemption from rates

- (1) Oil pipelines and other installations transferred to the Management Company shall not be regarded as hereditaments or tenements to be valued for rating purposes.
- (2) For the purpose of this subsection, the expression "oil pipelines and other installations" include oil rigs, refineries, power generating plants, pumping stations, tank farms and similar installations but shall not include office or residential buildings.
- (3) Except as provided in subsection (1) of this section, nothing in this Act shall be deemed to exempt the Management Company from liability for any tax, duty, rate, levy or other charge whatsoever, whether general or local; provided that the Management Company shall not be liable to pay any such tax, duty, rate, levy or charge unless every company involved in similar activities as the Management Company is also liable for such payment.

54. Composition and appointment of the board

- (1) The Minister shall cause the Articles of Association of the Management Company to provide for the composition of the Board as follows:
 - (a) a non-executive Chairman;
 - (b) the Managing Director of the Management Company;
 - (c) 2 other Executive Directors of the Management Company;
 - (d) one non-Executive Director who is distinguished in petroleum management with at least 10 years' experience in management position in a petroleum company;
 - (e) 4 other non-Executive Directors.
- (2) 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 (3) and (4) of this section and the approval of the President.

- (3) For the purpose of making appointments to the Board of Directors, the shareholders shall constitute an independent committee (“the Board Nomination Committee”) of five persons with proven qualifications and tested industry experience to identify and recommend highly qualified candidates for such positions.
- (4) except for the non-Executive Director to be appointed pursuant to subsection (1) (d) of this section, a person shall not be appointed to the Board unless such a person is a holder of a university degree or its equivalent in engineering, geological sciences, economics, law, finance or related subjects and possesses at least 10 years relevant experience at a senior management level.

55. Terms of office of members of the board

The Minister shall cause the Articles of Association of the Company to include the following;

- (1) The executive members of the Board may serve for as long as they occupy their executive management office or are otherwise removed in accordance with the provisions of the Companies and Allied Matters Act.
- (2) The non-executive members of the Board may serve for an initial term of 4 years.
- (3) Upon the expiration of the initial term of any of the non-executive members of the Board appointed, such member may be eligible for appointment for another term of 4 years and no more.

56. Management and governance of the Management Company

- (1) Upon incorporation of the Management Company in pursuance of the provisions of this Act, the Management Company shall be organized and managed on the basis of the provisions of this Act and its Memorandum and Articles of Association.

57. Matters reserved for the Shareholders

The Minister shall cause the Articles of Association to provide that the Board of Directors of the Management Company shall submit the following matters to the annual general meeting-

- (a) plans for the coming year, as well as outlook for the intermediate term and significant changes in any of these;
- (b) plans regarding projects of major significance to the State’s participation in petroleum activities in accordance with the provisions of this Act;
- (c) main features of the budget for the coming year;
- (d) principles relating to engagement of managers; and
- (e) Annual Report and annual accounts in respect of the participating interests of the State.

58. Publication of Annual report and annual accounts of the Management Company.

The Board of Directors shall cause the Annual Reports and annual accounts submitted to the annual general meeting pursuant to section 57 (a) of this Act to be published on its website and at least 3 widely circulating National Newspapers.

59. Protection of land belonging to the Management Company.

- (1) Land vested in the Management Company shall not be liable to be acquired compulsorily under any enactment or law; and notwithstanding anything in any other enactment or law, no mining operations shall be carried on, in or under any land vested in the Management Company or any land over which the Management Company 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.

PART 4 - NATIONAL PETROLEUM COMPANY

60. Shareholding of the National Petroleum Company

At the time of its incorporation, the initial shares of the National Petroleum Company shall be held by the Ministry of Finance Incorporated and the Bureau for Public Enterprises on behalf of the Government.

61. Exemption from certain laws.

The National Petroleum Company shall not be subject to the provisions of the Fiscal Responsibility Act 2007 and the Public Procurement Act 2007.

62. Initial Funding of the National Petroleum Company

The Minister shall not later than 6 months from the date of incorporation of the National Petroleum Company in consultation with the Shareholders of the National Petroleum Company present through the Ministry of Finance a request for the appropriation of funds for the initial capitalisation of the National Petroleum Company. The amount for the initial capitalization of the National Petroleum Company shall not be less than the five year average of the amounts appropriated by the National Assembly for the funding of the Nigerian National Petroleum Corporation's share of its cash calls in respect of all its joint venture operations.

63. Assessment and offset of liabilities of the National Petroleum Company.

The Board of Directors of the National Petroleum Company may with the approval of its shareholders utilize any appropriate mechanism, including sale of assets and interests, to offset any liabilities of the National Petroleum Company or meet any of its future obligations.

