

(2) No action, claim, proceeding or suit shall lie or be commenced against the Commission or the Authority, the Commission Chief Executive or Authority Chief Executive, any commissioner or director or any other employee or officer of the Commission or Authority, for any act done, attempted to be done or omitted to be done under 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 within three months after the accrual of any cause of action in respect of any such act, neglect or default and provided such act or omission was not done in good faith.

308. (1) A suit shall not be commenced against the Commission or Authority or any officer of the Commission or Authority, before the expiration of a period of one month after a written notice of the intention to commence the suit has been served on the Commission or the Authority. Pre-action notice.

(2) The notice referred to in subsection (1) shall state the cause of action, the particulars of claim, the name and address of the claimant and the reliefs sought.

(3) A notice, summons or other document required or authorised to be served on the Commission or Authority under this Act or any other law or enactment, may be served by delivering it to the office of the Commission Chief Executive or the Authority Chief Executive.

(4) An order for execution or attachment of any property of the Commission or Authority shall not be issued unless a three months' notice of the intention to commence execution process has been given to the Commission or Authority.

309. Subject to the Constitution of the Federal Republic of Nigeria, 1999, upon the commencement of this Act, where the provisions of any other enactment or law except the Nigeria Oil and Gas Industry Content Development Act 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 in relation to matters provided for in this Act. Consequential amendments.  
Cap. C23, LFN, 2004.  
Act No. 2, 2010.

310. (1) From the effective date of this Act the following enactments and regulations are repealed — Repeals.

(a) Associated Gas Reinjection Act, 1979, Cap. A25, Laws of the Federation of Nigeria, 2004, and its Amendments;

(b) Hydrocarbon Oil Refineries Act No. 17 of 1965, Cap. H5, Laws of the Federation of Nigeria, 2004;

(c) Motor Spirits (Returns) Act, Cap. M20, Laws of the Federation of Nigeria, 2004;

(d) Nigerian National Petroleum Corporation (Projects) Act No. 94 of 1993, Cap. N124, Laws of the Federation of Nigeria, 2004;

(e) Nigerian National Petroleum Corporation Act (NNPC) 1977 No. 33, Cap. N123, Laws of the Federation of Nigeria as amended, when NNPC ceases to exist under section 54 (3) of this Act;

(f) Petroleum Products Pricing Regulatory Agency (Establishment) Act No. 8, 2003;

(g) upon the completion of the conversion process under section 92, the Petroleum Profit Tax Act, Cap. P13, LFN, 2004, provided the repeal shall apply from the effective date to any new acreage granted under this Act; and

(h) upon the completion of the conversion process under section 92, the Deep Offshore and Inland Basin Production Sharing Contract Act, 2019, as amended, provided the repeal shall apply from the effective date to any new acreage granted under this Act.

(2) With respect to the Petroleum Equalisation Fund, the Authority as of the Effective Date shall be in charge of —

(a) the collection of net surplus revenues from oil marketing companies shall cease, except for the collection of unpaid net surplus revenues earned prior to the effective date; and

(b) the payment for reimbursements to oil marketing companies shall cease, except for possible remaining payment obligations incurred prior to the effective date.

(3) Where the Petroleum Equalisation Fund is insufficient to make the payments under subsection (2) (b), the Authority may prorate the amounts payable based on the ratio between the funds remaining and the outstanding payables, provided that where the Petroleum Equalisation Fund is in a deficit, the proration shall be zero, and oil marketing companies shall have no claim as to further outstanding amounts.

(4) Any amount remaining in the Petroleum Equalisation Fund after the completion of the transactions under subsections (2) (a), (b) and (3) shall be transferred to the Midstream and Downstream Gas Infrastructure Fund.

311. (1) Any Act, subsidiary legislation or regulation, guideline, directive and order made under any principal legislation repealed or amended by this Act, shall, in so far as it is not inconsistent with this Act, continue in force *mutatis mutandis* as if they had been issued by the Commission or Authority under this Act until revoked or replaced by an amendment to this Act or by subsidiary legislation made under this Act and shall be deemed for all purposes to have been made under this Act.

Saving provisions.

(2) Any oil prospecting licence or oil mining lease granted under the Petroleum Act, that is subsisting as at the effective date of this Act shall continue to have effect, subject to the following terms and conditions —

Cap. P10, LFN, 2004.

- (a) with respect to renewed leases renegotiated production sharing contracts within the period specified in this section, the following conditions shall apply. -
- (i) where negotiations of the contracts are continuing upon the effective date of this Act, such contracts shall be signed within one year of the effective date and in the event of failure to complete the negotiations within one year of the effective date, such contract shall be deemed to conform to the provisions of this Act at the expiration of the lease.
  - (ii) where the contracts were or are signed by NNPC, the leases shall be assigned to NNPC Limited without prior approval of the contractor and NNPC Limited shall continue its role as concessionaire under such leases. NNPC shall by written notice notify the contractor of such assignment.
  - (iii) the renewed leases renegotiated production sharing contracts, shall not feature any investment tax credits unless such investment tax credits are carried forward as part of a renegotiation of a production sharing contract within the period specified in this section and shall feature a cost oil limit of not more than 60% of the total oil production, a minimum of 55% haircut on disputed amount and for the purpose of determining the profit oil share based on cumulative production, the production from the total production of all production areas selected under section 93 of the Act shall be used.
  - (iv) the contracts and leases shall continue to be subject to the legislation under subsection (9), provided that such leases shall be subject to section 93 of this Act and in this respect the conversion date for the purpose of the interpretation of section 93 of this Act shall be the signing date of such renegotiated production sharing contracts, and
  - (v) upon expiration or terminations, the leases and renegotiated production sharing contracts can only be renewed on the basis of the provisions of this Act;
- (b) any oil prospecting licence and oil mining lease that is being converted shall be converted under section 92 (1) - (5) and (7) of this Act:
- (c) with respect to other oil prospecting licences and oil mining leases that do not wish to convert under section 92 (6), section 303 (2) of this Act and subsection (9) of this section shall

apply and the domestic gas price that is the applicable gas prices established prior to the effective date of this Act and for licence and leases awarded to indigenous Nigerian companies on a sole risk basis under the Petroleum Act on which the Government has successfully exercised its back-in rights prior to the effective date of this Act, section 92 (5) of this Act shall apply save for the royalty which shall be 0% per field for the period of five years from the date of commencement of the field production including all relevant accounting period prior to the effective date and section 311 (9) (d) of this Act, any Act, subsidiary legislation or regulation, guideline, directive or order saved under this Act shall be deemed amended accordingly; and

- (d) contractors of NNPC, oil prospecting licences and oil mining leases shall be subject to sections 232 and 233 of this Act.
- (3) Any other licence, lease, certificate, authority or permit which was issued by the Department of Petroleum Resources, Petroleum Products Pricing and Regulatory Agency or Petroleum Equalisation Fund, as the case may be and which had effect immediately before the effective date shall continue to have effect, *mutatis mutandis*, for the remainder of its period of validity as if it had been issued by the Commission or Authority.
- (4) Any tariff, price, levy, or surcharge which was payable to the Department of Petroleum Resources, Petroleum Products Pricing and Regulatory Agency or Petroleum Equalisation Fund prior to the effective date shall continue in force until the expiration of the term of the said tariff, price, levy, or surcharge, or until alternative provisions are made under this Act or any regulations made under it, whichever is earlier.
- (5) Pending the decision of the Authority under sections 125 (6) and 174 (6) of this Act, the existing licence, permit or right shall continue in force as if it had been issued under this Act.
- (6) Any other permit or other right in respect of any sector of the petroleum industry to which subsections (2), (3) and (4) do not apply and that has been granted by the Department of Petroleum Resources, Petroleum Pricing and Product Regulatory Agency or Petroleum Equalisation Fund, as the case may be, and which is still in existence on the effective date, shall continue in force for the remainder of its duration as if it had been issued under this Act.
- (7) With respect to subsection (4), any payments under Chapter 2 of this Act shall be applicable to the respective licensees and holders of permits and rights.
- (8) Within three months from the effective date, the Minister of Petroleum on the advice of the Commission or Authority, may make any further transitional and savings provisions that are necessary or desirable, provided that such provisions are consistent with the transitional and savings provisions in this Act.

(9) Notwithstanding the provisions of section 310 of this Act, the following laws shall be saved until the termination or expiration of all oil prospecting licences and oil mining leases under subsection (2) (c) -

(a) Petroleum Act. Cap. P10, Laws of the Federation of Nigeria, 2004:

(b) Petroleum Profit Tax Act. Cap. P13, Laws of the Federation of Nigeria, 2004:

(c) Oil Pipelines Act, Cap. 07, Laws of the Federation of Nigeria, 2004 and any subsidiary legislation shall, in so far as it is consistent with this Act, remain in operation until it is repealed or revoked and shall be deemed for all purposes to have been made under this Act;

(d) Deep Offshore and Inland Basin Production Sharing Contracts Act. Cap. D3, Laws of the Federation of Nigeria, 2004 and its Amendment; and

(e) any other law or regulations that are consistent with the principles of section 92 (6) of this Act.

(10) Subject to sections 125 (6) and 174 (6) of this Act, parties to gas sales agreements related to domestic sales or exports entered into prior to the effective date shall be entitled to continue such agreements unaltered until the termination of such agreements, provided, however, that such agreements shall be submitted for review to the Authority and the Commission and where so ordered by the Authority or Commission, as the case may be, amendments shall be made in such agreements to comply with the Act.

312. (1) The Commission shall be vested with all assets, funds, resources and other movable and immovable properties which immediately before the effective date were held by the Petroleum Inspectorate or the Department of Petroleum Resources.

Transfer of assets and liability to the Commission.

(2) The rights, interests, obligations and liabilities of the Petroleum Inspectorate and Department of Petroleum Resources existing immediately before the effective date under any contract or instrument or law or in equity are assigned to and vested in the Commission.

(3) Any contract or instrument covered by subsection (2) 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 or Department of Petroleum Resources the Commission had been named therein or had been a party thereto.

(4) The Commission shall be subject to all the obligations and liabilities to which the Petroleum Inspectorate and Department of Petroleum Resources were subject immediately before the effective date and all other persons shall as from the effective date have the same rights, powers and remedies against the Commission

as they had against the Petroleum Inspectorate or Department of Petroleum Resources immediately before the effective date.