64. Retention of Revenue and dividend policy.

- (1) Notwithstanding the provision of any other law to the contrary, the National Petroleum Company shall be entitled to retain its revenue from its operations and shall be entitled to defray from such revenue all its expenses including its cash call obligations in respect of its joint venture assets and its petroleum operations and its obligations to lenders and financiers.
- (2) The dividend policy of the National Petroleum Company shall be as determined by the Board of Directors in accordance with the Companies and Allied Matters Act and approved by the shareholders.

65. Divestment of shares of the National Petroleum Company.

Notwithstanding the provisions of section 60 of this Act, the Federal Government shall at any time within 6 years from the date of incorporation of the National Petroleum Company, divest not less than 30% of the shares of the National Petroleum Company to the public in a transparent manner.

66. Transfer of Assets and Liabilities.

- (1) The Minister shall, within three months of incorporation of the National Petroleum Company, by an order, require the NNPC to transfer employees, assets, liabilities, rights and obligations of the NNPC (including assets and liabilities held by the NNPC on behalf of the Federal Government of Nigeria) to the National Petroleum Company, as specified in the order;
- (2) A transfer order shall be binding on the NNPC, the National Petroleum Company and all other persons;
- (3) Subsection (2) of this section applies despite any general or special Act or any rule of law, including an Act or rule of law that requires notice or registration of transfers.
- (4) A transfer order may specify and describe, employees, assets, liabilities, rights or obligations to be transferred:
 - (a) by reference to specific employees, assets, liabilities, rights or obligations;
 - (b) by reference to any class of employees, assets, liabilities, rights or obligations; or
 - (c) partly in accordance with 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, joint operating agreements, participation agreements, hypothecations, securities, deeds, contracts, instruments, documents and working arrangements subsisting prior to the transfer date and relating to the assets to be transferred pursuant to section 66 of this Act and to which NNPC was a party shall, on and after the initial date, be as fully effective and enforceable against or in favour of the National Petroleum Company as if, instead of NNPC, the National Petroleum Company had been named therein.
- (6) A transfer order may:
 - (a) specify the date that the transfer takes effect and any interest in property that is transferred by the order shall vest in the National Petroleum Company 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 effective date shall not be earlier than the day on which the National Petroleum Company was incorporated;
 - (c) provide that the transfer specified in the order and other transactions associated with the transfers shall be deemed to have occurred in a sequence and at times specified in the order;
 - (d) require NNPC or the National Petroleum Company:
 - (i) to enter into any written agreement or execute any instrument specified in the order; and

- (ii) to 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 NNPC, the National Petroleum Company, or both of them; and that any right that is transferred by the order may be enforced against the NNPC, the National Petroleum Company, or both of them; or
 - (f) impose conditions on the exercise of powers by the National Petroleum Company 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 Minister considers necessary or advisable in connection with a transfer.
- (8) The Government may thereafter vest in the National Petroleum Company any further upstream assets as the Government may from time to time deem fit.
- (9) The Minister may by order require NNPC to transfer certain employees, assets, liabilities, rights and obligations to any other successor entity incorporated by the Minister pursuant to Section 36(3) of this Act. Such transfer order shall be binding on the NNPC, such successor entities and all other persons.

67. Conclusive Evidence

- (1) A statement, in a registered document to which the National Petroleum Company is a party, that land described in the document was transferred to it from the NNPC by or pursuant to a 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 NNPC did not have.

68 Release from liability or obligation

Subject to subsection (6) (e) of 66 of this Act, the transfer of liability or obligation under this section without any further assurance other than this section releases NNPC from any further liability or obligation in respect of the assets or liabilities.

69. Enforcement or continuation of any cause of action or proceedings.

- (1) Subject to subsection 66 (e) of this Act, the National Petroleum Company shall without further assurance be entitled to enforce or defend all obligations for or against NNPC in respect of the portion of interests transferred in accordance with section 66 as if the National Petroleum Company were the original party to such obligations.
- (2) Any pending action or proceeding in relation to the transferred assets, brought by or against NNPC 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 National Petroleum Company in the same way as if this Act had not been enacted.

70. Transfer not deemed to constitute a breach of contract

- (1) Notwithstanding the provisions of section 68:

- (a) no action or other proceeding shall be commenced against the National Petroleum Company in respect of any employee, asset, liability, right or obligation if, had there been no transfer, the time for commencing the action or other proceeding would have expired; and
 - (b) the transfer of assets and liabilities to the National Petroleum Company by or pursuant to a transfer order, 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, regulation or by-law;
 - (iii) constitute an event of default or force majeure;
 - (iv) give rise to a breach, termination, repudiation or frustration of any licence, permit or other right;
 - (v) give rise to any right to terminate or repudiate a contract, licence, permit or other right; or
 - (vi) give rise to any estoppel.
- (2) Subsection (1b) of this section shall not apply to such contracts as may be prescribed by any regulation made for that purpose.
- (3) Subject to subsection (2) of this section, nothing in this Act and nothing done by or pursuant to a transfer order, shall create any new cause of action in favour of a -
- (i) holder of a debt instrument issued by NNPC before the transfer date; or
 - (ii) party to a contract with NNPC that was entered into before the transfer date.

71. Guarantee or surety

Any guarantee or surety which was given or made by the Government or any other person in respect of any debt or obligation of NNPC and which was effective immediately before the transfer of the principal debt or obligation to the National Petroleum Company, 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 National Petroleum Company.

72. Provision of Records etc. to the National Petroleum Company

The NNPC shall provide the National Petroleum Company 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.

73. Further Order Amending a Transfer Order.

The Minister 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 Minister 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 National Petroleum Company as at the date of the relevant transfer order, and this Part applies with necessary modifications to the amendment.

74. Directions to NNPC on matters related to transition.

Prior to the vesting of assets and liabilities of NNPC in the National Petroleum Company, the Minister may give the Board of Directors of NNPC directions in writing to ensure the proper transfer of the assets and liabilities of NNPC to the National Petroleum Company, and the Board of Directors shall, without delay, comply with such directions.

75. Transfer of Employees to Designated Successor Companies and Conditions of Service of Transferred Employees.

- (1) Any employee of NNPC transferred to the National Petroleum Company pursuant to sections 66 and 73 of this Act shall be transferred to the service of National Petroleum Company, on terms not less favourable than those enjoyed by him immediately prior to the transfer.
- (2) The service rendered by an employee transferred pursuant to sections 66 and 73 of this Act shall be deemed to be service with the National Petroleum Company 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 National Petroleum Company-
 - (a) the terms and conditions of service applicable to employees of the NNPC shall continue to apply to every person transferred to the National Petroleum Company as if every such person were still in the service of the NNPC;
 - (b) an employee may be permitted to continue to contribute towards a pension he was contributing to when he was in the employment of the NNPC; and
 - (c) the National Petroleum Company shall continue to contribute towards a pension scheme to which the NNPC was contributing in respect of employees in the employ of the NNPC; prior to the date of transfer.

76. Delisting of assets

The assets of the subsidiaries of the NNPC listed under the Public Enterprises Privatisation and Commercialisation Act shall be de-listed from the Effective Date of this Act and the power of attorney earlier assigned to the Bureau of Public Enterprises shall stand vacated.

77. Exemption from stamp duty

Stamp duty shall not be chargeable under the Stamp Duties 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, 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 National Petroleum Company; or
- (b) in respect of any other transfer of rights and assets pursuant to this Part.

78. Composition and Appointment of the Board.

- (1) The National Petroleum Company shall be subject to the Code of Corporate Governance of the Securities and Exchange Commission.

- (2) The Minister shall cause the Articles of Association of the National Petroleum Company to provide for the composition of the Board as follows:
- (a) a non-executive Chairman;
 - (b) the Managing Director of the National Petroleum Company;
 - (c) 2 other Executive Directors of the National Petroleum Company;
 - (d) one non-Executive Director who is distinguished in petroleum management with at least 10 years' experience in management position in a petroleum company;
 - (e) 4 other non-Executive Directors.
- (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 and the approval of the President.
- (4) For the purpose of making appointments to the Board of Directors, the shareholders shall constitute an independent committee ("the Board Nomination Committee") of five persons with proven qualifications and tested industry experience to identify and recommend highly qualified candidates for such positions.
- (5) except for the non-Executive Director to be appointed pursuant to subsection (2) (d) of this section, a person shall not be appointed to the Board unless such a person is a holder of a university degree or its equivalent in engineering, geological sciences, economics, law, finance or related subject and possesses at least 10 years relevant experience at a senior management level.
- (6) The provisions of subsection (2) to (5) of this section shall cease to have effect upon the divestment by the Federal Government of 30% of its shares in the company on the Nigerian Stock Exchange. Accordingly, the provisions of the Companies and Allied Matters Act, the Articles of Association of the National Petroleum Company and any Shareholders Agreement by which the Company is bound shall apply to the appointment of the directors and the composition of the Board.

79. Management and governance of the National Petroleum Company

Upon incorporation of the National Petroleum Company in pursuance of the provisions of this Act, the National Petroleum Company shall be organized and managed on the basis of the provisions of this Act and its Memorandum and Articles of Association.

80. Matters reserved for the Shareholders

The Minister shall cause the Articles of Association to provide that the Board of Directors of the National Petroleum Company shall submit the following matters to the annual general meeting-

- (a) plans for the coming year, as well as outlook for the intermediate term and significant changes in any of these;
- (b) plans regarding projects of major significance to the State's participation in petroleum activities in accordance with the provisions of this Act;

- (c) main features of the budget for the coming year;
- (d) principles relating to engagement of managers; and
- (e) Annual Report and annual accounts in respect of the participating interests of the State.

81. Publication of Annual Report and annual accounts of the National Petroleum Company.

- (1) The Board of Directors shall cause the Annual Reports annual accounts submitted to the annual general meeting pursuant to section 80(a) to be published on its website and at least 3 widely circulating National Newspapers.