313. (1) The Authority shall be vested with all assets, funds, resources and other movable and immovable properties, which immediately before the effective date were held by the Petroleum Pricing and Product Regulatory Agency, the Petroleum Equalisation Fund (Management Board) and the relevant assets, funds, resources and other movable and immovable properties held by Department of Petroleum Resources, the Petroleum Pricing and Product Regulatory Agency, and the Petroleum Equalisation Fund (Management Board). Transfer of assets and liability to the Authority.
- (2) The rights, interests, obligations and liabilities of the Department of Petroleum Resources, the Petroleum Pricing and Product Regulatory Agency, and the Petroleum Equalisation Fund (Management Board) existing immediately before the effective date under any contract or instrument or law or in equity are assigned to and vested in the Authority.
- (3) Any contract or instrument covered by subsection (2) shall be of the same force and effect against or in favour of the Authority and shall be enforceable as fully and effectively as if instead of the Department of Petroleum Resources, the Petroleum Pricing and Product Regulatory Agency, and the Petroleum Equalisation Fund (Management Board) had been named therein or had been a party thereto.
- (4) The Authority shall be subject to all the obligations and liabilities to which the Petroleum Pricing and Product Regulatory Agency, the Petroleum Equalisation Fund (Management Board) and the relevant divisions of Department of Petroleum Resources, were subject immediately before the effective date and all other persons shall as from the effective date have the same rights, powers and remedies against the Authority as they had against the Petroleum Pricing and Product Regulatory Agency, the Petroleum Equalisation Fund (Management Board) and the relevant divisions of Department of Petroleum Resources immediately before the effective date.
314. (1) From the effective date, employees in the relevant divisions in the Petroleum Inspectorate or the Department of Petroleum Resources shall be employees of the Commission on terms no less favourable to those in effect immediately prior to such transfer, and all years of service with the Petroleum Inspectorate or the Department of Petroleum Resources, as applicable, shall be deemed to be years of service qualifying for employment-related entitlements under any applicable law. Transfer of employees and conditions of service.
- (2) The Commission shall assume and continue to fulfil all statutory obligations in respect of pension schemes to which the Petroleum Inspectorate or the Department of Petroleum Resources, as applicable, was obliged in respect of its employees, prior to the effective date.
- (3) From the effective date, employees in the relevant divisions of the Department of Petroleum Resources, the Petroleum Pricing and Product Regulatory Agency, and the Petroleum Equalisation Fund (Management Board), shall be employees of the Authority on terms no less favourable to those in effect immediately prior to the effective date, and all years of service with the Department of Petroleum Resources,

the Petroleum Pricing and Product Regulatory Agency or the Petroleum Equalisation Fund (Management Board), as applicable, shall be deemed to be years of service qualifying for employment-related entitlements under any applicable law.

- (4) The Authority shall assume and continue to fulfil all statutory obligations in respect of pension schemes to which the Department of Petroleum Resources, the Petroleum Pricing and Product Regulatory Agency and the Petroleum Equalisation Fund (Management Board), as applicable, was obliged in respect of its employees, prior to the effective date.

315. As part of the implementation process of sections 313 and 57 of this Act, the Minister may within 24 months of the effective date cause an inter-agency transfer of any staff of the institutions listed below to the Commission, the Authority or NNPC Limited based on skills and competence requirements of the new institutions, if the skills and competence of the said staff are most suitable in any of the successor institutions during the implementation process —

Movement of staff of the institutions.

- (a) Department of Petroleum Resources;
- (b) Nigerian National Petroleum Corporation and any of its subsidiaries;
- (c) Petroleum Equalisation Fund;
- (d) Petroleum Inspectorate; and
- (e) Petroleum Products Pricing and Regulatory Authority.

316. (1) Every settlor shall transfer any existing host communities development project or scheme under its corporate social responsibility or memorandum of understanding or any other agreement to a host communities development trust established under this Act.

Transfer of existing host communities development projects and host communities development schemes.

(2) Every applicable settlor shall notify the Commission or Authority, as the case may be, upon completion of any transfer under subsection (1) to any one or more host communities development trusts of any of its existing host communities development projects or schemes.

(3) Any financial contribution made by a settlor from the effective date until the date falling 12 months after the effective date to any ongoing host communities development project or scheme in accordance with their terms, shall be deemed to constitute a contribution made by such holder or holder nominee under section 240 (2) of this Act.

317. (1) Anything made or done, or having effect as if made or done, before the effective date of this Act under or pursuant to any provision of the Petroleum Act, the Petroleum Profit Tax Act and the Deep Offshore and Inland Basin Production Sharing Contract Act by the Service and having any continuing or resulting effect with respect to the taxation of the profits of a company or any matter connected to

Transitional and savings provisions.

Cap. P10. LFN. 2004.

Cap. P13. LFN. 2004.

Cap. D3. LFN. 2004.

it, shall be treated and for all purposes shall have effect as if it were made or done by the Service under the corresponding provisions of this Act.

- (2) All rules, orders, notices or other subsidiary legislation made under the Petroleum Act, the Petroleum Profits Tax Act, and the Deep Offshore and Inland Basin Production Sharing Contract Act shall continue to have effect as if made under the corresponding provisions of this Act.
- (3) All references in any other enactment to provisions of the Petroleum Act, the Petroleum Profits Tax Act and the Deep Offshore and Inland Basin Production Sharing Contract Act shall be construed as references to the corresponding provisions of this Act.
- (4) With respect to petroleum mining leases selected under section 93 (6) (b) and (7) (b) of this Act, any capital allowances existing at the effective date for the related oil mining leases shall be carried over to the selected petroleum mining leases, provided the allowances relate to upstream petroleum operations and do not include investment tax allowances and investment tax credits.
- (5) Subject to section 303 (1) of this Act, the provisions of Chapter 4, Parts II and X of this Act shall apply upon the commencement of the first accounting period following the effective date.
- (6) From the effective date, the Government on behalf of the Federation may request the services of NNPC Limited as supplier of last resort to ensure adequate supply and distribution of premium motor spirit (PMS) for a period not exceeding six months and all associated costs shall be for the account of the Federation.
- (7) The Minister shall set forward a clear transition plan within 60 days of the effective date of the Act to prevent disruptions of the industry operations.
- (8) The Authority may apply the Backward Integration Policy in the downstream petroleum sector to encourage investment in local refining.
- (9) Pursuant to subsection (8), licence to import any product shortfalls may be assigned to companies with active local refining licences or proven track records of international crude oil and petroleum products trading.
- (10) Import volume to be allocated between participants shall be based on criteria to be set by the Authority taking into account the respective refining output in the preceding quarter, share of active wholesale customers competitive pricing and prudent supply, storage and distribution track records.
- (11) To safeguard the health of Nigerians, imported petroleum products shall conform to the Afri-5 Specification (50 ppm Sulphur) as per the ECOWAS declaration of February, 2020 on adoption of the Afri-Fuels Roadmap or as may be prescribed by regulation.



"accounting date" means the date on which a company usually prepares its accounting statement;

"accounting period" in relation to a company engaged in upstream petroleum operations, means —

- (a) a period of one year commencing on 1st January and ending on 31st December of the same year.
- (b) any shorter period commencing on the day the company first makes a sale or bulk disposal of chargeable oil, domestic, export or both, and ending on 31st December of the same year, or
- (c) any period of less than a year being a period commencing on 1st January of any year and ending on the date in the same year when the company ceases to be engaged in petroleum operations.

and in the event of any dispute with respect to the date of the first sale of chargeable oil above or with respect to the date on which the company ceases to be engaged in petroleum operations, the Commission shall determine the same and no appeal shall lie;

"Act" means the Petroleum Industry Act, 2021;

"adjusted profits" means adjusted profit as stated in section 262 of this Act;

"advisory committee" has the meaning given to it in section 249 of this Act;

"affiliate" means the relationship that exists between two persons when one controls or is controlled by, an entity which controls, the other person, where 'control' means the direct or indirect ownership of more than 50% of the voting rights in a company, partnership or legal entity;

"aggregate gas price" means the gas price determined under section 167 (4) of this Act;

"appraisal well" means a well that in the opinion of the Commission is aimed at determining the size, distribution, characteristics and commerciality of a petroleum discovery;

"area of operation" means the territory which hosts a lessee's or licensee's operational or designated facilities and any other ancillary facilities related to upstream and midstream petroleum operations;

"assessable profit" means assessable profit as stated in section 262 of this Act;

"associated gas" means —

- (a) natural gas, commonly known as gas-cap gas, which overlies and is in contact with crude oil in a reservoir; and

(b) solution gas dissolved in crude oil in a reservoir and emerging from the fluid as pressure drops;

"authorisation" means approval issued by the Commission or Authority for an activity in the petroleum industry:

"Authority" means the Nigerian Midstream and Downstream Petroleum Regulatory Authority" as provided for in this Act;

"Authority Fund" means the Fund established under section 47 of this Act;

"barrel" means a barrel of 42 United States gallons;

"Board" means the governing board of the Commission, Authority, NNPC Limited or an incorporated joint venture company (IJVC):

"Board of Trustees" means the governing board of the trust established under section 242 of this Act:

"bulk gas storage licence" means a licence granted under section 132 of this Act;

"capital fund" means the fund available to the Board of Trustees of a host communities development trust for communities development projects and other matters on behalf of the holder or holders as provided for in this Act;

"chargeable oil" means crude oil, condensate or natural gas liquids produced upstream of the measurement point as provided for under section 260 (1) (a) of this Act;

"chargeable profit" means chargeable profit as stated in section 262 of this Act;

"chargeable tax" means chargeable tax as stated in section 267 of this Act;

"chargeable volume" in relation to a company engaged in upstream petroleum operations means the chargeable volume as set out in paragraph 7 of the Seventh Schedule to this Act:

"commercial discovery" means a discovery of crude oil, natural gas or condensates within a petroleum prospecting licence or petroleum mining lease which can be economically developed in the opinion of the licensee or lessee after consideration of all relevant economic factors normally applied for the evaluation and development of crude oil, natural gas or condensate:

"Commission" means the Nigerian Upstream Petroleum Regulatory Commission established under this Act;

"common carrier" means a transportation pipeline which is operated on an open access basis;

"Commission Fund" means the fund established under section 24 of this Act;

"company" means in this Act, any company or corporation, other than a corporation sole, incorporated under the Companies and Allied Matters Act, Act No. 3, 2020;

"condensate" means a portion of natural gas of such composition that are in the gaseous phase at temperature and pressure of the reservoirs, but that, when produced, are in the liquid phase at surface pressure and temperature;

"connection agreement" means an agreement setting out the terms on which individual, physical connections to the transportation pipeline, transportation network or gas distribution network will be effected and matters such as the configuration, pressure, technical parameters and cost of the connection;

"Constitution" means the Constitution of the Federal Republic of Nigeria, 1999, Cap. C23, Laws of the Federation of Nigeria, 2004;

"conversion contract" means a contract under section 92 of this Act;

"conversion date" means the date under section 92 of this Act;

"Corporate Affairs Commission" means the Corporate Affairs Commission established under the Companies and Allied Matters Act, Act No. 3, 2020;

"corrupt practices and money laundering laws" means —

- (a) the laws of the Government in respect of bribery, kickbacks and corrupt business practices,
- (b) the Foreign Corrupt Practices Act of 1977 of the United States of America (Pub. L. No. 95-213 §§ 101-104 et. seq.),
- (c) the OECD Convention on Combating Bribery of Foreign Public Officials in International Business Transactions, signed in Paris on 17 December, 1997, which entered into force on 15 February, 1999, and the Convention's Commentaries,
- (d) the United Kingdom Bribery Act, 2010, and
- (e) any other law of general application relating to bribery, kickbacks or corrupt business practices:

"Council" means the Governing Council established under section 52 (3) of this Act;

"crude oil" means petroleum, which is in liquid conditions upon production from a reservoir either in its natural state or after the extraction of water, sand or other foreign substance from it, but before any such oil has been refined or otherwise treated, other than oil extracted by destructive distillation from coal, bituminous shales or other stratified deposits;

"crude oil refiner" means the holder of a crude oil refining licence under section 183 of this Act;

"customary court" means a customary court established by the applicable laws of a State of the Federation or the Federal Capital Territory;

"customer client" means a wholesale customer of the strategic sector who is a client of the domestic gas aggregator making use of the escrow account mechanism;