82. Certain exemption from rates

- (1) Oil pipelines and other installations belonging to the National Petroleum Company shall not be regarded as hereditaments or tenements to be valued for rating purposes.
- (2) For the purposes of this subsection, the expression "oil pipelines and other installations" include oil rigs, refineries, power generating plants, pumping stations, tank farms and similar installations but do not include office or residential buildings.
- (3) Except as provided in subsection (1) of this section, nothing in this Act shall be deemed to exempt the National Petroleum Company from liability for any tax, duty, rate, levy or other charge whatsoever, provided that the National Petroleum Company shall not be liable to pay any such tax, duty, rate, levy or charge unless every company involved in similar activities as the National Petroleum Company is also liable for such payment.

83. Protection of National Petroleum Company's land

- (1) Land vested in the National Petroleum Company shall not be liable to be acquired compulsorily under any enactment or law.
- (2) Notwithstanding anything in any other enactment or law, no mining operations shall be carried on, in or under any land vested in the National Petroleum Company or any land over which the National Petroleum Company is entitled to rights of support for the benefit of lands so vested except with the prior consent in writing of the Minister.
- (3) 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.

PART 6 - REPEALS, TRANSITIONAL AND SAVINGS PROVISIONS

84. Adaptation of laws

- (1) The relevant provisions of all existing enactments or laws, including but not limited to the Petroleum Act, Pipeline Act, Petroleum Profit Tax Act and the Companies and Allied

Matters Act, shall be read with such modifications as to bring them into conformity with the provisions of this Act.

- (2) If the provisions of any other enactment or law, including but not limited to the enactments specified in subsection (1) of this section, are inconsistent with the provisions of this Act, the provisions of this Act shall prevail and the provisions of that other enactment or law shall, to the extent of that inconsistency, be void.
- (3) All references to “Minister” under the Oil Pipelines Act Cap 07 of the Laws of the Federation of Nigerian 2004 and any regulations made pursuant thereto shall from the Effective Date be deemed to refer to the Commission and the Commission shall accordingly exercise all the powers and functions of the Minister under the Oil Pipelines Act and all regulations made thereto provided that the Commission shall not be entitled to delegate its powers to make regulations pursuant to the Oil Pipelines Act.
- (4) Section 31 of the Oil Pipelines Act CAP 07 of the Laws of the Federation of Nigeria is hereby amended by substituting it with the following new section “the fees payable for applications, permits and licences or its variation under this Act shall be determined by regulations made by the Nigeria Petroleum Regulatory Commission.”

85. Repeals

From the Effective Date, the following enactments are repealed -

- (a) Petroleum Products Pricing Regulatory Agency (Establishment) Act, CAP P43, Laws of the Federation of Nigeria, 2004; and
- (b) The Nigerian National Petroleum Corporation Act CAP N123, Laws of the Federation of Nigeria, 2004, Nigerian National Petroleum Corporation (Projects) Act and Nigerian National Petroleum Corporation Amendment Act shall be deemed to be repealed on the date that the Minister signifies by legal notice in the Gazette that the assets and liabilities of NNPC are fully vested in successor entities.

86. Saving provisions

- (1) Any licence, certificate, authority or permit which was issued by the Department of Petroleum Resources and which had effect immediately before the commencement of this Act shall continue to have effect, mutatis mutandis, for the remainder of its period of validity as if it had been issued by the Commission.

- (2) Within three months from the Effective Date, the Minister on the advice of the Commission or NNPC, as the case may be, may make any further transitional and savings provisions as are consistent with the transitional and savings provisions in this Act.

87. Transfer of staff, etc.

- (1) Upon the vesting of assets and liabilities of the Department of Petroleum Resources in the Commission, the Minister shall make an order in writing in which he shall give directions to the management of the Department of Petroleum Resources for the transfer of certain employees of the Department of Petroleum Resources to the Commission and the Board of Directors shall, without delay, comply with the directions in such order.
- (2) Upon the vesting of assets and liabilities of the Petroleum Products Pricing Regulatory Agency in the Commission, the Minister shall make an order in writing in which he shall give directions to the Board of the Petroleum Products Pricing Regulatory Agency for the transfer of certain employees of the Petroleum Products Pricing Regulatory Agency to the Commission and the Board of Directors shall, without delay, comply with the directions in such order.
- (3) Any transfer of services by virtue of the provisions of subsections (1) and (2) of this section shall be regarded as continuous for the purposes of pension and gratuity.