"customer client volume" is the volume of natural gas that is paid for by a customer client for the benefit of a specific producer client into the escrow account of the domestic gas aggregator in any one month;

"customer protection" means the standards, practices and service protections for customers including, those relating to pricing, service quality and standards, billing practices, performance reporting and any regulations of the Commission and Authority that provide such protections;

"decommissioning and abandonment" means the approved process of cessation of operations of crude oil and natural gas wells, installations, plants and structures, including shutting down an installation's operations and production, total or partial removal of installations and structures where applicable, chemicals and all such other materials handling, removal and disposal of debris and removed items, environmental restoration of the area after removal of installations, plants and structures, and 'decommission' has a corresponding meaning;

"decommissioning and abandonment fund" has the meaning given to it in section 233 of this Act;

"decommissioning and abandonment plan" means the plan to be submitted in the field development plan under section 79 (2) for upstream petroleum operations and under section 111 (3) of this Act for midstream petroleum operations;

"deep offshore" means any area within the territorial waters, continental shelf or exclusive economic zone offshore of Nigeria having a water depth in excess of 200 meters;

"deep rights" means petroleum rights vested in the Government after relinquishment under section 88 (5) (b) of this Act;

"Department of Petroleum Resources" means the Department of Petroleum Resources of the Federal Ministry of Petroleum Resources;

"designated facilities" means petroleum crude oil and natural gas transportation pipelines, bulk storage tank farms, refineries, and gas processing plants in midstream petroleum operations and petrochemical plants;

"distribution pipeline" means a low-pressure pipeline for the purpose of conveying natural gas or petroleum products to customers;

"disposal" and "disposed of" in relation to chargeable oil owned by a company engaged in petroleum operations, means —

- (a) delivery or export, without sale, of chargeable oil to an affiliate or other company, and

(b) chargeable oil delivered or transferred, without sale, to facilities used for midstream operations;

"domestic base price" means the price determined under the Third Schedule to this Act;

"domestic crude oil supply obligation" means the obligations of an upstream crude oil producer to dedicate a specific volume of crude oil towards the domestic refineries as stipulated in section 109 of this Act;

"domestic gas aggregator" means a licensee of a domestic gas aggregation licence;

"domestic gas aggregation licence" means a licence granted under section 153 of this Act;

"domestic gas demand requirement" means an aggregate of the volume of natural gas required to meet the natural gas demand for strategic sectors within the domestic economy for a specified period under section 173 of this Act;

"domestic gas delivery obligation" means the obligations of a lessee producing natural gas to dedicate and deliver to a transfer point a specific volume of natural gas towards meeting the domestic gas demand requirement, as stipulated in section 110 of this Act;

"downstream gas operations" means all activities entered into for the purpose of, distribution and supply of natural gas to retail customers, city gate reception terminals for natural gas, stations for the distribution, marketing and retailing of natural gas;

"downstream petroleum products operations" means all activities entered into for the purpose of distribution and supply of petroleum products to retail customers, tank farms for distribution of petroleum products, and stations for the distribution, marketing and retailing of petroleum products;

"downstream petroleum operations" means downstream gas operations and downstream petroleum products operations;

"effective date" means the date on which this Act comes into force;

"exploration well" means a well that in the opinion of the Commission is aimed at discovering petroleum in a separate field in which petroleum has not been previously discovered;

"domestic base price" means the price determined under subsection 167 (1) of this Act;

"Federal High Court" means the Federal High Court established by section 249 of the Constitution of the Federal Republic of Nigeria, 1999;

"Federation Account" means the Federation Account stated in section 162 of the Constitution of the Federal Republic of Nigeria, 1999;

"field development plan" means a field development plan as specified under section 79 (2) of this Act;

"field" includes an area consisting of a single reservoir or multiple reservoirs all grouped on, or related to, the same geological structural feature, stratigraphic condition, a combination of both and refers to the underground productive formations or their vertical projection to the surface;

"fiscal gas price" means the price established in paragraph 8 (3) of the Seventh Schedule to this Act;

"fiscal oil price" means the price established in paragraphs 8 (1) and (2) of the Seventh Schedule to this Act;

"force majeure" includes delays or inability to perform any obligations under this Act (other than a payment obligation), due to any event beyond the reasonable control of a person, and the event may be, but is not limited to, any act, event, happening, or occurrence due to natural causes, and acts or perils of navigation, fire, hostilities, war (declared or undeclared), blockade, labour disturbances, strikes, riots, insurrection, civil commotion, quarantine restrictions, epidemics, storms, floods, earthquakes, accidents, blowouts or lightning and an event of force majeure shall not include changes in the laws of Nigeria or any political subdivision thereof or any acts or orders of Government, any minister, ministry, department, subdivision, agency, authority, council, committee, or other constituent element thereof, or any corporation owned or controlled by any of the foregoing, where operations are delayed, curtailed or prevented by force majeure, then the time for carrying out the obligation and duties thereby affected, and rights and obligations hereunder, shall be extended for a period equal to the period thus involved provided that such period shall not exceed three years in total after which each party can terminate the respective licence or lease;

"frontier acreages" means any or all acreages in an area on land in Nigeria defined as a frontier in a regulation issued by the Commission;

"frontier basin" means basins where hydrocarbon exploration activities have not been carried out or previous commercial discovery oil and gas have not been made or an area that is undeveloped and includes Anambra, Dahomey, Bida, Sokoto, Chad and Benue trough or as may be declared by the Commission through a regulation;

"frontier exploration fund" means the fund established in section 9 (3) of this Act;

"fund manager" means a person or company appointed by the Board of Trustees to manage and invest the reserve fund established under the provisions of Chapter 3 of this Act for the benefit of the trust;

"gas distribution licence" means a licence for the distribution of natural gas through a low-pressure pipeline system in a specific geographical area under section 148 of this Act;

"gas distribution network" means a set of interconnected distribution pipelines for natural gas;

"gas distributor" means the holder of a gas distribution licence;

"gas processing licence" means a licence granted under section 129 of this Act;

"gas retailer" means a holder of a retail gas supply licence under section 146 of this Act;

"gas transportation network" means a set of interconnected gas transportation pipelines in a particular geographical area;

"gas transportation network operator licence" means a licence to operate a gas transportation network under section 138 of this Act;

"gas transportation network operator" means the holder of a gas transportation network operator licence;

"gas transportation pipeline" means a pipeline for the transportation of natural gas;

"gas transportation pipeline licence" means a licence for a gas transportation pipeline granted under section 135 of this Act;

"good international petroleum industry practices" means those uses and practices that are, at the time in question, generally accepted in the international petroleum industry as being good, safe, economical, environmentally sound and efficient in petroleum operations and should reflect standards of service and technology that are either state-of-the-art or otherwise appropriate to the operations in question and should be applied using standards in all matters that are no less rigorous than those in use by petroleum companies in global operations;

"Government" means the Federal Government of Nigeria;

"host communities" means communities situated in or appurtenant to the area of operation of a settlor, and any other community as a settlor may determine under Chapter 3 of this Act;

"host communities development plan" has the meaning given to it in section 252 of this Act;

"host communities development trust" has the meaning given to it in section 235 (1) of this Act;

"host communities development trust fund" means the fund established under section 240 (1) of this Act;

"host communities needs assessment" has the meaning given to it in section 251 (1) of this Act;

"large-scale gas utilisation industries" means —

- (a) large-scale industries that use natural gas as a feedstock such as gas-to-liquid plants, petrochemical industries and fertiliser plants;  
and
- (b) mini-LNG plants, power plants and such other industries as defined in regulations;

"lease" means a petroleum mining lease;

"lessee" means a holder of a lease:

"LIBOR" means London Interbank Offered Rate:

"licence" means a licence issued by the Commission or Authority in respect of any applicable upstream, midstream or downstream petroleum operations:

"licensee" means a holder of a licence:

"licensing round guidelines" means guidelines that are established by the Commission to govern the process of issuing licences or leases during a licensing round:

"liquefied natural gas" or "LNG" means natural gas in liquid form through condensation at close to atmospheric pressure and at a temperature of approximately minus 162 degrees celsius;

"liquefied petroleum gas" or "LPG" means mixtures of propane and butane and small concentrations of other gases which are gaseous under room temperature and pressure but are liquefied by applying pressure:

"local distribution zone" means an authorised area as specified in regulations, within which one gas distributor may operate;

"loss" means a loss ascertained in like manner as an adjusted profit:

"management committee" means the committee set up under section 247 of this Act;

"marginal field" means a field or discovery which has been declared a marginal field prior to 1st January 2021;

"marketable natural gas" means natural gas which meets specifications determined by the Authority for distribution to wholesale customers and retail customers —

(a) for use as a domestic, commercial and industrial fuel; and

(b) as feedstock or industrial raw material;

"marketable natural gas delivery point" means a point where marketable natural gas is made available to customers, at the exit of a gas processing plant or gas conditioning plant or at a measurement point, or such other location immediately downstream of a facility in which such natural gas has been produced, processed, conditioned or treated in order to produce marketable natural gas;

"measurement point" means —

(a) a point determined in the field development plan under section 79 (2) of this Act, where petroleum is being measured and its value is determined for royalty purposes,



- (b) where the point has not been determined, a point directly downstream of the flow station in the petroleum mining lease, and
- (c) where measurements take place outside the petroleum mining lease, a deemed measurement point in the petroleum mining lease based on a calculation procedure approved by the Commission adjusting from the points where petroleum is being measured;

"midstream and downstream gas infrastructure fund" means the fund established under section 52 of this Act;

"midstream and downstream gas operations" means activities downstream of the measurement points of petroleum mining leases, whether or not related to the petroleum mining lease, with respect to the construction and operation of natural gas transport or transmission pipelines, including the related compressor stations, 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 ethane, propane, butane and 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 lubricant, petrochemical and fertiliser plants, construction and operation of LNG plants, and related LNG terminals as well as storage and transport of LNG, acquisition, operation or chartering of LNG tankers for coastal and marine transportation, purchase and sale, trading, bartering, aggregating and marketing of natural gas transported by pipelines, compressed natural gas, LNG, methane, ethane, propane, butane, natural gas liquids and liquids from GTL plants with respect to wholesale customers and gas distributors and related administration and overhead;

"midstream petroleum liquids operations" means activities downstream of the measurement points of petroleum mining leases, whether or not related to the petroleum mining lease, with respect to the construction and operation of facilities for upgrading of heavy oil, construction and operation of lubricant, petrochemical and fertiliser plants, construction and operation of petroleum liquids transport pipelines, including the related pumping stations; acquisition, operation, leasing, rental or chartering of barges, coastal or ocean-going tankers, railcars and trucks for the transport of petroleum liquids, construction, leasing and operation of tank farms and other storage facilities and export terminals for petroleum liquids, construction and operation of refineries, purchase and sale, trading, bartering, marketing of petroleum liquids and related administration and overhead;

"midstream and downstream petroleum operations" means midstream petroleum liquids operations and midstream and downstream gas operations;

"Minister of Petroleum" or "Minister" means the Minister of Petroleum Resources or any person designated by the President as having responsibility for overseeing the Petroleum Industry;

"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 corporation solely established by the Ministry of Finance Incorporated Act, Cap. M15, Laws of the Federation of Nigeria, 2004;

"MMBtu" means millions of British thermal units;

"model contract" means a contract under section 85 of this Act;

"model lease" means a standard petroleum mining lease with terms and conditions adopted for a specific licensing round and may contain contractual provisions in a model contract attached to or incorporated in the model lease;

"model licence" means a standard petroleum prospecting licence with terms and conditions adopted for a specific licensing round and may contain contractual provisions in a model contract attached to or incorporated in the model licence;

"National Data Repository" means national petroleum data bank as defined in the National Data Repository Regulation, 2007 and its amendment;

"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, Cap. N72, Laws of the Federation of Nigeria, 2004;

"national strategic stock" means the reserve of petroleum products kept in certain storage depots and facilities by the Government or on behalf of the Government to provide for emergency;

"natural gas" means all gaseous hydrocarbons, and all substances contained in it and as exist in natural state in strata, associated or not with crude oil, and are in a gaseous state upon production from a reservoir and excludes condensates;

"natural gas liquids" or "NGL" means hydrocarbons liquefied at the surface in separators, field facilities or in gas processing plants, and include ethane, propane, butanes, pentanes, and natural gasoline;

"Nigeria" means the territory of the Federal Republic of Nigeria inclusive of its land borders, territorial waters, continental shelf and exclusive economic zone;

"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;

"NNPC Limited" means Nigerian National Petroleum Company Limited, a company to be incorporated under the Companies and Allied Matters Act under this Act;

"non-associated gas" means natural gas that is found in a reservoir which does not contain significant quantities of crude oil;

"oil mining lease" means an oil mining lease granted under the Petroleum Act, Cap. P10, Laws of the Federation of Nigeria, 2004 prior to the effective date of this Act;

"oil prospecting licence" means an oil prospecting licence granted under the Petroleum Act, Cap. P10, Laws of the Federation of Nigeria, 2004 prior to the effective date of this Act;

"onshore" means any land areas above the high-water mark, other than frontier acreages;

"open access" means, subject to section 116, non-discriminatory access to a midstream facility, transportation pipeline or transportation network for all users or shippers under conditions where the licensee does not have any preferential rights to these facilities, under conditions stipulated in the licence and in the case of a transportation network or pipeline;

"paying quantities" means in relation to the level of production of a field, the production of volumes of oil or gas or both, of which the value exceeds the royalty and operating costs on a regular basis, based on levels of production that are aimed at achieving maximum economic recovery of the petroleum;

"parcel" means a parcel under section 69 (4) of this Act;

"permit" means an official certificate of permission to undertake an activity issued by the Commission or Authority;

"person" means any individual, company or other juristic person;

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

"Petroleum Equalisation Fund" means the fund established under the Petroleum Equalisation Fund (Management Board, etc.) Act, Cap. P11, Laws of the Federation of Nigeria, 2004;

"petroleum exploration licence" means a licence under section 71 of this Act;

"petroleum exploration operations" means any geological, geophysical, geochemical and other surveys and any interpretation of data relating thereto, and the drilling of such shot holes, core holes and stratigraphic tests, related to the exploration for crude oil and natural gas, but not including exploration wells or appraisal wells;

"petroleum industry" means the industries involved in upstream, midstream and downstream petroleum operations in Nigeria;

"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 liquids" means crude oil, condensates, liquid petroleum products and natural gas liquids;

"petroleum liquids transportation pipeline licence" means a licence for a petroleum liquids transportation pipeline granted under section 190 of this Act;

"petroleum liquids transportation network operator" means the holder of a petroleum liquids transportation network operator licence;

"petroleum liquids transportation network operator licence" means a licence to operate a petroleum liquids transportation network under section 193 of this Act;

"petroleum liquids transportation pipeline" means a pipeline transporting petroleum liquids;

"petroleum mining lease" means a lease under section 81 of this Act;

"petroleum operations" means upstream, midstream 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;

"petroleum product distribution licence" means a licence for the distribution of petroleum products under section 201 of this Act;

"petroleum product distributor" means the holder of a petroleum product distribution licence;

"petroleum product retailer" means a holder of a petroleum product retail licence;

"petroleum product retail licence" means a permit to retail petroleum products to final customers under section 203 of this Act;

"petroleum products" means materials derived from crude oil and natural gas processing such as ethane, propane, butanes, pentanes, liquefied petroleum gas, natural gas liquids, asphalts, gasoline, diesel, gas oil, jet fuel, transportation fuels, fuel oils for heating and electricity generation and such other derivatives;

"petroleum prospecting licence" means a licence under section 72 of this Act;

"pipeline" means all parts of any tubular infrastructure through which petroleum is conveyed, including pipes, valves, pumping and compressor stations and other equipment appurtenant to pipes;

"President" means the President of the Federal Republic of Nigeria;

"producer client" means a lessee who is a client of the domestic gas aggregator making use of the escrow account mechanism;

"production sharing contract" means any agreement for the exploration, development and production of petroleum on terms under which the financial risk-bearing party shall recover costs and receives a share of the profits based on a share of production as established in the contract from the applicable area;

"public service obligations" means specific obligations imposed by the Authority on licensees in relation to security of supply, social service, economic development, environmental protection or the use of indigenous materials;

"qualified person" means a person designated by regulation in respect of the issuance of a licence, lease or permit to any person with respect to upstream, midstream and downstream petroleum operations;

"raw gas" means natural gas prior to any conditioning for the removal of H<sub>2</sub>S, CO<sub>2</sub> and other impurities and prior to processing to remove natural gas liquids and which does not have the qualities of marketable natural gas;

"regulation" means rule or order having force of law issued by the Minister, Minister of Finance, the Commission or Authority in accordance with this Act;

"rent" means the annual charge made in respect of a licence or lease granted under this Act;

"renegotiated production sharing contract" means a production sharing contract for which court cases or arbitration cases were outstanding, and was or is being renegotiated after the effective date of this Act with the objective of settling the outstanding court cases or arbitration cases;

"reserve fund" is the fund under section 244 (b) of this Act;

"reservoir" means a subsurface rock formation containing an individual and separate natural accumulation of producible petroleum characterised by a single natural pressure system;

"retail gas supply licence" means a licence granted under section 146 of this Act;

"retention area" means the area approved by the Commission for a significant gas discovery or significant crude oil discovery under this Act;

"retention period" means the period not exceeding 10 years granted by the Commission to the holder of a petroleum licence to retain rights to develop an area over which a significant gas discovery or significant crude oil discovery has been made;

"royalties" means the royalties specified in the Seventh Schedule to this Act;

"settlor" is a holder of an interest in a petroleum prospecting licence or petroleum mining lease whose area of operations is located in or appurtenant to any community or communities;

"shallow water" means any area within the territorial waters, continental shelf or exclusive economic zone offshore of Nigeria up to and including a water depth of 200 meters;

"signature bonus" means a payment made to Government with respect to the grant of a petroleum prospecting licence or petroleum mining lease;

"Significant crude oil discovery" means a discovery of crude oil that is substantial in terms of reserves and is potentially commercial, but cannot be declared commercial for one or both of the following reasons –

- (a) no pipeline or facilities are available in existing systems where commercial conditions indicate that the best option for development is based on the future expansion of such systems or the use of such systems when capacity will become available in the future; or
- (b) where the crude oil discovery would only be commercial when jointly developed with other existing discoveries or potential future discoveries;

"significant gas discovery" means a discovery of natural gas that is substantial in terms of reserves and is potentially commercial, but cannot be declared commercial for one or more of the following reasons –

- (a) no markets for natural gas within Nigeria;
- (b) export markets need to be identified and developed;
- (c) no pipeline, processing or liquefaction capacity is available in existing systems where commercial conditions indicate that the best option for development is based on the future expansion of such systems or the use of such systems when capacity will become available in the future; or
- (d) where the natural gas discovery would only be commercial when jointly developed with other existing natural gas discoveries or potential future natural gas discoveries;

"special investigation unit" means a unit established either under section 27 or 50 of this Act;

"standard cubic foot" means, in relation to natural gas, the quantity of dry ideal natural gas at a temperature of 60 degrees Fahrenheit and a pressure of 14.696 pounds per square inch absolute contained in a volume of one cubic foot;

"supplier" means the holder of a wholesale gas supply licence, a wholesale petroleum liquids supply licence or a retail gas supply licence;

"tariff" means the price charged for the provision of a particular service, or group of services, with respect to midstream and downstream petroleum operations;

"terrain" means the area of any petroleum exploration licence, petroleum prospecting licence or petroleum mining lease;

"terminal" means a terminal for petroleum liquids, pumping or booster station, or other installation or structure associated with a terminal, including its storage facilities, other than

a terminal situated within "a port or any approaches thereto" within the meaning of the Nigerian Ports Authority Act, Cap. N126. Laws of the Federation of Nigeria, 2004:

"third party access" means the legal requirement for owners of certain infrastructure facilities to grant access to those facilities to parties other than themselves or their own customers, for uncommitted capacity, including competitors in the provision of the relevant services, on terms stipulated in this Act or regulations;

"transportation fuels" means fuels used for transport on land, on water and in the air, such as gasoline, aviation gasoline, diesel, jet fuel, marine bunker fuel, LNG, CNG and other fossil fuel based products, as well as hydrogen, bio-diesel, bio-jet fuel, ethanol and other fuels used for transport purposes;

"transportation network" means a system of interconnected transportation pipelines and other facilities required to transport natural gas or petroleum liquids;

"transportation pipeline" means a pipeline used for the bulk conveyance of petroleum liquids and for natural gas under high-pressure;

"transportation pipeline owner" means the holder of a gas transportation pipeline licence or a petroleum liquids transportation pipeline licence;

"upstream petroleum operations" means the exploration for, appraisal of, development of and winning or obtaining of petroleum in Nigeria by or on behalf of a company on its own account for commercial purposes, petroleum exploration operations, the drilling of exploration, appraisal and development wells, 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 crude oil, natural gas and water, construction and operation of high and low pressure separators, construction and operation of facilities to treat crude oil and natural gas, 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 crude oil in the licence area, transportation to and from the licence area of personnel, goods and equipment, metering of well stream fluids, metering of petroleum at the measurement points prior to transportation, sale and marketing of crude oil, natural gas or condensates or any of them at the measurement points and such other activities which by regulation are considered upstream petroleum operations, and related administration and overhead, provided, however, that where field facilities or fixed or floating platforms or vessels provide for fully integrated upstream and midstream petroleum operations, the Commission may consider the entire operations as upstream petroleum operations under section 8 (d) of this Act;

"UTM" means the Universal Transverse Mercator, a conformal projection which uses a two-dimensional Cartesian coordinate system to give locations on the surface of the earth;

"wholesale customer" means a class of customers designated in regulations with respect to

(a) natural gas, the right to contract for and purchase a supply of wholesale gas, with a capability to connect individually and economically to a transportation pipeline or transportation network and shall include gas distributors, and

(b) crude oil or petroleum products, it shall be a customer of a yearly volume defined by regulation and shall include petroleum product distributors;

"wholesale gas" means natural gas sold by a supplier to wholesale customers:

"wholesale gas supplier" means the holder of a wholesale gas supply licence:

"wholesale gas supply licence" means a licence for the supply to wholesale customers of natural gas under section 142 of this Act;

"wholesale petroleum liquids supplier" means a holder of a wholesale petroleum liquids supply licence;

"wholesale petroleum liquids supply licence" means a licence for the supply to wholesale customers of petroleum liquids under section 197 of this Act.