88. Cessation of employment.

- (1) Every person whose service has been transferred to the Commission from the Department of Petroleum Resources or from the Petroleum Products Pricing Regulatory Agency, in pursuance of section 87 of this Act, as the case may be, shall be deemed to be an employee of the Commission with effect from the date of transfer and shall be deemed to have ceased to be in the employment of the Department of Petroleum Resources or the Petroleum Products Pricing Regulatory Agency forthwith.
- (2) Every person whose service has been transferred from the NNPC to the Management Company in pursuance of subsection (1) of section 40 of this Act or to the National Petroleum Company in pursuance of subsection (1) of section 66 of this Act, as the case may be, shall be deemed to be an employee of the Management Company or the National Petroleum Company, as the case may be, with effect from the date of transfer and shall be deemed to have ceased to be in the employment of the NNPC forthwith.

89. Application of subsisting contracts

- (1) The provisions of this section shall apply to –
 - (a) all contracts or other instruments subsisting before the Effective Date entered into by the Petroleum Inspectorate and the Department of Petroleum Resources in relation to its petroleum operations;
 - (b) all contracts or other instruments subsisting before the Effective Date entered into by the Petroleum Products Pricing Regulatory Agency.

- (2) By virtue of this Act there is vested in the Commission as from the Effective Date and without further assurance all assets, funds, resources and other moveable or immovable property which immediately before the Effective Date were vested in the Petroleum Inspectorate or the Department of Petroleum Resources.
- (3) Any proceedings or cause of action pending or existing or which could have been taken by or against the Department of Petroleum Resources immediately before the effective date in respect of any such right, interest, obligation or liability of the Petroleum Inspectorate or the Department of Petroleum Resources may be commenced, continued or enforced or taken by or against the Commission as if this Act had not been made.
- (4) By virtue of this Act, there is vested in the Commission as from the Effective Date and without further assurance all assets, funds, resources and other moveable or immovable property which immediately before the effective date were vested and held by the Petroleum Products Pricing and Regulatory Authority.
- (5) As from the Effective Date:
- (a) the rights, interest, obligations and liabilities of the Petroleum Products Pricing and Regulatory Authority existing immediately before the Effective Date under any contract or instrument at law or in equity which shall have been held on behalf of or have accrued to or have been incurred for its own benefit or use, shall by virtue of this Act be assigned to and vested in the Commission;
 - (b) any such contract or instrument as is mentioned in sub-paragraph (a) of the subsection, shall be of the same force and effect against or in favour of the Commission and shall be enforceable as fully and effectively as if instead of the Petroleum Products Pricing and Regulatory Authority, the Commission had been named therein or had been a party thereto; and
 - (c) any proceeding or cause of action pending or existing or which could have been taken by or against the Petroleum Products Pricing and Regulatory Authority immediately before the effective date in respect of any such rights, interest, obligation or liability of the Petroleum Products Pricing and Regulatory Authority, may be commenced, continued or enforced or taken by or against the Commission as if this Act had not been made.
- (6) As from the Effective Date:
- (a) the rights, interest, obligations and liabilities of the Department of Petroleum Resources existing immediately before the Effective Date under any contract or instrument at law or in equity which shall have been held on behalf of or have accrued to or have been incurred for its own benefit or use, shall by virtue of this Act be assigned to and vested in the Commission;
 - (b) any such contract or instrument as is mentioned in sub-paragraph (a) of this subsection, shall be of the same force and effect against or in favour of the Commission and shall be enforceable as fully and effectively as if instead of the Department of Petroleum Resources, the Commission had been named therein or had been a party thereto; and
 - (c) Any proceeding or cause of action pending or existing or which could have been taken by or against the Department of Petroleum Resources immediately before the Effective

Date in respect of any such right, interest, obligation or liability of the Department of Petroleum Resources may be commenced, continued or enforced or taken by or against the Commission as if this Act had not been made.

90. Interpretation

In this Act unless the context otherwise requires -

“Authorisation” means any authorisation issued by the Commission for the any activity in the petroleum industry;

“Board” means the governing board of any of the institutions or entities that is the subject matter of the Part within which the word has been used, unless it is specifically stated otherwise;

“Bureau of Public Enterprises” means the Bureau of Public Enterprises as provided for under the “Public Enterprises (Privatisation and Commercialisation) Act CAP P38, Laws of the Federation of Nigeria, 2004”;

“Commission” means the “Nigeria Petroleum Regulatory Commission” as provided for in Part 3 of this Act;

“Company” means any entity incorporated under any law in force in Nigeria or elsewhere;

“Companies and Allied Matters Act” means the Companies and Allied Matters Act CAP C20, Laws of the Federation of Nigeria, 2004;

“Consolidated Revenue Fund” means the Consolidated Revenue Fund created by section 80 of the Constitution of the Federal Republic of Nigeria 1999

“Constitution” means the Constitution of the Federal Republic of Nigeria 1999;

“Court” means Federal High Court established by section 228 of the Constitution of the Federal Republic of Nigeria 1999;

“Department of Petroleum Resources” means the Department of Petroleum Resources under the Ministry of Petroleum Resources;