319. This Act may be cited as the Petroleum Industry Act, 2021.

Citation.



## Schedules

### First Schedule

### Section 3 (3)

#### RIGHTS OF PRE-EMPTION

1. 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.
2. 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.
3. Where a vessel employed to carry petroleum or petroleum products under paragraph 2 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 to by the licensee or lessee, unless the delay is due to causes beyond the control of the licensee or lessee.
4. 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.
5. 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) where 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.
6. To assist in arriving at a fair price for the purposes of paragraph 5 (b), 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.

7. Any arbitration under the First Schedule shall take place after the petroleum or petroleum products have been delivered.

## PRINCIPLES OF NEGOTIATING INCORPORATED JOINT VENTURES

*General Provisions*

1. (1) An IJVC may be created for an existing joint operating agreement and each IJVC shall be formed under the Companies and Allied Matters Act, and NNPC Limited shall enter into negotiations with the other parties to such existing joint operating agreements with a view to, among other things —
  - (a) agreeing and executing a shareholders' agreement in respect of the applicable IJVC;
  - (b) agreeing the provisions of the memorandum and articles of association of the applicable IJVC; and
  - (c) incorporating the applicable IJVC.
- (2) Prior to the incorporation of each IJVC, the parties to each applicable joint operating agreement shall continue to carry out their obligations under such joint operating agreement in the ordinary course of business.
- (3) Each IJVC shall be owned by the parties to the applicable existing joint operating agreement in the same proportion as their existing participating interests set forth in such joint operating agreement, or in such other proportion as the parties thereto shall mutually agree.
- (4) Upon and following the incorporation of an IJVC —
  - (a) it can carry out upstream, midstream and downstream petroleum operations subject to the appropriate fiscal regime as specified in this Act, provided, however, that where the parties wish to enter into more than one stream of operations, the parties shall incorporate separate companies under section 302 (3) and (4);
  - (b) it shall be deemed to be the sole licensee or lessee (as applicable) of each petroleum prospecting licence or petroleum mining lease held jointly under the applicable existing joint operating agreement immediately prior to its incorporation;
  - (c) it shall at all times be the operator of petroleum operations under each petroleum prospecting licence and petroleum mining lease that it holds;
  - (d) it may contract for specific petroleum services but may not enter into any contract or group of contracts which would have the effect of transferring, directly or indirectly, any of the functions as operator except with the approval of the Commission, in the

case of upstream petroleum operations, or Authority, in the case of midstream and downstream petroleum operations;

- (e) it shall by publication on its website make public reasonable details relating to its incorporation and constitutional documents; and
- (f) it may render any services related to its operations (other than financial and insurance services), to any other IJVC, NNPC Limited, or any other third party under such conditions as it may deem necessary or desirable.

*Special Provisions Relating to Incorporated Joint Venture Companies*

- 2. (1) No IJVC shall be subject to the provisions of the Fiscal Responsibility Act and the Public Procurement Act.
- (2) Once incorporated, the following provisions shall apply to each IJVC —
  - (a) prior to any sale of shares in an IJVC by any shareholder, the other shareholders (including NNPC Limited) shall have the right of first refusal on such transaction at fair market value and appropriate ministerial consent; and
  - (b) each IJVC shall have its head office and main operational offices in Nigeria.

*Organisation of Incorporated Joint Venture Companies*

- 3. (1) Each IJVC shall have a Board of directors to be appointed by the shareholders of the IJVC.
- (2) The Board of directors of each IJVC shall be made up of persons who —
  - (a) have distinguished themselves in their various capacities; and
  - (b) are able to exercise independence and objectivity with respect to the affairs of the IJVC.
- (3) The powers of the Board of directors of each IJVC shall be established in the articles of association of such IJVC, provided that, the Board of directors of such IJVC shall have the power to approve the annual work program and budget of such IJVC and any revisions thereof.
- (4) The Board of directors of each IJVC may create committees and subcommittees.
- (5) Decisions of the Board of directors of each IJVC shall be guided by commercial and technical considerations that represent good international petroleum industry practices.

*Special provisions relating to the shares of Incorporated Joint Venture Companies*

4. (1) The share capital of each IJVC shall initially consist only of ordinary shares.
- (2) The shares held directly or indirectly by NNPC Limited in each IJVC shall at all times during the life of each IJVC remain non-transferable either by way of sale, assignment, mortgage or pledge to any other entity except as approved by the Government and such sale or transfer shall be at fair market value after an open, transparent and competitive bidding process in which only companies who qualify under section 95 (11) of this Act can participate.

*Special provisions relating to rents, royalties, taxes and other levies payable by an IJVC*

5. (1) Each IJVC shall be subject to this Act on payment of rents, royalties and taxes.
- (2) The initial capitalisation of each IJVC and the transactions required to create such IJVC shall not create any additional tax liabilities for any of the holders of shares in the IJVC, provided that, all assets, interests and liabilities previously held jointly pursuant to the applicable joint operating agreement are transferred to the IJVC at their net book value.

*Special right of shareholders in an Incorporated Joint Venture Company to purchase petroleum and any petroleum derivatives*

6. (1) Each direct holder of shares in an IJVC shall have the right to purchase from the IJVC
  - (a) at open market prices, a percentage of the crude oil, natural gas and condensates produced by such IJVC equal to its shareholding interest in such IJVC; and
  - (b) at open market prices, a percentage of the petroleum products produced by such IJVC equal to its percentage ownership interest in the IJVC.
- (2) Where the direct holders of shares in an IJVC do not purchase all crude oil, natural gas, condensates and petroleum products that they are entitled to under subsection (1), such IJVC may sell the remaining balance to any person at open market prices on arm's length terms.
- (3) Any income received by an IJVC as a result of the export of petroleum may be held in bank accounts abroad and may be used by such IJVC to pay its obligations outside Nigeria, subject to any obligation of such IJVC under this Act and any other applicable enactments.
- (4) The transfer overseas of any fund by an IJVC shall be subject to the regulations and policies of the Central Bank of Nigeria.

*Pro-rata dividend distribution*

7. (1) Each IJVC shall pay dividends and other distributions pro rata among the number of issued shares held directly by its shareholders.
- (2) Each dividend payment or other distribution shall be subject to any withholding tax applicable under the Companies Income Tax Act.

*Dividend Policy*

8. The Board of directors of each IJVC shall establish and from time to time amend the dividend distribution policy of such IJVC and such dividend distribution policy shall be premised on the prudent and commercially reasonable management of the finances and operations of the IJVC.

*Special Provisions Relating to Financing of Operations*

9. (1) Each IJVC shall finance any exploration for new prospects, development of new fields, or any other investments in accordance with the applicable approved annual work program and budget for such incorporated joint venture from the cash flows of the IJVC and any borrowings by such IJVC, in each case as approved by its Board of directors.
- (2) Where the cash flow, together with any borrowings, of an IJVC is insufficient to finance the work program in respect of any exploration for new prospects, development of new fields, or any other investments approved by the Board of directors of such IJVC, the shareholders of such IJVC shall consult as to the manner in which further financing can be raised.
- (3) With respect to subparagraph (2), the shareholders may consider among others —
  - (a) permitting any of the shareholders to contribute equity in exchange for the issuance of ordinary shares; and
  - (b) the creation of preferred shares for any shareholder that wishes to make a financial contribution to the incorporated joint venture.

1. The domestic base price at the marketable gas delivery point under section 167 (1) shall be determined based on regulations incorporating among such other matters as may apply pursuant to the subsequent paragraph, the following principles —

- (a) the price must be of a level to bring forward sufficient natural gas supplies for the domestic market on a voluntary basis by the upstream petroleum industry;
- (b) unless required to satisfy conditions under sub-subparagraph (a), the price shall not be higher than the average of similar natural gas prices in major emerging countries that are significant producers of natural gas based on countries determined by the Authority;
- (c) subject to the limitations under sub-subparagraph (b) the price shall be adjusted upward on a yearly basis in order to account for inflation on a yearly amount or percentage basis; and
- (d) the Authority shall determine the domestic base price based on the regulations within three months following the effective date and modify this price where required by the circumstances in the domestic market pursuant to regulations.

*Allocation and Pricing of the Domestic Delivery Obligation*

2. Pursuant to section 110 of this Act, the Commission shall establish the criteria for allocation of domestic gas delivery obligations including the following —

- (a) all available gas at low cost of supply shall be eligible for designation to the domestic gas market —
  - (i) the ranking of gas available for the domestic gas market shall be determined by a tier system based on the cost of supply,
  - (ii) the pricing of gas for the domestic market shall be based on the lowest cost of supply of gas available in the three-tier classification of supply sources for the domestic market, and
  - (iii) the Commission shall determine the pricing mechanism to be utilised for gas supply to the domestic market under the domestic delivery obligation and such pricing may include gas on gas, oil based price mechanism, equivalent energy mechanism and bilateral pricing mechanism or any other

such mechanism that reflects the prevailing market condition:

- (b) all associated gas from producing fields shall be eligible for designation as tier one gas for the domestic gas market:
- (c) all gas cap gas from depleted oil fields shall be considered as tier two gas and designated for the domestic gas market; and
- (d) available gas in non-associated gas fields onshore and shallow offshore shall be considered as tier three to be evaluated for eligibility of supply to the domestic gas market based on its cost of supply.



*Pricing formula for gas price for the gas based Industries*

The gas price for the gas based industries shall be determined by the following pricing formula -

$$CP = NRP * (1 + EPF) \leq EPP$$

Where - CP is the applicable price in US \$/MMBtu. EPP is the domestic base price under section 168 (3). NRP is the National Reference Price which is US \$1/MMBtu

EPF is the End Product Factor which is described by the following formula (CMPP – PRP)/PRP

CMPP is the Average Current Month End Product Price in US \$/MT

PRP = Product Reference Price in US \$/MT i.e. dollar per metric tonne which varies depending on the industry

End Product	NRP (US \$/mmbtu) Net of transport Tariff US \$/Kcf	PRP (US \$/MT)
Ammonia	1.00	250
Urea	1.00	250
Methanol	1.00	250
Polypropylene (LDPPE/HDPPE)	1.00	250
Low Sulphur Diesel (GTL)	1.00	325

The Authority may by regulation change the formulas or the values for NRP, CMPP and PRP and introduce other values for one or more gas based industries where the circumstances so justify.