“Downstream Petroleum Industry” means the aggregation of companies duly licensed to conduct downstream petroleum product operations and downstream gas distribution and operations in Nigeria;

“Downstream” means activities downstream of the measurement point(s), or activities unrelated to oil mining leases with respect to the construction and operation of upgrading facilities for heavy oil or unconventional oil; construction and operation gas conditioning plant for the extraction of nitrogen, H₂S, CO₂ or other non-petroleum substances, construction and operation of transport or transmission pipelines for crude oil and natural gas, including the related pumping and compressor stations; acquisition, operation, leasing, rental or chartering of barges, coastal or ocean going tankers, rail cars and trucks for the transport of crude oil; construction, leasing and operation of crude oil tank farms and other storage facilities;

construction and operation of refineries; construction and operations of facilities to compress, transport and deliver compressed natural gas (“CNG”), construction and operations of gas processing facilities and central processing facilities, producing natural gas liquids and marketable natural gas; construction and operation of underground or above ground facilities for the storage of natural gas; ethane extraction plants; construction and operation of gas to liquids (“GTL”) plants; construction and operation of liquefied natural gas (“LNG”) plants, and related LNG terminals; acquisition, operation or chartering of LNG tankers for coastal and marine transportation and LNG trucks for land transportation; purchase and sale, trading, bartering, aggregating and marketing of natural gas transported by pipelines, compressed natural gas, natural gas liquids and liquids from GTL plants; distribution and supply of marketable gas through gas distribution networks, construction and operation of city-gate reception terminals for natural gas and gas or ethane distribution pipelines; construction and operation of facilities, product pipelines, tank farms and stations for the distribution, marketing and retailing of petroleum products, and other construction and activities incidental thereto and related administration and overhead, purchase of petroleum products and sale of petroleum products on a retail basis; purchase and sale, trading, bartering and marketing of crude oil; purchase and sale, trading, bartering and marketing of petroleum products on a wholesale basis; import and export of crude oil, natural gas, petroleum products, ethane, NGLs, LNG and GTL; and downstream administration, overhead and such other activities which are considered by regulation to be downstream petroleum operations.

“Effective Date” means the commencement date on which this Act comes into force;

“Federal Executive Council” means the Federal Executive Council stated in section 148 of the Constitution of the Federal Republic of Nigeria 1999;

“Federation Account” means the Federal Account stated in section 162 of the Constitution of the Federal Republic of Nigeria 1999;

“Fiscal Responsibility Act” means the Fiscal Responsibility Act 2007;

“frontier acreages” means any or all licences or leases located in an area defined as frontier in a regulation issued by the Minister in charge of petroleum matters pursuant to this Act;

“Gazette” means the Official Gazette of the Federal Government of Nigeria;

“Institution” means any of the institutions mentioned in this Act;

“Joint Operating Agreement” means the contract entered between NNPC and other parties for the exploration and production of petroleum requiring each party to pay cash call and take its share of petroleum produced.

“Minister” means the Minister in charge of petroleum resources and overseeing the petroleum industry in Nigeria;

“Ministry” means the Ministry of Petroleum Resources;

“Ministry of Environment” means the federal ministry in charge of environmental matters;

“Ministry of Finance” means the federal ministry in charge of finance matters;

“Ministry of Finance Incorporated” means the assets holding company incorporated under the Federal Ministry of Finance;

“National Petroleum Company” has the meaning as specified in section 58 of this Act;

“National Salaries, Incomes and Wages Commission” means the National Salaries, Incomes and Wages Commission established by section 1 of the National Salaries, Incomes and Wages Commission Act 1993

“National strategic reserve” means the reserve of petroleum products kept in certain storage depots and facilities by government or on behalf of the government to provide for emergency.

“Nigerian National Petroleum Corporation” or **“NNPC”** means the Nigerian National Petroleum Corporation established by section 1 of the Nigerian National Petroleum Corporation Act CAP N123, Laws of the Federation of Nigeria, 2004;

“Nigeria National Petroleum Company” means the Nigeria National Petroleum Company provided for in section 58 of this Act;

“Nigeria Police” means the Nigeria Police Force established under section 3 of the Police Act CAP P19, Laws of the Federation of Nigeria, 2004;

“Oil mining Lease” means a lease granted to a company, under the Minerals Act or the Petroleum Act, CAP N12, LFN 2004 for the purpose of winning petroleum or any assignment of such lease;

“Pensions Reforms Act” means the Pensions Reforms Act 2014;

“Petroleum” means hydrocarbons and associated substances as exist in its natural state in strata, and includes crude oil, natural gas, condensate, bitumen and mixtures of any of them, but does not include coal and tar sands;

“Petroleum Inspectorate” means the Petroleum Inspectorate established under section 10 of the Nigerian National Petroleum Corporation Act CAP N123, Laws of the Federation of Nigeria, 2004;

“Petroleum operations” means upstream and downstream petroleum operations.