Fifth Schedule      Sections 263 (1) (d), 266 (1) (a), 270, 271 (2)  
(b) and (c), 277 (1) (c), 280 (1) (b) and 302 (10)  
(a)

#### CAPITAL ALLOWANCES

##### *Interpretation*

1. For the purpose of this Schedule —

- (a) "concession" includes a petroleum exploration licence, petroleum prospecting licence, petroleum mining lease, any right, title or interest in or to petroleum in the ground and any option of acquiring any such right, title or interest;
- (b) "lease" includes an agreement for a lease where the term to be covered by the lease has begun, any tenancy and any agreement for the letting or hiring out of an asset, but does not include a mortgage, and all cognate expressions including "LEASEHOLD INTEREST" shall be construed accordingly and where. —
  - (i) with the consent of the lessor, a lessee of any asset remains in possession after the termination of the lease without a new lease being granted, that lease shall be deemed for the purpose of this Schedule to continue so long as the lessee remains in possession, and
  - (ii) on the termination of a lease of any asset, a new lease of that asset is granted to the lessee, the provisions of this Schedule shall have effect as if the second lease were a continuation of the first lease;
- (c) "qualifying expenditure" means, subject to the express provisions of this Schedule, expenditure incurred for the purpose of hydrocarbon tax in an accounting period, which is capital expenditure, referred to as —
  - (i) "qualifying plant expenditure" incurred on plant, machinery and fixtures directly for upstream petroleum operations applicable to crude oil for petroleum mining leases or petroleum prospecting licence,
  - (ii) "qualifying pipeline and storage expenditure" including floating production systems incurred directly or gathering pipelines for upstream petroleum operations applicable to crude oil for petroleum mining leases or petroleum prospecting licences,
  - (iii) "qualifying building expenditure" other than expenditure, which is included in sub-subparagraph (c) (i), (ii) or (iv) of this "Interpretation", incurred directly on the construction of buildings, structures or works of a permanent nature for upstream petroleum operations applicable to crude oil for

petroleum mining leases or petroleum prospecting licences,  
or

- (iv) "qualifying drilling expenditure", tangible and intangible, other than expenditure which is included in subparagraph (c) (i) or (ii) of this "Interpretation", incurred directly in connection with upstream petroleum operations for petroleum mining leases or petroleum prospecting licence, in view of searching for or discovering and testing petroleum deposits, or winning access, or the construction of any works or buildings which are likely to be of little or no value when the upstream petroleum operations for which they were constructed cease to be carried on, provided that, for the purposes of these definitions, qualifying expenditure shall not include any sum which may be deducted under section 263 of this Act and have benefited from capital allowances prior to the acquisition of the asset by another entity;
- (d) for the purpose of interpretation of qualifying expenditure, where expenditure is incurred by a company before its first accounting period and such expenditure would have fallen to be treated as qualifying expenditure, ascertained without the qualification contained in the foregoing proviso if it had been incurred by the company on the first day of its first accounting period and that expenditure is incurred in respect of an asset, owned by the company then such expenditure shall be deemed to be qualifying expenditure incurred by it on that day, or which has been disposed of by the company before the beginning of its first accounting period, then any loss suffered by the company on the disposal of such asset shall not be allowed on commencement of accounting period and any profit realised by the company on such disposal shall be liable to capital gains tax in the same period accordingly.

*Provisions relating to pre-production expenditure*

2. For the purpose of this Schedule, where —

- (a) expenditure has been incurred before its first accounting period and the expenditure would have been treated as a qualifying expenditure in any of the classes of qualifying expenditures stated in subparagraph (1) (c) (i)-(iv), then it shall be so classified and capital allowances claimed accordingly; and
- (b) Where the expenditure before the first accounting date should have been treated as allowable deduction in an accounting period, it shall be so allowed but fully amortised over a period of five years with a 1% retention value.

*Owner and meaning of relevant interest*

3. (1) For the purpose of this Schedule, where an asset consists of a building, structure or works, the owner shall be taken to be the owner of the relevant interest in such building, structure or works.

- (2) Subject to this paragraph, the expression "the relevant interest" means, in relation to any expenditure incurred on the construction of a building, structure or works, the interest in such building, structure or works to which the company which incurred the expenditure was entitled when it incurred the expenditure.
- (3) Where a company incurs qualifying building expenditure or qualifying drilling expenditure on the construction of a building, structure or works, the company is entitled to two or more interests therein, and one of those interests is an interest which is reversionary on all the others, that interest shall be the relevant interest for the purpose of this Schedule.
- (4) Where the owner of the relevant interest does not have statutory title to the asset, that is, it is not the licensee or lessee to the asset, the qualifying capital expenditure and the capital allowances accruing therefrom, for the purposes of this Schedule, shall be to the benefit of the holder of the licence or lease.

#### *Sale of Buildings*

4. Where capital expenditure has been incurred on the construction of a building, structure or works and the relevant interest is sold, the company which buys that interest shall be deemed, for the purpose of this Schedule, to have incurred, on the date when the purchase price became payable, capital expenditure on the construction equal to the price paid by it for such interest or to the original cost of construction, whichever is the less and the capital expenditure shall not be eligible for capital allowance deduction under the hydrocarbon tax, provided that where such relevant interest is sold before the building, structure or works has been used, the foregoing provisions of this paragraph shall have effect with respect to sale and the original cost of construction shall be taken to be the amount of the purchase price on such sale.

#### *Annual Allowance*

5. (1) Subject to this Schedule, where in any accounting period, a company owning any asset has incurred in respect of the asset qualifying expenditure wholly, reasonably, exclusively and necessarily for the purpose of upstream petroleum operations applicable to crude oil carried on by it, there shall be due to that company as from the accounting period in which the expenditure was incurred, an allowance "an annual allowance" at the appropriate rate percent specified in the table to this Schedule.
  - (2) Notwithstanding the provisions of subparagraph (1) of this paragraph, there shall be retained in the books, in respect of each asset 1% of the initial cost of the asset which may only be written off in accordance with subparagraph (3).
  - (3) Any asset or part of it in respect of which capital allowances have been granted, may only be disposed of on the authority of a certificate of disposal issued by the Commission or any person authorised by it.
6. Subject to paragraph 18, an annual allowance in respect of qualifying expenditure incurred in respect of any asset shall only be due to a company for any accounting period if at the end of the accounting period it was the owner of that asset and the asset was in use for the purpose of the upstream petroleum operations applicable to crude oil carried on by it.

#### *Balancing allowances*

7. Subject to this Schedule, where in any accounting period of a company, the company owning any asset in respect of which it has incurred qualifying expenditure wholly and

exclusively for the purposes of upstream petroleum operations applicable to crude oil carried on by it, disposes of that asset, an allowance "a balancing allowance" shall be due to that company for that accounting period of the excess of the residue of that expenditure, at the date such asset is disposed of, over the value of that asset at that date, provided that a balancing allowance shall only be due in respect of such asset if immediately prior to its disposal it was in use by such company for the purposes of the upstream petroleum operations applicable to crude oil for which such qualifying expenditure was incurred.

*Balancing charges*

8. Subject to this Schedule, where in any accounting period of a company, the company owning any asset in respect of which it has incurred qualifying expenditure wholly and exclusively for the purposes of upstream petroleum operations applicable to crude oil carried on by it, disposes of that asset, the excess "a balancing charge" of the value of that asset, at the date of its disposal, over the residue of that expenditure at that date shall, for the purpose of section 262 (1) (a) of this Act, be treated as income of the company of that accounting period, provided that a balancing charge in respect of such asset shall only be so treated if immediately prior to the disposal of that asset it was in use by such company for the purposes of the upstream petroleum operations applicable to crude oil for which the qualifying expenditure was incurred and shall not exceed the total of annual allowances due under this Schedule, in respect of such asset.

*Residue*

9. The residue of a qualifying expenditure, in respect of any asset, at any date, shall be taken to be the total qualifying expenditure incurred on or before that date, by the owner, in respect of that asset, less the total of any annual allowances due to such owner, in respect of that asset, before that date.

*Meaning of "disposed of"*

10. Subject to any express provision to the contrary, for the purpose of this Schedule —

- (a) a building, structure or works of a permanent nature is disposed of if any of the following events occur —
- (i) the relevant interest is sold,
  - (ii) that interest, being an interest depending on the duration of a concession, comes to an end at the end of that concession,
  - (iii) that interest, being a Leasehold interest, comes to an end and the possession of the building, structure or works of a permanent nature reverts to the holder of the reversionary interest, or
  - (iv) the building, structure or works of a permanent nature are demolished, destroyed or, without being demolished or destroyed, cease altogether to be used for the purpose of upstream petroleum operations applicable to crude oil carried on by the owner;
- (b) plant, machinery or fixtures are disposed of if they are sold, discarded or cease altogether to be used for the purposes of

upstream petroleum operations applicable to crude oil carried on by the owner: or

- (c) assets in respect of which qualifying drilling expenditure is incurred are disposed of if they are sold or if they cease to be used for the purpose of the upstream petroleum operations applicable to crude oil of the company incurring the expenditure either on the company ceasing to carry on the operations or on such company receiving insurance or compensation money therefrom.

*Value of an asset or interest in a petroleum prospecting licence or petroleum mining lease*

- 11. (1) The value of an asset or interest in a petroleum prospecting licence or petroleum mining lease at the date of its disposal shall be the net proceeds of the sale or of the relevant interest, or, where it was disposed of without being sold, the amount which, in the opinion of the service, the asset or the relevant interest, as the case may be, would have fetched if sold in the open market at that date, less the amount of any expenses which the owner might reasonably be expected to incur if the asset were so sold.
- (2) For the purpose of this paragraph, where an asset is disposed of in the circumstances that insurance or compensation money are received by the owner, the asset or the relevant interest, as the case may be, shall be treated as having been sold and as though the net proceeds of the insurance or compensation money were the net proceeds of the sale.

*Apportionment*

- 12. (1) Any reference in this Schedule to the disposal, sale or purchase of any asset or interest includes a reference to the disposal, sale or purchase of that asset, as the case may be, together with any associated asset, whether or not qualifying expenditure has been incurred on such associated asset, and, where an asset is disposed of, sold, or purchased together with another asset, so much of the value of the assets as, on a just apportionment, is properly attributable to the first mentioned asset shall, for the purposes of this Schedule, be deemed to be the value of, or the price paid for that asset, as the case may be.
- (2) For the purpose of this subparagraph, all the assets or interest which are purchased or disposed of in pursuance of one bargain shall be deemed to be purchased or disposed of together, notwithstanding that separate prices are or purport to be agreed for each of those assets or that there are or purport to be separate purchases or disposals of those assets.
- (3) The provisions of subparagraph (1) shall apply, with modifications, to the sale or purchase of the relevant interest in any asset together with any other asset or relevant interest in that other asset provided that the provisions for apportionment in subparagraphs (1) and (2) shall not apply in the sale or disposal of concessions or interest in a part of the asset.

*Part of an asset*

- 13. Any reference in this Schedule to any asset shall be construed whenever necessary as including a reference to a part of any asset, including an undivided part of that asset in

the case of joint interests and when so construed, any necessary apportionment shall be made in a manner, which in the opinion of the Service, is just and reasonable.

*Exclusion of certain expenditure*

14. Subject to the express provisions of this Schedule, where any company has incurred expenditure which is allowed to be deducted under any provision, other than a provision of this Schedule, such expenditure shall not be treated as qualifying expenditure.

*Asset used or expenditure incurred partly for the purpose of petroleum operations*

15. (1) The following provisions of this paragraph shall apply where either or both of the following conditions apply with respect to any asset the —
- (a) owner of the asset has incurred in respect of the asset a qualifying expenditure partly for the purpose of upstream petroleum operations applicable to crude oil carried on by him and partly for other purposes; or
  - (b) asset in respect of which the owner has incurred qualifying expenditure is used partly for the purpose of upstream petroleum operations applicable to crude oil carried on by such owner and partly for other purposes.
- (2) Any allowances which would be due or any balancing charges which would be treated as income if both expenditure were incurred wholly and exclusively for the purpose of the upstream petroleum operations applicable to crude oil and if the asset were used wholly and exclusively for the purpose of such operations, shall be computed in accordance with the provisions of this Schedule.
- (3) So much of the allowances and charges computed in accordance with subparagraph (2) shall be due or shall be so treated, as the case may be, as in the opinion of the Service is just and reasonable having regard to all circumstances and to the provisions of this Schedule.

*Disposal without change of ownership*

16. (1) Where an asset in respect of which qualifying expenditure has been incurred by the owner has been disposed of in circumstances that the owner remains the owner, then, for the purpose of determining whether and, if so, in what amount, any annual or balancing allowance or balancing charge shall be made to or on such owner in respect of his use of that asset after the date of the disposal —
- (a) qualifying expenditure incurred by the owner in respect of the asset prior to the date of the disposal shall be left out of account; and
  - (b) the owner shall be deemed to have bought such asset immediately after the disposal for a price equal to the residue of the qualifying expenditure at the date of the disposal, increased by the amount of any balancing charge or decreased by the amount of any balancing allowance made as a result of the disposal.

- (2) Capital allowances shall be for the computation of hydrocarbon tax and not for cost recovery purposes in production sharing contracts, which shall have their own provisions under the model contract.

*Capital allowance rates*

17. (1) Qualifying expenditure shall be subject to the rates below -

Qualifying Capital Expenditure	1st Year	2nd Year	3rd Year	4th Year	5th Year
Qualifying Plant Expenditure	20%	20%	20%	20%	19%
Qualifying Pipeline Expenditure	20%	20%	20%	20%	19%
Qualifying Building Expenditure	20%	20%	20%	20%	19%
Qualifying Drilling Expenditure	20%	20%	20%	20%	19%

- (2) Exploration expenditure and the first two appraisal wells expenditure in the same field are to be treated as deductible costs 100% in the year incurred, while for additional exploration expenditures and appraisal expenditures in the same field relating to pre-production period are to be amortised and deducted on commencement of accounting period at an annual allowance of 20% in the first to fourth year and 19% in the fifth year with a 1% retention value.

18. (1) For the purpose of this Schedule, an asset shall be deemed to be in use during a period of temporary disuse.

- (2) For the purpose of paragraphs 5 and 6 of this Schedule —

- (a) an asset in respect of which qualifying expenditure has been incurred by the owner for the purpose of petroleum operations carried on by him shall be deemed to be in use between the dates mentioned, where the Service determines that the first use to which the asset will be put by that owner will be for such operations; and
- (b) the said date shall be the date on which such expenditure was incurred and the date on which the asset is in fact first put to use:

Provided that where any allowance has been given in consequence of subparagraph (2) and the first use to which such asset is put is not for the purpose of such operations, or it is not put to use within five years from the date the expenditure was incurred, capital allowances already claimed on such assets shall be withdrawn and the amount so claimed shall be assessed to tax.



PRODUCTION ALLOWANCES AND COST PRICE RATIO LIMIT

*Production Allowance*

1. (1) There shall be a production allowance for crude oil production by leases which are converted oil mining leases based on a conversion contract and their renewals, which shall be the lower of US \$2.50 per barrel and 20% of the fiscal oil price.
- (2) There shall be a production allowance per field for crude oil production by a company for leases granted after the commencement of this Act and determined as follows —
  - (a) for onshore areas — the lower of US \$8.00 per barrel and 20% of the fiscal oil price per barrel up to a cumulative maximum production of 50 million barrels from commencement of production and the lower of US \$4.00 per barrel and 20% of the fiscal oil price thereafter;
  - (b) for shallow water areas — the lower of US \$8.00 per barrel and 20% of the fiscal oil price, up to a cumulative maximum production of 100 million barrels from commencement of production and the lower of US \$4.00 per barrel and 20% of the fiscal oil price thereafter; and
  - (c) for deep offshore areas and frontier basins — the lower of US \$8.00 per barrel and 20% of the fiscal oil price, up to a cumulative maximum production of 500 million barrels from the commencement of production and the lower of US \$4.00 per barrel and 20% of the fiscal oil price thereafter.
- (3) The detailed procedures for determining the production allowances shall be established in regulations.
- (4) Any allowances for crude oil shall also apply to condensates and liquid natural gas liquids under section 260 (1) (a) of this Act.

*Cost Price Ratio (CPR) Limit*

2. (1) All costs prescribed under section 263 and under the Fifth Schedule to this Act, excluding those related to section 263 (1) (a), (b) and (h), in an accounting period the sum of which is eligible for deduction under the hydrocarbon tax shall be subject to a cost price ratio limit of 65% of gross revenues determined at the measurement points.
- (2) Where, as a result of subparagraph (1), any excess costs incurred not allowed for deduction for that year of assessment, then —

- (a) the costs may be allowed for deduction for the purposes of ascertaining the profits of the company for subsequent years of assessment provided that the total costs to be deducted shall not exceed the actual costs incurred;
- (b) the total costs to be allowed as deduction in those subsequent years shall be such an amount that if added to the sum of the total costs to be allowed as deduction under subparagraph (1) shall not exceed the specified cost price ratio limit of 65%; and
- (c) where under paragraph 2 (2) (b), any cost exceed the cost price ratio limit upon the termination of upstream petroleum operations related to crude oil, such costs shall not be deductible for purpose of calculation of the hydrocarbon tax.

## PETROLEUM FEES, RENTS AND ROYALTY

## PART I — FEES

*Fees payable for licences and leases*

1. Commission shall through regulations publish the rates or fees payable in respect of the following —

- (a) application for a petroleum exploration licence;
- (b) application for a renewal of a petroleum mining lease;
- (c) application to assign an interest or sublet a petroleum exploration licence, petroleum prospecting licence or petroleum mining lease;
- (d) application to terminate or effect a partial or full surrender of a petroleum exploration licence, petroleum prospecting licence or petroleum mining lease;
- (e) application for permit to operate a drilling rig;
- (f) application for grant of field development plan approval and the related petroleum mining lease;
- (g) application for the approval of the drilling of a well;
- (h) permit to export samples for analysis;
- (i) application to withdraw any of the applications in sub-subparagraph (a) – (h); and
- (j) application for other fees as may be deemed necessary by the Commission.

## PART II — RENTS AND BONUSES

*Rents for Licences*

2. Every petroleum prospecting licence and petroleum mining lease shall be subject to rent as prescribed in the relevant regulation and the rent shall be an amount per hectare per year.

*Payment of fees before grant of licence or lease*

3. (1) A petroleum prospecting licence and petroleum mining lease shall not be granted without prior payment of the applicable fees, applicable signature bonus, and the rent applicable to the first year.

- (2) A petroleum mining lease shall not be renewed without prior payments of the renewal bonus under this Act.

*Penalty for default in payment of rent*

4. Failure to pay the rent as prescribed in the relevant regulation shall result in a penalty as prescribed in the said regulation or any other enactment, provided that where no penalty is prescribed in the said regulation, there shall be an application of an interest rate of LIBOR or any other successor rate plus 10% to the outstanding payment in US Dollars and where the payment of the applicable rent is not made within three months, revocation of such licence or lease under this Act shall be initiated.

*Verification and payment account*

5. Any rents imposed under this section shall be paid into the Federation Account and verified by the Commission.

PART III — ROYALTIES

*All Petroleum production subject to Royalties*

6. All production of petroleum, including production tests, shall be subject to royalties on a non-discriminatory basis with respect to all licensee and lessees and shall be paid into the Federation Account and verified by the Commission and for royalty purposes condensates shall be treated as crude oil and natural gas liquids shall be treated as natural gas.

*Measurement Point for the determination of production volumes*

7. (1) Royalties shall be determined on a monthly basis at the measurement points and where there is production from production tests under a petroleum prospecting licence, the Commission shall determine measurement point for such production and where there is no measurement equipment at a possible measurement point in the field at the commencement of this Act, or where logistical conditions make the installation of measurement equipment at a possible measurement point impractical or uneconomic in the opinion of the Commission, the Commission may approve procedures for determining the chargeable volumes at a deemed measurement point in the field based on measurements at the point of sale, export terminal or other point downstream of such deemed measurement point under the regulations or guidelines and the measurement of crude oil, condensates and natural gas liquids shall be in barrels and of natural gas in standard cubic feet and where so justified, the Commission may approve reporting of production of natural gas liquids in metric tons.
- (2) The chargeable volume for royalty purpose shall be calculated by ascertaining the quantity of natural gas, crude oil, condensates and natural gas liquids produced in the relevant month from each field operated by the licensee or lessee under a regulation or guideline.
- (3) Where natural gas liquids are extracted in a gas processing plant downstream of the measurement point, the rich natural gas volumes, still including the natural gas

liquids, shall be measured at the measurement point and be the basis for royalty calculations and the value of such rich natural gas shall be the value of the marketable natural gas plus the natural gas liquids at the exit of the gas processing plant, less the gas processing costs and less the transport cost between the measurement point and the gas processing plant based on tariffs established by the Authority.

- (4) Natural gas liquids and liquid petroleum gases shall have the same royalty rates as the natural gas from which these products are derived.
- (5) The chargeable volume shall be measured at standard temperatures and pressures as defined by regulation or guidelines and production shall not include any —
  - (a) volumes burned, flared or vented with the approval of the Commission;
  - (b) volumes re-injected by the lessee into reservoirs for the purpose of improving or enhancing production of crude oil or for conservation of natural gas;
  - (c) volumes used in the upstream petroleum operations for the production of electricity or heat for exclusive use in the operations of the lessee; and
  - (d) water or sediments.
- (6) The obligation to install the necessary measurement equipment shall be that of the licensee or lessee and shall be certified by the Commission and the measurement procedures and equipment for measurement at and prior to the measurement point shall be established in regulations or guidelines.

*Determination of price for royalty*

8. (1) The royalties applicable to crude oil and condensates shall be based on the fiscal oil price determined for the field at the measurement points under applicable regulations or guidelines, and this price shall be determined by the Commission on the basis of information supplied by the lessees and from non-confidential independent publications, making such adjustments for quality and transport costs as appropriate to prices of comparable crude oils and condensates sold in the international market, as determined by the Commission, for which appropriate information is available and with the objective to approximate as reasonably as possible the average fair market value of the month of the crude oil and condensates for such month for such field.
- (2) The fiscal oil price for each field shall consider any quality differentials related to international crude oils and condensates and shall be an export parity price taking into consideration the deduction of transportation costs within Nigeria from the measurement points as determined by the Authority to export terminals.
- (3) Royalties applicable to natural gas shall be based on the fiscal gas price determined for the field at the measurement point under applicable regulations or guidelines and this price shall be determined by the Commission, taking into consideration submissions

by the lessees, and shall be based on the netback value at the measurement point based on the composition of the natural gas in terms of marketable natural gas, ethane, propane, butane, pentanes and other natural gas liquids as may be derived by processing of the natural gas and the net back procedure shall take into consideration the type of natural gas markets to which the natural gas from the field is being sold, such as export markets, domestic wholesale markets, markets based on the aggregate gas price or other natural gas pricing framework as permitted under this Act and the procedure shall take into consideration conditioning costs, processing costs and transportation costs within Nigeria as determined by the Authority from the measurement point to the market, where the sales point is downstream of the measurement point, and where natural gas liquids are produced in the field, the total gross value of the liquids shall be taken into account in the determination of the total gross value of the natural gas for the purpose of the fiscal gas price.