“Petroleum Pricing and Product Regulatory Agency” means the Petroleum Pricing and Product Regulatory Agency established under section 1 of the “Petroleum Pricing and Product Regulatory Agency (Establishment) Act CAP P43, Laws of the Federation of Nigeria, 2004;

“President” means President of the Federal Republic of Nigeria;

“Public hearing” means an organised forum for the discussion of issues relating to a regulation or decision that is to be made by the Commission for the purpose of receiving public or stakeholders input;

“Permit” means an official certificate of permission to undertake an activity issued by the Commission;

“Production Sharing Contract” means the contract between NNPC and its partners as defined in the *Deep Offshore and Inland Basin Production Sharing Contract Acts (as amended)* CAP D3, Laws of the Federation of Nigeria, 2004;

“Public Enterprises Privatisation and Commercialisation Act” means the *Public Enterprises (Privatisation and Commercialisation) Act* CAP P38, Laws of the Federation of Nigeria, 2004;

“Public Procurement Act” means *Public Procurement Act 2007*.

“Regulations” mean rules or order having force of law issued by the competent authority in accordance with the provisions of this Act or any other enactment;

“Third party access” means legal requirement for owners of certain infrastructure facilities to grant access to those facilities to parties other than their own customers, usually competitors in the provision of the relevant services, on terms stipulated in this Act or regulations made pursuant to this Act.

“Trustee Investment Act” means the *Trustee Investment Act* CAP T22, Laws of the Federation of Nigeria, 2004;

“Upstream” refers to all activities entered into for the purpose of finding and developing petroleum and includes all activities involved in exploration and in all stages through, up to the production and transportation of petroleum from the area of production to the fiscal sales point or transfer to the downstream sector;

“Upstream Petroleum Operations” means petroleum exploration operations, petroleum prospecting operations and all activities upstream of the measurement points, related to the winning of petroleum through wells or mining from petroleum reservoirs; drilling, fracking, completing, treatment and operation of wells producing petroleum; construction and operation of gathering lines and manifolds for petroleum and water; construction and operation of high and low pressure separators; construction and operation of facilities to treat petroleum; flaring of natural gas; compression and reinjection of natural gas in reservoirs; construction and operation of facilities for the production of electricity or heat from natural gas or other fuels as energy source for the winning of petroleum; injection or re-injection of water into the reservoirs; construction and operation of pipelines and other facilities for the discharge of water; construction and operation of fixed or floating platforms or other vessels required for the winning of petroleum; construction and operation of fixed or floating storage facilities of petroleum in the lease area; transportation to and from the lease area of personnel, goods and equipment; metering of well stream fluids; metering of petroleum at the measurement point prior to transportation; other construction and activities incidental thereto and related administration and overhead; sale and marketing of petroleum at the measurement point(s) and such other activities which by regulation are considered upstream petroleum operations;

91. Short Title.

This Act may be cited as the Petroleum Industry Governance and Institutional Framework Bill 2015.

SCHEDULES

FIRST SCHEDULE

Right of Pre-emption

1. The Minister shall have the right to require the holder of any licence or lease granted under this Act or any other enactment (referred to in this Schedule as "the licensee or lessee") to –
 - (a) provide for the Federal Government, to the extent of any refinery or petroleum products storage capacity he may have in Nigeria, petroleum products complying with specification given by the Minister; or
 - (b) deliver to any person holding a licence to operate a refinery, such quantity and quality of crude oil as may be specified by the Minister to the extent that the licensee or lessee has crude oil of that quantity and quality.
2. The licensee or lessee shall use his best endeavours to increase so far as possible with his existing facilities, the supply of petroleum or petroleum products, or both, for the Federal Government to the extent required by the Minister.
3. The licensee or lessee shall, with all reasonable expedition and so as to avoid demurrage on the vessels conveying the same, use his best endeavours to deliver all petroleum or petroleum products purchases by the Minister under the right of pre-emption in such quantities, and at such places of shipment or storage in Nigeria, as may be determined by the Minister.
4. If a vessel employed to carry petroleum or petroleum products pursuant to paragraph 3 of this Schedule is detained on demurrage at the port of loading, the licensee or lessee shall pay the amount due for demurrage according to the terms of the charter-party or the rates of loading previously agreed by the licensee or lessee, unless the delay is due to causes beyond the control of the licensee or lessee.
5. Any dispute which may arise as to whether a delay is due to causes beyond the control of the licensee or lessee shall be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.
6. The price to be paid for petroleum or petroleum products taken by the Minister in exercise of the right of pre-emption shall be –
 - (a) the reasonable value at the point of delivery, less discount to be agreed by both parties; or
 - (b) if no such agreement has been entered into prior to the exercise of the right of pre-emption, a fair price at the port of delivery to be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.