*Royalties in kind or cash*

9. (1) The Commission shall receive the royalty in kind or in cash at its discretion and the payment shall be subject to notice periods and procedures as provided for in regulations or guidelines and where royalties are paid in cash the payments shall be based on the fiscal oil price and fiscal gas price.
- (2) The licensee or lessee shall pay royalties to the Commission within a period that is not more than one month after the end of every month during which the petroleum is produced or as the Commission may direct, with respect to -
  - (a) crude oil and condensates the royalties shall be based on the royalties based on production under paragraph 10 plus the royalties based on price under paragraph 11; and
  - (b) natural gas and natural gas liquids the royalties shall be based on the royalties based on production under paragraph 10.
- (3) Royalties shall be paid in US Dollars, however, for production delivered for local refining, royalties may be wholly or partly paid in Naira at Central Bank of Nigeria applicable exchange rate for the valuation of crude oil delivered.
- (4) The Commission shall inform the Minister responsible for Finance of instances where the Commission intends to levy royalties in kind rather than in cash.

*Royalties based on production*

10. (1) For the purpose of paragraph 9, royalties based on production shall be calculated on a field basis.
- (2) The royalty shall be at a rate per centum of the chargeable volume of the crude oil and condensates produced from the field area in the relevant month on terrain basis as follows —
  - (a) onshore areas 15%;

- (b) shallow water (up to 200m water depth) 12.5%;
  - (c) deep offshore (greater than 200m water depth) 7.5%; and
  - (d) frontier basins 7.5%.
- (3) For deep offshore fields with a production during a month of not more than 50,000 bopd, the royalty rate shall be 5% and the share of the production above 50,000 bopd shall be at the royalty rate specified in subparagraph (2).
- (4) Royalties for onshore fields and shallow water fields, including marginal fields, with crude oil and condensate production not more than 10,000 bopd during a month shall be at a rate per centum of the chargeable volume of the crude oil and condensates produced from the field area per production day during a month on tranching basis as follows —
- (a) for the first 5,000 bopd 5%; and
  - (b) for the next 5,000 bopd, for the share of production over 5000 bopd 7.5%:
- Provided that fields with crude oil and condensate production more than 10,000 bopd during a month, the share of the production over 10,000 bopd per month shall be at the royalty rates specified under subparagraph (2).
- (5) With respect to paragraphs (3) and (4), where a single field covers two or more petroleum mining leases, the royalty shall be determined based on the total production from the field.
- (6) Royalty based on production for natural gas and natural gas liquids shall be at a rate of 5% of the chargeable volume and royalty rate for natural gas produced and utilised in-country shall be 2.5% of the chargeable volume.
- (7) Where a field is located partially in onshore and in shallow water or partially in shallow water and deep offshore areas, the weighted average royalty shall be calculated as per regulations.

*Royalty by price*

11. (1) There shall be payable, in addition to the royalty set out in paragraph 10 for onshore, shallow water and deep offshore a royalty by price with respect to crude oil and condensates at the rates set out below —
- (a) below US \$50 per barrel — 0%,
  - (b) at US \$100 per barrel — 5%,
  - (c) above US \$150 per barrel — 10%, and

(d) between US \$50 and US \$100 per barrel and between US \$100 and US \$150 per barrel the royalty by price shall be determined based on linear interpolation.

as an example, if in 2020 the price is US \$75 per barrel, the royalty by price shall be 2.5%, and the price levels mentioned in sub-subparagraphs (a), (b) (c) and (d) shall apply to the year 2020, and at the beginning of 2021 and of each succeeding calendar year these price levels shall be increased by 2% relative to the values of the previous year.

(2) There shall be no royalty by price for frontier acreages.

(3) Royalty derived from "royalty by price" shall be for the credit of Nigerian Sovereign Investment Authority.

12. Penalty for non-payment and outstanding payments of royalties and enforcement of payment where any royalty due and payable under this Act is not paid within two months after the month in which the royalty is due, then it qualifies to be a debt which shall attract —

(a) a sum equal to 10% of the amount of the royalty payable which shall be added to the royalty;

(b) in the case of foreign currency transactions, the outstanding payments due shall incur interest at the prevailing LIBOR or any other successor rate plus 10% point basis;

(c) in the case of Naira transactions, the outstanding payments due shall incur interest at the prevailing NIBOR plus 10% point basis;

(d) ₦10,000,000 or US Dollar equivalent on the first day the failure to pay the royalty occurs; and

(e) ₦2,000,000 or US Dollar equivalent for each day in which the failure continues.

*Revocation, seizure and distraint*

13. Where any fee, rent or royalty due under this Act is unpaid within three months after the month when it becomes due, whether legally demanded or not, the Commission may, in addition to any other remedy which may be available -

(a) initiate revocation of such licence or lease under this Act; and

(b) enter into any land, property or premises possessed or occupied by the licensee or lessee in connection with the licence or lease, and

—



- (i) seize and distrain and sell as landlords may do for rents in arrears, any petroleum, petroleum products, engines, machinery, tools, implements or other effects belonging to the licensee or lessee which may be found in or upon the land, property or premises, and
- (ii) out of money arising from the sale of the distress, retain and pay off the arrears of the fee, rent or royalty and also the costs and expenses incidental to the distress and sale, rendering the surplus, if any, to the licensee or lessee.

#### PART IV — SUPPLEMENTAL

##### *Production Sharing, Profit Sharing and Risk Service Contracts*

- 14. (1) Where the Commission decides to grant a petroleum prospecting licence or petroleum mining lease under contractual terms under section 85 of this Act, the Commission shall prepare the related model contract, which stipulates the fiscal and other provisions related to fees, rents, royalties for such contract, to be attached to such licence or lease.
- (2) The model contract shall contain as a minimum, the provisions related to fees, rents, royalties, hydrocarbon tax and companies income tax stipulated in this Act.
- (3) A model licence related to frontier acreages shall not contain contractual provisions under section 85 of this Act and shall only contain the minimum provisions related to fees, rents, royalties under paragraph 10 and companies income tax stipulated in this Act and upon the renewal of any petroleum mining leases, hydrocarbon tax and royalty based on price under paragraph 11 based on onshore conditions shall apply.
- (4) For new acreage any production sharing contract shall have a cost limit of 70% based on total oil production, and where applicable condensates and natural gas liquids derived from associated gas, measured at the measurement point, and the minimum profit oil scale to Government in a production sharing contract shall be based on cumulative production per field as follows —
  - (a) up to and including 50 million barrels - 5%;
  - (b) over 50 million barrels and up to and including 100 million barrels — 10%;
  - (c) over 100 million barrels and up to and including 350 million barrels — 15%;
  - (d) over 250 million barrels up to and including 750 million barrels — 25%;
  - (e) over 750 million barrels ad up to and including 1500 million barrels — 35%; or

(f) over 1500 million barrels — 45%.

- (5) There may be production sharing for associated or non-associated natural gas, to which only the rents, royalties and companies income tax applies under this Act. capital and operating costs related to making associated natural gas available at the measurement points can be recovered from cost oil.
- (6) The contractors shall be the licensees or lessees and shall thereby be entitled to the capital allowances under the Fifth Schedule.
- (7) The profit oil for crude oil under conversion contracts or for new acreages shall be determined as the total volume of crude oil, where applicable, condensates and natural gas liquids derived from associated gas, less the royalties and less the cost oil as defined in the model contract.
- (8) For production sharing purpose, the adjusted profit of a company for hydrocarbon tax shall be determined under section 263 (1) (b), which means that royalties and the value of profit oil delivered in kind or cash from all fields to the Federation Account shall be deductible for the purposes of determining the adjusted profits and the calculation shall be consolidated as per the two classes under section 267 and the capital allowances under the Fifth Schedule shall be applied.
- (9) For a production sharing contract subject to a conversion contract under this Act, the cost limit shall be 60%.

*Creation of the Ministry of Petroleum Incorporated*

1. The Corporation sole known as the Ministry of Petroleum Incorporated (the Corporation) is established and shall continue to be a Corporation sole under that title.
2. The Corporation may sue and be sued in its said name and shall have perpetual succession and a corporate seal which may from time to time be broken, changed, altered and made anew as the Corporation deems fit, and, until a seal is provided under this section, a stamp bearing the inscription "Federal Ministry of Petroleum" may be used as the corporate seal.
3. The Corporation may enter into contracts and may acquire, purchase, take, hold and enjoy movable and immovable property of every description, and may convey, assign, surrender and yield up, charge, mortgage, demise, reassign, transfer or otherwise dispose of, or deal with, any movable or immovable property vested in the Corporation upon such terms as the Corporation deems fit.
4. (1) All deeds and other instruments requiring the seal of the Corporation shall be sealed, with the seal of the Corporation in the presence of the Permanent Secretary and signed by the Permanent Secretary, and such signing shall be sufficient evidence that the said seal was duly and properly affixed and that the same is the lawful seal of the Corporation.  
  
(2) Any other document requiring the signature of the Corporation shall be signed by the Permanent Secretary.
5. The Minister may, by order, vest in any public officer or authority any property, movable or immovable, for the time being vested in the Corporation and, upon the coming into operation of any such order, the property to which such order relates shall, without any conveyance, assignment or transfer, vest in such officer or authority for the like title, estate or interest and on the like tenure and for the like purposes as the same was vested or held immediately before the coming into operation of the order.

I, CERTIFY, IN ACCORDANCE WITH SECTION 2 (1) OF THE ACTS AUTHENTICATION ACT, CAP. A2, LAWS OF THE FEDERATION OF NIGERIA, 2004, THAT THIS IS A TRUE COPY OF THE BILL PASSED BY BOTH HOUSES OF THE NATIONAL ASSEMBLY.

A handwritten signature in black ink, consisting of several overlapping loops and lines, positioned above a horizontal line.

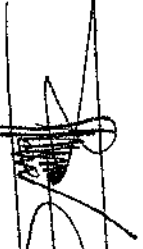
OJO O. A. , fnia, fcia  
CLERK TO THE NATIONAL ASSEMBLY

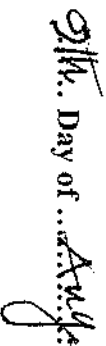
2<sup>nd</sup> DAY OF Aug 20 21.

**SCHEDULE TO THE PETROLEUM INDUSTRY BILL, 2021**

SHORT TITLE OF THE BILL	LONG TITLE OF THE BILL	SUMMARY OF THE CONTENTS OF THE BILL	DATE PASSED BY THE SENATE	DATE PASSED BY THE HOUSE OF REPRESENTATIVES
Petroleum Industry Bill, 2021	An Act to provide legal, governance, regulatory and fiscal framework for the Nigerian petroleum industry, the development of host communities; and for related matters.	This Bill provides legal, governance, regulatory and fiscal framework for the Nigerian petroleum industry, and the development of host communities.	15th July, 2021	16th July, 2021

I certify that this Bill has been carefully compared by me with the decision reached by the National Assembly and found by me to be true and correct decision of the Houses and is in accordance with the provisions of the Acts Authentication Act Cap. A2, Laws of the Federation of Nigeria, 2004.

  
**OJO O. A. Fina, fcia**  
 Clerk to the National Assembly

  
 Ojo O. A. Fina  
 Day of ... *July* ... 20. *21*

**MUHAMMADU BUHARI, GCFR**  
 President of the Federal Republic of Nigeria

Day of ..... 20...