7. To assist in arriving at a fair price for the purposes of paragraph 6(b) of this Schedule, the licensee or lessee shall, if the Minister so requires-
 - (a) furnish for the confidential information of the Minister particulars of quantities, descriptions and prices of petroleum or petroleum products sold to other customers and of charters or contracts entered into for their carriage; and
 - (b) exhibit original or authenticated copies of the relevant contracts or charter- parties.
8. The Minister may take control of any works, plants or premises of the licensee or lessee and if he does so, the licensee or lessee and his servants or agents shall conform to and obey all directions issued by the Minister or on his behalf.
9. Reasonable compensation shall be paid to the licensee or lessee for any loss or damage caused to him by reason of the exercise by the Minister of the powers conferred by paragraph 8 of this Schedule.
10. Any compensation payable under paragraph 9 of this Schedule shall be settled by agreement between the Minister and the licensee or lessee or, in default of agreement, by arbitration.

SECOND SCHEDULE

Supplementary provisions relating to the proceedings of the Board of the Commission

1. Subject to this Act and the provisions of section 27 of the Interpretation Act, the Board ('the Board') shall have the power to regulate its proceedings and may make standing orders with respect to the holding of its meetings, and those of its committees, the notice to be given, the keeping of minutes of its proceedings, the custody and production for inspection of such minutes and such other matters as the Board may, from time to time, determine.
2. (a) There shall be at least one ordinary meeting of the Board in every quarter of the year and subject thereto, the Board shall meet whenever it is summoned by the Chairman and if the Chairman is requested to do so by notice given to him by not less than three other members, the Chairman shall summon a meeting of the Board to be held within fourteen days from the date on which the notice is given.
(b) Every meeting of the Board shall be presided over by the Chairman and if the Chairman is unable to attend a particular meeting, the members present at the meeting shall elect one of their numbers to preside at the meeting.
3. The quorum at the meeting of the Board shall consist of the Chairman (or in an appropriate case, the person presiding at the meeting pursuant to paragraph 2 of this Schedule) and the majority of the other members, as appropriate.
4. The Board shall meet for the conduct of its business at such places and on such days as the Chairman may appoint.

PETROLEUM INDUSTRY GOVERNANCE & INSTITUTIONAL FRAMEWORK BILL 2015

5. A question put before the Board at a meeting shall be decided by consensus, and where this is not possible, by a majority of the votes of the members present and voting.
6. The Chairman shall, in the case of an equality of votes, have the casting vote in addition to his deliberative vote.
7. Where the Board desires to seek the advice of any person on a particular matter, the Board may co-opt a person as a member for such period it thinks fit, but a person who is a member by virtue of this paragraph shall not be entitled to vote at any meeting of the Board and shall not count towards the quorum.
8. The Board may constitute one or more committees for the purpose of carrying out any of its functions as the Board may determine and report on any matter with which the Board is concerned.
9. A committee appointed under this Schedule shall be presided over by a member of the Board and consist of such number of persons (not necessarily all members of the Board) as may be determined by the Board, and a person other than a member of the Board shall hold office on the committee in accordance with the terms of his appointment.
10. A decision of a committee of the Board shall be of no effect until it is confirmed by the Board.
11. The fixing of the seal of the entity shall be authenticated by the signature of the Secretary or some other person authorized generally by the Board to act for that purpose.
12. A contract or an instrument which, if made or executed by any person not being a body corporate, would not be required to be under seal, may be made or executed on behalf of the entity by the Director-General or the Executive Secretary, as the case may be, or any person generally or specially authorized to act for that purpose by the Board.
13. A document purporting to be a contract, an instrument or other document signed or sealed on behalf of the entity shall be received in evidence and, unless the contrary is proved, be presumed without further proof to have been signed and sealed.
14. The validity of any proceedings of the Board or its committees shall not be affected by-
 - (a) any vacancy in the membership of the Board or its committees; or
 - (b) reason that a person not entitled to do so took part in the proceedings; or
 - (c) any defect in the appointment of a member.
15. Any member of the Board and any person holding office on a committee of the Board, who has a personal interest in any contract or arrangement entered into or proposed to be considered by the Board or a committee shall -
 - (a) forthwith disclose his interest to the Board or committee, as the case may be; and
 - (b) not vote on any question relating to the contract or arrangement.

THIRD SCHEDULE

Conflict of Interest and corporate responsibility

- (1) In the discharge of their responsibilities, members of the Board shall act in utmost good faith, with care, skill and diligence.
- (2) Members of the Board have fiduciary obligation to the institution, and shall not in any circumstance where their interests conflict with the interest of the institution
- (3) Members of the Board shall adhere to all the duties and obligations specified for directors under the Company and Allied Matters Act.
- (4) Members of the Board shall submit a written statement of disclosure of interests and a statement of absence of conflicts with the institution activities and operations annually to the Board.

Explanatory Memorandum

This Act provides for the governance and institutional framework for the Nigeria petroleum industry and creates clear separation between the policy, regulatory and commercial institutions.